PUBLIC EXHIBITS VOLUME

NOTIFICATION

to the

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

by

CAPITAL ONE FINANCIAL CORPORATION

in connection with the acquisition via a merger of

DISCOVER FINANCIAL SERVICES AND ITS NONBANKING SUBSIDIARIES

Pursuant to Sections 4(c)(8) and 4(j)
of the Bank Holding Company Act of 1956, as amended
and Section 225.24 of Regulation Y

March 20, 2024

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CAPITAL ONE FINANCIAL CORPORATION

March 20, 2024

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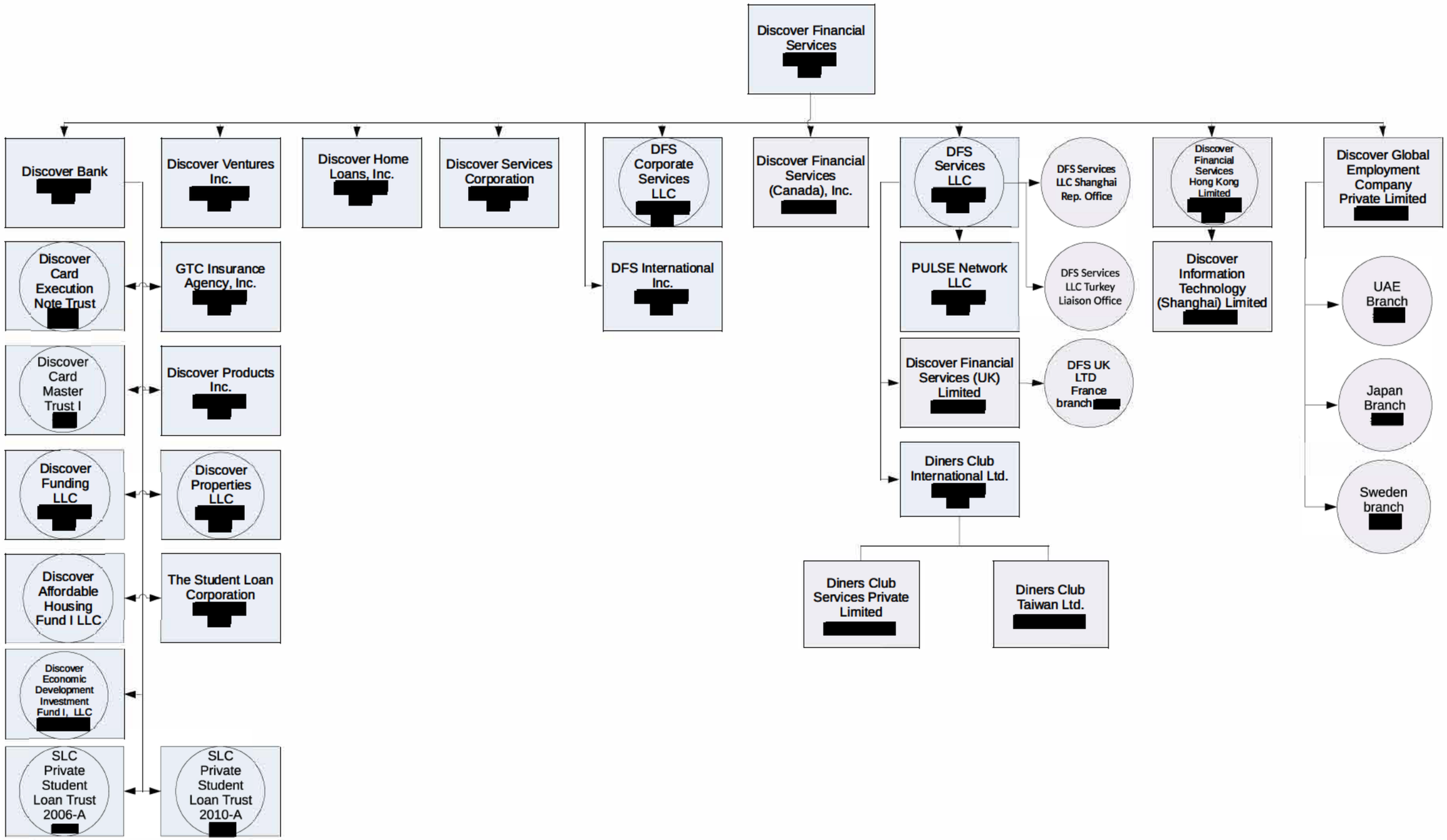
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EXHIBIT 1

DISCOVER

Organization Chart – Effective 12/31/23



Discover Nonbanking Companies Engaged in Activities Pursuant to 12 U.S.C. 1843(c)(8)

This exhibit contains information regarding the interests currently held by Discover in subsidiaries that will become subsidiaries of COFC following the Proposed Transaction. This information is based on publicly available information and information provided by Discover at the request of Capital One.

Acquired Subsidiary	Address	Activities	BHC Legal Authority Relied on by Entity
DFS Services LLC	2500 Lake Cook Road Riverwoods, IL 60015	Owns and operates the Discover Network and serves as the primary legal entity for the Card Network, which engages in the following activities: • Payment processing and related financial data processing; • Lending; • Servicing credit cards; • Collection agency services; • Credit bureau services; • Borrowings; and • Equity investing, with no equity investments exceeding 4.99% of any class of voting securities. In addition to the foregoing, DFS Services also provides support to Discover's Card Network Core Business Line by facilitating payment transactions among credit Card members, merchants, and merchant acquirers.	12 CFR 225.28(b)(14) (financial data processing, including payments) 12 CFR 225.28(b)(1) (extending credit and servicing loans) 12 CFR 225.28(b)(2) (other activities related to extensions of credit) 12 CFR 225.22(d)(5) (passive equity investing)
PULSE Network LLC	1301 McKinney, Suite 600, Houston, TX 77010	Operates an electronic funds transfer network, providing financial institutions issuing debit cards on the PULSE network with access to ATMs domestically and internationally, as well as merchant acceptance throughout the United States for debit card and prepaid card transactions.	12 CFR 225.28(b)(14) (financial data processing, including payments)

Acquired Subsidiary	Address	Activities	BHC Legal Authority Relied on by Entity
Diners Club International Ltd.	2500 Lake Cook Road Riverwoods, IL 60015	Operates a global payments network of licensees, which are generally financial institutions, that issue Diners Club branded charge cards and/or provide card acceptance services. The activities consist of payment processing, lending, servicing loans, and activities related to lending and servicing loans.	12 CFR 225.28(b)(14) (financial data processing, including payments) 12 CFR 225.28(b)(1) (extending credit and servicing loans) 12 CFR 225.28(b)(2) (activities related to extending credit)
Discover Financial Services (Canada), Inc.	Three Bentall Center 595 Burrard St., Suite 2600 Vancouver, British Columbia, V7X1L3 Canada	Holds the Canada operations related to merchant acquisition and AribaPay. Services provided include sales and relationship support for merchant and acquirer relationships and network support. These services relate to payment processing and related financial data processing services. In addition, the entity provides support services to its affiliates. AribaPay is in the process of being wound down by the end of the year (but timing is subject to change), Discover Financial Services (Canada), Inc. also is the contracting entity for its Canadian acquirer relationships.	12 CFR 225.28(b)(14) (financial data processing, including payments) 12 CFR 225.22(b) (servicing for affiliates)
Diners Club Services Private Ltd.– India	Level 1, First International Financial Centre Plot No C-54 and C-55 G Block Mumbai, India 400051	Supports operations in India and in the nearby region for Discover Global Network. Services provided include business consulting and advisory services, market research for internal use, business and administration support services, and acting as liaison to the Reserve Bank of India for a Diners Club payment systems operator license in India.	12 CFR 225.28(b)(14) (financial data processing, including payments) 12 CFR 225.28(b)(9) (management consulting)

Acquired Subsidiary	Address	Activities	BHC Legal Authority Relied on by Entity
Diners Club Services Taiwan Ltd.	15-2, No. 168, Sec. 3 Nanjing E. Rd. Taipei, Taiwan	Supports the Taiwan operations of Discover Global Network. Services provided include support to partners on the Discover Global Network for acceptance. Services will be performed in Taiwan and may be performed in other markets within the Asia-Pacific (APAC) region.	12 CFR 225.28(b)(14) (financial data processing, including payments)

EXHIBIT 3

Summary of the Agreement and Plan of Merger

February 18, 2024

Structure	Capital One Financial Corporation ("Capital One") will acquire Discover Financial Services ("Discover") through a merger of a newly formed merger subsidiary with and into Discover, with Discover continuing as the surviving corporation and a subsidiary of Capital One (the "Merger"). Immediately following the Merger and as part of a single, integrated transaction, Discover will merge with and into Capital One, with Capital One continuing as the surviving corporation (the "Second-Step Merger" and, together with the Merger, the "Mergers"). Immediately following the Second-Step Merger, Discover's wholly-owned bank subsidiary, Discover Bank, will merge with and into Capital One's wholly-owned bank subsidiary, Capital One, National Association ("CONA"), with CONA continuing as the surviving bank.
Consideration	At the closing, each outstanding share of Discover's common stock will be converted into the right to receive 1.0192 shares of Capital One common stock (the "Exchange Ratio").
Treatment of Discover Preferred Stock	At the closing, each outstanding share of Discover preferred stock will be converted into the right to receive one share of a newly created series of Capital One preferred stock having materially the same terms as the applicable series of Discover preferred stock.
Treatment of Discover Equity Awards and the Discover Employee Stock Purchase Plan	At the closing, each outstanding Discover restricted stock unit award will be converted into a corresponding restricted stock unit award with respect to Capital One common stock, with the number of shares adjusted based on the Exchange Ratio. At the closing, each outstanding Discover performance stock unit award will be converted into a cash-based award based upon the average value of Capital One common stock for the five trading days prior to the closing, with the number of shares underlying the Discover performance stock unit awards to be determined at the closing based on (1) the greater of target and actual performance through the last quarter ending prior to the closing, if more than one year of the performance period has elapsed as of the closing, and (2) target performance, if one year or less of the performance period has elapsed as of the closing. The converted awards will generally have the same terms and conditions (including vesting) as applied to the corresponding Discover performance stock unit awards, with the converted cash-based performance stock unit awards to vest solely based on continued service following the closing. Discover will continue to operate the Discover Employee Stock Purchase Plan (the "ESPP"), with the final purchase under the ESPP to occur no later than five business days prior to the closing.
No Appraisal Rights	Holders of Discover common stock and holders of Discover preferred stock will not be entitled to appraisal rights in the Mergers.
Governance	At the closing, the size of the Capital One board will be increased to accommodate the appointment of 3 current Discover directors, determined by mutual agreement of Discover and Capital One, to the Capital One board.
Conditions to	Each party's obligation to close will be subject to the following conditions:

Closing	• *Discover stockholder approval*. Approval by Discover's stockholders of the Merger Agreement; • *Capital One stockholder approval*. Approval by Capital One's stockholders of the issuance of Capital One common stock to Discover stockholders; • *Required regulatory approvals*. Receipt of required regulatory approvals, without any approval resulting in a condition that would reasonably be expected to have a Material Adverse Effect (as defined below) on the surviving corporation and its subsidiaries, taken as a whole, after giving effect to the Mergers (a "Materially Burdensome Regulatory Condition"); • *No injunction.* Absence of any law or injunction prohibiting the completion of the Mergers; • *Registration statement*. Effectiveness of the S-4 registration statement for the shares of Capital One stock to be issued in the Mergers; • *Exchange listing.* Authorization for listing on the NYSE of the shares of Capital One common stock to be issued in the Merger; • *Tax opinion*. Receipt of a tax opinion from the party's counsel to the effect that the Mergers, taken together, qualify as a "reorganization" for tax purposes; • *Accuracy of representations.* The accuracy of the other party's representations and warranties as of the date of the Merger Agreement and as of the closing date, generally subject to a "Material Adverse Effect" standard (described below); and • *Compliance with covenants*. Material performance of the other party's obligations, covenants and agreements under the Merger Agreement.

MAE Standard	For purposes of the conditions to closing, breaches of each party's representations and warranties will, with certain exceptions, be deemed not to have occurred unless such breaches, individually or in the aggregate, have had, or would reasonably be expected to have, a Material Adverse Effect on that party.
	
	"Material Adverse Effect" with respect to Discover or Capital One is defined as any effect, change, event, circumstance, condition, occurrence or development that, either individually or in the aggregate, has had or would reasonably be expected to have a material adverse effect on (i) the business, properties, assets, results of operations or financial condition of such party and its subsidiaries taken as a whole or (ii) the ability of such party to timely consummate the Mergers.
	
	However, in the case of clause (i), a "Material Adverse Effect" excludes:
	• the following changes if they occur after the date of the Merger Agreement, except to the extent that they affect the party materially disproportionately, in the case of both parties, compared to banking organizations substantially engaged in the credit card lending business or, in the case of Discover, also as compared to banking organizations engaged in the funds transfer network or transaction processing network businesses:
	  • changes in GAAP or applicable regulatory accounting requirements;
	  • changes in laws, rules or regulations generally applicable to companies in the industry in which the party operates;
	  • changes in global, national or regional political conditions (including the outbreak of war or acts of terrorism) or in economic or market (including equity, credit and debt markets and interest rate changes) conditions affecting the financial services industry generally; and

	• changes resulting from hurricanes, earthquakes, tornados, floods or other natural disasters or from any outbreak of any disease or other public health events; • the public disclosure of the Mergers or actions required by the Merger Agreement or taken with the prior written consent of the other party; • any stockholder litigation arising out of the Merger Agreement or the Mergers that is brought or threatened against a party or any party's Board of Directors between signing and closing; and • declines in the trading price of the party's common stock or the failure, in and of itself, to meet earnings projections or internal financial forecasts (excluding the underlying causes).
Regulatory Efforts	Each of Discover and Capital One agrees to use reasonable best efforts to promptly make all necessary filings and to obtain all required regulatory approvals, provided that no party will be required to, and no party may, commit to any Materially Burdensome Regulatory Condition or be required to contest any action or proceeding by a bank regulatory agency.
No Shop; Stockholder Recommendation	Each of Discover and Capital One agrees to non-solicitation covenants restricting each from soliciting or negotiating competing business combination proposals or changing its recommendation that its stockholders approve the transaction. Each party's non-solicitation commitments are subject to a customary fiduciary duty exception permitting its board of directors to engage in discussions regarding an unsolicited proposal prior to the receipt of approval by such party's stockholders of the transaction to the extent that the board determines in good faith that failure to do so would more likely than not result in a violation of its fiduciary duties. Each party's board of directors is required to recommend approval of the transaction to its stockholders and is not permitted to change its recommendation unless it determines that failure to do so would more likely than not result in a violation of its fiduciary duties. Neither party may terminate the Merger Agreement on account of a competing business combination proposal, and each party is required to submit the transaction to a vote at its stockholder meeting, even if its board of directors changes its recommendation to stockholders.
Termination Rights	The Merger Agreement will be terminable at any time prior to the closing by mutual consent, and in the following limited circumstances: • *Permanent injunction*. By Discover or Capital One if there is a final injunction prohibiting the closing or if a required regulatory approval has been finally denied (unless the failure to obtain a regulatory approval is due to the terminating party's breach of its covenants in the Merger Agreement); • *Outside date*. By Discover or Capital One if the Merger has not been consummated by the date that is 12 months after the date of the Merger Agreement, to be automatically extended to 15 months after the date of the Merger Agreement if the regulatory conditions have not been satisfied but all other conditions have been satisfied as of such date (the "Outside Date") (so long as the terminating party's breach of its covenants in the Merger Agreement is not the cause of the delay); • *Breach.* By Discover or Capital One if there is an uncured or incurable breach by the other party of any of its covenants or representations that would result in the failure of a closing condition; or

	• *Recommendation change.* By Discover or Capital One if the other party or its board of directors has withdrawn its recommendation that its stockholders approve the Merger Agreement, failed to make such recommendation in the joint proxy statement, recommended a competing business combination, or failed to recommend against a competing business combination or reaffirm its recommendation of the Merger Agreement upon the other party's request (any of the foregoing, a "Recommendation Change") or materially breached its no-shop or other related covenants.
Restructuring Efforts	Discover and Capital One agree, in the event that either party fails to obtain the requisite vote of its stockholders at its stockholder meeting, to in good faith use its reasonable best efforts to negotiate a restructuring of the transaction (other than any material terms, including the amount or kind of merger consideration) and/or resubmit the transaction to its stockholders for approval. This covenant means that each party is required to continue to seek stockholder approvals (if not obtained the first time) for the full term of the Merger Agreement.
Termination Fee	A cash termination fee of $1.38 billion will be payable by either Discover or Capital One (the "first party") to the other party in the following situations: • *Entry into an alternative transaction after a termination that followed a competing proposal.* If (1) the first party receives (or there is publicly announced and not withdrawn at least 2 business days before the first party's stockholders meeting) a competing business combination proposal, (2) the Merger Agreement is then terminated (A) because the closing has not occurred by the Outside Date (and the first party's stockholders have not approved the Merger Agreement but all other conditions to the first party's obligation to close were satisfied or capable of being satisfied) or (B) because the first party willfully breached its covenants or representations, and (3) the first party consummates or enters into an agreement with respect to any competing business combination proposal within 12 months of the termination of the Merger Agreement, then the termination fee is payable upon the earlier of entering into the agreement or consummating the competing proposal; or • *Recommendation change or breach of no-shop.* If the Merger Agreement is terminated by the other party because the first party or its board of directors has (1) made a Recommendation Change or (2) breached its no-shop or other related covenants in any material respect, then the termination fee is payable within 2 business days of termination. The Merger Agreement does not require payment of any "reverse termination fee" for a failure to obtain a regulatory approval.
Employee Matters	For one year following the closing, Capital One will provide to each continuing Discover employee: (1) base salary or wages that are no less favorable than that provided to such Discover employee immediately prior to closing, (2) target annual cash incentive compensation and target long-term incentive compensation opportunities, that are, in the aggregate, no less favorable than those provided to such Discover employee immediately prior to the closing, (3) employee benefits that are substantially comparable in the aggregate to those provided to such Discover employee immediately prior to the closing, and (4) severance benefits that are no less favorable than the benefits provided under the Discover severance plans. Effective as of the closing, Capital One will assume and honor the Discover benefit and compensation plans in accordance with their terms.

	In connection with the transaction, a retention program, in an amount still being negotiated, will be established, allocable by Discover subject to certain parameters. Capital One has offered to enter into a letter agreement with Michael Rhodes that will provide for his continued employment for one year following the closing as a Special Advisor to the Chief Executive Officer, with a salary of $1 million and the opportunity to earn a $4 million retention bonus at the end of the term (or an earlier qualifying termination). Pursuant to the letter, at closing, Mr. Rhodes would receive the cash severance payment that he would be entitled to under his existing Discover employment letter.
Other Agreements	The Merger Agreement also contains customary covenants of the parties with respect to access to information, SEC filings (including the filing of a joint proxy statement for the meetings of Capital One and Discover stockholders and a registration statement for the Capital One shares to be issued in connection with the Mergers), Capital One's commitment to provide customary D&O insurance and indemnity to Discover directors and officers, public announcements, stockholder litigation, coordination as to declaration of dividends, and assumption of Discover's outstanding indebtedness.
Conduct of Business Covenants	Until the closing, Discover and Capital One will each be subject to customary covenants and restrictions requiring them to conduct their business in the ordinary course and to refrain from certain specified actions. The restrictions applicable to specific actions of Capital One are more limited than those applicable to Discover.
Representations and Warranties; No Indemnification	Each of Discover and Capital One will make customary public company representations and warranties with respect to its and its subsidiaries' business. As is customary in public company transactions, there is no post-closing survival of representations and warranties and no post-closing indemnification provision (as there is no surviving seller entity against which to seek recourse).

This Memorandum on Competitive Considerations is provided in connection with the application to the Federal Reserve Board of Governors of the Federal Reserve System (the "Federal Reserve") for prior approval of the acquisition by Capital One Financial Corporation ("COFC") to acquire Discover Financial Services ("Discover") pursuant to Sections 3 and 4 of the Bank Holding Company Act of 1956, as amended ("BHC Act").

Introduction

The Proposed Transaction will not substantially lessen competition in any market. To the contrary, it will promote competition, especially in two significant segments of the financial-services industry—debit and credit card networks—that would meaningfully benefit from the injection of investment that COFC will bring to Discover.

The parties do not overlap in any local banking market as defined by the Federal Reserve Banks, and competition for deposits nationwide will remain robust after the Proposed Transaction. The Proposed Transaction will similarly not substantially lessen competition with respect to credit card issuing. Share and concentration levels for credit card issuing are well below safe harbor thresholds, and the industry is intensely competitive and dynamic—in part due to the ease with which issuers and consumers can switch among products and services. Moreover, the Proposed Transaction will *increase* competition among credit and debit networks by strengthening Discover's payments networks to the benefit of the network users (both cardholders and merchants), thereby facilitating more robust competition against Visa and Mastercard, the two leading operators of debit and credit networks.

Section 3 of the BHC Act prohibits the Federal Reserve from approving a proposed merger or acquisition if it would substantially lessen competition or tend to create a monopoly unless the agency finds that any anticompetitive effects of the Proposed Transaction are clearly outweighed in the public interest by the probable effect of the proposal in meeting the convenience and needs of the communities to be served.[1] In evaluating the competitive effects of a proposed merger or acquisition between financial institutions, the Federal Reserve, in consultation with the Antitrust Division of the Department of Justice ("DOJ"),[2] considers all facts in the record, including the number and strength of competitors that will remain in each relevant market, the relative shares of those competitors, market concentration levels and any increase in those levels as a result of the transaction.

As a preliminary screen to identify transactions that "clearly do not have significant adverse effects on competition," the banking agencies and DOJ calculate post-merger concentration levels as measured by the Herfindahl-Hirschman Index (the "HHI") and the post-merger shares of the combined firm.[3] Applying these screens, transactions that do not result in

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[1] 12 U.S.C. § 1842(c)(1).

[2] [redacted]

[3] U.S. Department of Justice, Antitrust Division, *Bank Merger Competitive Review – Introduction and Overview*, at 1 (1995) ("Bank Merger Guidelines"), https://www.justice.gov/sites/default/files/atr/legacy/2007/08/14/6472.pdf.

(1) both a post-merger HHI of over 1,800 and an HHI increase of more than 200 points; or (2) a post-merger share of 35% are unlikely to warrant further review.[4]

As described in greater detail below, concentration and share levels for the Proposed Transaction fall within these safe harbor thresholds in all markets in which the parties compete. These preliminary screens compellingly support a finding that a transaction is unlikely to substantially lessen competition. Moreover, the highly competitive and dynamic nature of the markets at issue and relative positions and shares of COFC, Discover, and the combined firm demonstrate that the Proposed Transaction will not result in any lessening of competition in any market. With respect to payments networks, where COFC is not active today, the potential transaction will *deconcentrate* the markets at issue and improve competition for these products.

The Parties[5]

COFC is a financial holding company headquartered in McLean, Virginia that provides retail and commercial banking products and services through 259 bank branch and 55 café locations, as well as through digital channels.[6] COFC held approximately $478.5 billion in total assets as of December 31, 2023,[7] and had a market capitalization of $51.6 billion as of March 15, 2024.

Discover is a digital banking and payment services company headquartered in Riverwoods, Illinois. It provides digital banking products and services, including credit cards, personal loans, home loans, and deposit products. Discover held approximately $151.5 billion in total assets as of December 31, 2023, and had a market capitalization of $30.1 billion as of March 15, 2014. Discover owns and operates three payments networks: Discover, PULSE, and the Diners Club International.[8]

Competitive Analysis

The Federal Reserve assesses the likely competitive impact of a merger on the cluster of banking products (various kinds of credit) and services (such as checking and savings accounts) within local geographic markets defined by the Federal Reserve Banks.[9] These local markets

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[4] *See* Bank Merger Guidelines, *supra* note 3; Board of Governors of the Federal Reserve, *FAQs* (Oct. 9, 2014), https://www.federalreserve.gov/bankinforeg/competitive-effects-mergers-acquisitions-faqs htm. The DOJ's and Federal Trade Commission's joint 2023 Merger Guidelines ("2023 Merger Guidelines") presume that transactions resulting in HHI greater than 1,800 and a change of more than 100 points or a combined share in excess of 30% and an increase in HHI of more than 100 points may substantially lessen competition or tend to create a monopoly. *See* U.S. Department of Justice & Federal Trade Commission, Merger Guidelines § 2.1 (Dec. 18, 2023), https://www.justice.gov/d9/2023-12/2023%20Merger%20Guidelines.pdf. The proposed transaction does not exceed the relevant thresholds under either the Bank Merger Guidelines or the 2023 Merger Guidelines.

[5] For a more detailed description of the parties activities, *see* "The Companies" section of the Application.

[6] As of June 2024, reflecting previously determined actions unrelated to the proposed transaction.

[7] Financials in this Exhibit reflect regulatory reports (Call Reports and FR Y-9Cs) and may not match GAAP-reported financials (10-Ks and 10-Qs) cited elsewhere in the Application.

[8] The Diners Club International is not discussed here, as its activities are outside the United States. All Diners Club cards issued in the United States are issued on the Mastercard network by BMO Bank, N.A.

[9] *See United States* v. *Philadelphia National Bank*, 374 U.S. 321, 356 (1963); FAQs, *supra* note 4, Nos. 9-10.

reflect "commercial and banking realities and must consist of the local area where the banks involved offer their services and where local customers can practically turn for alternatives."[10]

In reviewing certain applications, the Federal Reserve will also "investigate the competitive effects in other, more specific product markets" where the products "may be obtained separately from other commercial banking products or services, and whose geographic markets may be regional or national in scope."[11] Although credit card issuing is generally viewed as part of this cluster of banking services, the Federal Reserve also considers credit card issuing as a separate, national market,[12] which we separately evaluate below. Finally, in view of prior federal court and DOJ precedent, we also discuss the Proposed Transaction's procompetitive effects with respect to credit and debit networks.[13]

I. Banking

A. The Proposed Transaction will not substantially lessen competition in any local banking market.

There is no overlap in any local banking market. Discover receives deposits nationally but its sole branch (Greenwood, Delaware) is in the Sussex County, Delaware Banking Market,[14] where COFC has no branches. COFC has a single location in Delaware, located in the Wilmington, Delaware-Maryland Banking Market,[15] where Discover has no branches.[16] COFC's Wilmington location receives deposits nationally, is not open to the public, and does not offer retail banking services. The transaction will thus have no competitive impact in any local banking market.

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[10] *North Fork Bancorporation, Inc.*, 81 Fed. Res. Bull. 734, 736 (1995).
[11] *See* FAQs, *supra* note 4, No. 9.
[12] *See Bank of America Corp.*, 92 Fed. Res. Bull. C5, at 9 (Mar. 22, 2005), https://www.federalreserve.gov/boarddocs/press/orders/2005/20051215/attachment.pdf ("Although the Board believes that the cluster of services appropriately defines the market for analyzing competitive effects of bank acquisitions, the Board has also reviewed the competitive effects of this proposal based on an alternative approach that recognizes that the business of MBNA is focused narrowly on issuing credit cards."); *JPMorgan Chase & Co.*, 90 Fed. Res. Bull. 352, at 7 n.14 (June 14, 2004), https://www.federalreserve.gov/boarddocs/press/orders/2004/20040614/attachment.pdf ("The Board continues to believe that the appropriate product market for analyzing the competitive effects of bank mergers and acquisitions is the cluster of products and services offered by banking institutions [including credit cards]." Even if credit cards were to be treated separately, "the Board concludes that the proposal would not result in significantly adverse competitive effects on credit card issuance, because that activity is conducted on a national or global scale, with numerous other large financial organizations providing the service.").
[13] *See*, *e.g.*, *Ohio* v. *American Express Co.*, 585 U.S. 529 (2018); Complaint for the United States at 17, *United States* v. *Visa U.S.A., Inc.*, 3:20-cv-07810 at 17 (N.D. Ca. Nov. 5, 2020) (national debit payments networks); *United States* v. *American Express*, 88 F. Supp. 3d 143, 170 (E.D.N.Y. 2015) (national credit payments networks), *overruled on other grounds*, 838 F.3d 179 (2d Cir. 2016); *United States* v. *Visa U.S.A., Inc.*, 163 F. Supp. 2d 322, 339-40 (S.D.N.Y. 2001), *aff'd*, 344 F.3d 229 (2d Cir. 2003) ("The United States is the appropriate geographic scope for . . . the general purpose card product market").
[14] Defined as Sussex County, Delaware, excluding the city of Milford.
[15] Defined as New Castle County, Delaware and Cecil County, Maryland.
[16] Discover has an administrative office in Wilmington, Delaware, but that office does not hold or receive deposits.

B. The Proposed Transaction will not substantially lessen competition for banking services at the national level.

In view of Discover's digital banking business model, the only relevant geographic market in which to analyze banking competition for the Proposed Transaction is nationwide. In this context, COFC and Discover are small players, holding 2.14% and 0.64% of total adjusted U.S. bank and thrift deposits, respectively. The combined firm will hold less than 3% of total national adjusted deposits, roughly one-third to one-quarter of deposits held by each of the three largest U.S. banks, JPMC, BOA, and Wells Fargo. It would also trail Citigroup and U.S. Bancorp ("USB"). Concentration levels in any such national market fall well below the safe harbor thresholds, as the HHI will increase a *de minimis* three points from 402 to 405.[17]

This finding holds even when considering savings and checking accounts separately, rather than as part of the cluster of banking products and services in which the Federal Reserve typically evaluates the competitive effects of a proposed transaction. Concentration levels and the parties' combined share are well below safe harbor thresholds for each of these products. The combined COFC and Discover will hold 3.5% of the nation's savings account deposits (including money market deposit accounts)—approximately one-fifth the size of each of JPMC and BOA. HHI levels for savings and money market deposits would increase only four points to 593. The combined COFC and Discover will hold only 1.1% of the nation's transaction or checking account deposits and rank 16th—approximately one-twelfth the size of Wells Fargo. Concentration levels for transaction account deposits would remain virtually unchanged as a result of the transaction at an HHI of 440.[18] The transaction will therefore not diminish competition in any banking market.

This is particularly true in view of increased competition in the industry by fintech firms and digital banks. The prevalence of digital banking has increased significantly over the last decade,[19] and a number of digital-only financial institutions have flourished as digital banking

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[17] This calculation is based on December 31, 2023 adjusted nationwide deposits as calculated for the deposit cap to be consistent with market shares reported in this Application. The national deposit cap does not include credit unions. *See* Annex 1. If calculated based on total domestic deposits reported on call reports consolidated to holding companies, the HHI would increase only three points to 405. Intercompany deposits would not be netted under this methodology. *See* Annex 2. This calculation would not differ meaningfully if calculated based on Summary of Deposits data, which are only available as of June 30, 2023. Even these low concentration levels exaggerate actual market conditions because they exclude credit union deposits and deposit substitutes (including money market funds).

[18] HHIs for savings and transaction deposits are calculated from call reports of individual banks and thrifts consolidated to holding companies as of December 31, 2023. Some companies' deposits may be overstated for intercompany deposit eliminations. *See* Annex 2. Although credit unions aggressively price their checking and savings accounts to compete with banks, they are not included in these share calculations; were they to be included, the HHI would be even lower.

[19] Forbes reports that 78% of adults in the United States prefer to bank using a mobile application or online. *See* Jenn Underwood & Elizabeth Aldrich, *U.S. Consumer Banking Statistics 2024*, FORBES (Jan. 31, 2024), https://www forbes.com/advisor/banking/banking-trends-and-statistics/. The American Bankers Association similarly found that over 70% of bank customers use mobile or online applications as their preferred method of banking. *See* Press Release, American Bankers Association, National Survey: Bank Customers Use Mobile Apps More Than Any Other Channel to Manage Their Accounts (Oct. 26, 2023), https://www.aba.com/about-us/press-room/press-releases/consumer-survey-banking-methods-2023. *See also* René Bennett, *Digital banking trends in 2024*, BANKRATE (Jan. 12, 2024), https://www.bankrate.com/banking/digital-banking-trends-and-statistics/ ("Use of mobile banking as the primary method of account access . . . increased from 15.1 percent of consumers in 2017 to 48

adoption has improved. These include, in addition to Discover, Chime Financial, SoFi Technologies, Ally Financial, Everbank Financial, Synchrony Financial, and Varo Money. As a result, consumers now have innumerable banking products and services at their fingertips in addition to those offered by local banks.

Competition for consumers' deposits has intensified in recent years, as increasing interest rates demonstrated the industry's robust and dynamic nature. In March 2022, the Federal Reserve announced the first federal funds rate increase in over three years. Since March 2022, the Federal Reserve raised the federal funds rate eleven times; in aggregate, 525 basis points.[20] These rate increases corresponded with more than $1 trillion in deposits leaving the nation's banks for money market funds, Treasury bonds and other higher-yield products.[21]

To retain or grow deposits in support of their loan portfolios, most banks responded by increasing deposit yields.[22] Many banks now market high-yield deposit accounts with rates in excess of 4% annual percentage yield ("APY"), well above prevailing rates prior to the Federal Reserve rate increases, including Discover (4.25% APY),[23] Ally Bank (4.25% APY),[24] American Express (4.35% APY),[25] Barclays (4.35% APY),[26] Capital One (4.35% APY),[27] Marcus by

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percent in 2023."); Andrew P. Meyer, FEDERAL RESERVE BANK OF ST. LOUIS, HOW CYBER DEPOSITS AFFECT PERCEIVED COMPETITION IN BANKING MARKETS, (May 11, 2020), https://www.stlouisfed.org/publications/regional-economist/first-quarter-2020/cyber-deposits-perceived-competition-banking (survey reports that 91.5% of community banks offer mobile banking).

[20] *See* Taylor Tepper, *Federal Funds Rate History 1990 to 2023*, FORBES ADVISOR (Jan. 26, 2024), https://www forbes.com/advisor/investing/fed-funds-rate-history/.

[21] *See*, *e.g.*, Alexandra Harris, *How the Banks Gave Up $1 Trillion to Money Market Funds: QuickTake*, BLOOMBERG NEWS (Nov. 28, 2023), https://news.bloomberglaw.com/banking-law/how-banks-gave-up-1-trillion-to-money-market-funds-quicktake; Emily Mason, *The Great Yield Chase: Why a Trillion Has Fled Traditional Bank Accounts*, FORBES (May 15, 2023), https://www.forbes.com/sites/emilymason/2023/05/15/the-great-yield-chase-why-a-trillion-has-fled-traditional-bank-accounts/?sh=1ac9b48e13cc; Alex Harris, *Why US Banks Are Hemorrhaging Deposits to Money Funds: QuickTake,* BLOOMBERG NEWS (Mar. 31, 2023), https://www.bloomberg.com/news/articles/2023-03-31/why-us-bank-deposits-are-moving-to-money-market-funds; Gara Afonso et al., *Monetary Policy Transmission and the Size of the Money Market Fund Industry: An Update*, LIBERTY STREET ECONOMICS (Apr. 3, 2023), https://libertystreeteconomics newyorkfed.org/2023/04/monetary-policy-transmission-and-the-size-of-the-money-market-fund-industry-an-update/.

[22] *See* Jenn Underwood, *History of Savings Account Interest Rates*, FORBES ADVISOR (Jan. 1, 2023), https://www.forbes.com/advisor/banking/savings/history-of-savings-account-interest-rates/; Alex Graf & Syed Muhammed Ghaznavi, *Banks leverage high-cost products to attract deposits as competition intensifies*, S&P GLOBAL MARKET INTELLIGENCE (June 27, 2023), https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/banks-leverage-high-cost-products-to-attract-deposits-as-competition-intensifies-76215128; Polo Rocha, *How deposit concentration reignited and why it should continue in 2023*, AMERICAN BANKER (Dec. 28, 2022), https://www.americanbanker.com/list/how-deposit-competition-reignited-and-why-it-should-continue-in-2023; Itzhak Ben-David et al., *Banks' Internal Capital Markets and Deposit Rates*, 52 J. FIN. & QUANT. ANALYSIS 5 (2017) (finding evidence supporting banks actively setting deposit rates higher in order to attract depositors).

[23] *See* Discover Bank, *Savings*, https://www.discover.com/online-banking/savings-account/ (last accessed Mar. 17, 2024).

[24] *See* Ally Bank, *Savings Account*, https://www.ally.com/bank/online-savings-account (last accessed Mar. 8, 2024).

[25] *See* American Express, *Savings*, https://www.americanexpress.com/en-us/banking/online-savings/account/ (last accessed Mar. 8, 2024).

[26] Barclays, *Online Savings*, https://www.banking.barclaysus.com/online-savings (last accessed Mar. 8, 2024).

[27] *See* Capital One, *360 Performance Savings*, https://www.capitalone.com/bank/savings-accounts/online-performance-savings-account/ (last accessed Mar. 8, 2024).

Goldman Sachs (4.5% APY),[28] Sallie Mae (4.5% APY),[29] Citizens (4.5% APY),[30] SoFi (4.6% APY),[31] CIT Bank (4.65% APY),[32] Betterment (4.75% APY),[33] Synchrony Bank (4.75% APY),[34] Wealthfront (5.0% APY),[35] and Bask Bank (5.1% APY),[36] among others. JPMC, BOA, and Wells Fargo are the exceptions, as these banks did not or were significantly slower to increase rates. JPMC, BOA, and Wells Fargo each currently offer 0.01% APY on their standard interest-bearing savings accounts, and their highest yield savings accounts offer 0.01%, 0.04%, and 2.5% APY, respectively.[37] Although deposits at these larger institutions have declined to an extent, they benefited from significant deposit inflows following the 2023 Silicon Valley Bank and Signature Bank failures, as consumers shifted deposits held at smaller or digital banks to larger institutions that were perceived to be safer;[38] these institutions continue to hold an outsized share of savings deposits, despite these differences.

Savings accounts also compete with money market funds, whose assets are estimated to have surged by approximately $1.3 trillion in the past two years to about $6.4 trillion, since the Federal Reserve started raising the federal funds rate.[39] Like high-yield savings accounts, money market funds appeal to businesses and consumers seeking higher returns on their cash, but with the ability to access their cash at any time. Vanguard, JPMC, Charles Schwab, Invesco, Fidelity, T. Rowe Price, and BlackRock are among the largest managers of money market funds in the

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[28] *See* Marcus by Goldman Sachs, *Savings Account*, https://www.marcus.com/us/en/savings/high-yield-savings2?adobe_mc_sdid=SDID%3D1AF1DCD385972247-22D2CAF77E99FE6C%7CMCORGID%3D51857BAF56FBC1EC7F000101%40AdobeOrg%7CTS%3D1710788022&adobe_mc_ref=https%3A%2F%2Fwww.marcus.com%2Fus%2Fen%2Fsavings%2Fhigh-yield-saving (last accessed Mar. 17, 2024).
[29] *See* Sallie Mae, *High Yield Savings Account*, https://www.salliemae.com/banking/high-yield-savings-account/ (last accessed Mar. 8, 2024).
[30] *See* Citizens Bank, *High-yield online savings account*, https://www.secure.citizensaccess.com/Citizens/savings.page? (last accessed Mar. 8, 2024).
[31] *See* Sofi Banking, *Sofi Checking and Savings*, https://www.sofi.com/banking/ (last accessed Mar. 8, 2024).
[32] *See* CIT Bank, *Savings Connect Account*, https://www.cit.com/cit-bank/savings-connect (last accessed Mar. 8, 2024).
[33] *See* Betterment, *Cash Reserve*, https://www.betterment.com/cash-reserve (last accessed Mar. 8, 2024).
[34] *See* Synchrony Bank, *High Yield Savings*, https://www.synchronybank.com/banking/high-yield-savings/ (last accessed Mar. 8, 2024).
[35] *See* Wealthfront, *Cash*, https://www.wealthfront.com/cash (last accessed Mar. 8, 2024).
[36] *See* Bask Bank, *Interest Savings Account*, https://www.baskbank.com/products/interest-savings-account (last accessed Mar. 8, 2024).
[37] *See* Chase Savings Account Interest Rate, https://www.chase.com/personal/savings/savings-account/interest-rates (last accessed Mar. 8, 2024) (savings interest rate of 0.01%) (enter zip code data in search query); Bank of America Savings Interest Rate Missouri, *Deposit Interest Rates & Annual Percentage Yields*, https://media.bac-assets.com/DigitalDeposit_MO_MO_Eastern.pdf?cacheBuster=2710 (last accessed Mar. 8, 2024) (savings interest rate of 0.01%); Wells Fargo Savings Rate, https://www.wellsfargo.com/savings-cds/way2save/ (last accessed Mar. 8, 2024) (savings interest rates of 0.01%) (enter zip code data in search query). BOA offers 0.04% APY for preferred rewards Diamond Honors accounts holding over $2,500 in deposits; Wells Fargo offers 2.5% APY for Platinum Savings customers holding $1 million in balances; JPMC only offers 0.01% APY. *See id*.
[38] *See*, *e.g.*, Hugh Son, *Deposit drain from smaller banks into financial giants like JPMorgan Chase has slowed, sources say*, CNBC (Mar. 25, 2023), https://www.cnbc.com/2023/03/25/banking-crisis-deposit-drain-from-small-banks-into-jpm-wfc-c-slowed html.
[39] *See* St. Louis Federal Reserve Economic Data, *Money Market Funds; Total Financial Assets, Level*, https://fred.stlouisfed.org/series/MMMFFAQ027S; Alex Harris, *Why US Banks Are Hemorrhaging Deposits to Money Funds*, BLOOMBERG (Mar. 31, 2023), https://www.bloomberg.com/news/articles/2023-03-31/why-us-bank-deposits-are-moving-to-money-market-funds.

United States. Competition for these deposits will continue unabated after the Proposed Transaction closes.

Competition for checking accounts, particularly primary bank accounts, is similarly robust. A primary bank account refers to a customer's primary transactional account often used for direct deposit and debit transactions.[40] Despite the growth of digital banking and new fintech offerings, a customer's primary bank account is often still held with a traditional bank.[41] For example, when COFC eliminated overdraft charges[42]—the first top-ten retail bank to do so—the company [redacted] COFC nonetheless remains small in checking compared to traditional banks that offer less attractive checking account terms.[43] Larger banks, in particular, are able to attract primary accounts and checking deposits at a significant cost discount to smaller or digital-first banks like COFC.[44] As of December 31, 2023,

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[40] *See* Frederrick Hamann, *5 way to become your customers' primary bank account*, SUBAIO (Jan. 3, 2022), https://subaio.com/digital-banking/5-ways-to-become-your-customers-primary-bank-account ("According to traditional banking standards, the account that has a customer's salary paid into it would be considered the primary banking account. A primary bank account also refers to the main account of operation of a banking customer. This is usually the account where purchase transactions, fees and charges connected to the ATM/Debit Card are debited," and discussing increased competition for primary bank account status); PYMNTS, *Digital Banks Take Aim at Primary Accounts with Help of Platforms* (Feb. 13, 2023), https://www.pymnts.com/news/digital-banking/2023/digital-banks-take-aim-at-primary-accounts-with-help-of-platforms/ ("Get the primary account in place, funded on a recurring basis by, say a consumer's paycheck, and the potential is there for banks to not only lower their cost of funding innovation but to also set the stage for cross-selling other products and services."); Jim Marous, *Why Digital Banks Win the War for Banking Relationships*, THE FINANCIAL BRAND (Mar. 10, 2022), https://thefinancialbrand.com/news/digital-banking/banking-competition-trends-impacting-primary-account-status-132382/.

[41] *See* Mary Wisniewski, *Survey: Consumers stick with the same checking account for an average of 17 years*, BANKRATE (Jan. 4, 2022), https://www.bankrate.com/banking/how-long-people-keep-their-checking-savings-accounts/ ("[T]he average U.S. consumer has held on to the same checking account for 17.75 years, and 16.69 years for a primary savings account."); PYMNTS, *Study Finds Fewer Than 10% of Consumers Use FinTechs as a Primary Bank* (Sept. 12, 2022), https://www.pymnts.com/consumer-finance/2022/study-finds-fewer-than-10-of-consumers-use-fintechs-as-a-primary-bank/ ("Many consumers are not yet prepared to cut ties with their traditional financial institutions . . . [b]ut . . . this status quo is starting to change as consumers become curious about the benefits of digital banking, including easier transfers, lower costs and better notifications.").

[42] *See* Press Release, Capital One, *Capital One Eliminates Overdraft Fees for Customers* (Dec. 1, 2021), https://www.capitalone.com/about/newsroom/eliminating-overdraft-fees/.

[43] COFC's checking accounts have no monthly service fee, no account minimums, overdraft protection, and no overdraft fees. In comparison, checking accounts at Wells Fargo, Bank of America, and Chase Bank all have a monthly fee—which, in some cases, may be waived when an account meets certain minimum balance or direct deposit requirements—do not offer overdraft protection (*i.e.*, a charge that exceeds the account balance will be declined or returned), or charge a fee for overdraft protection. *Compare* Capital One, *Compare Checking & Savings Accounts*, https://www.capitalone.com/bank/open-an-account/ (last accessed Mar. 11, 2024) *with* Wells Fargo, *Checking Accounts*, https://www.wellsfargo.com/checking/ (last accessed Mar. 11, 2024); Bank of America *Checking*, https://www.bankofamerica.com/deposits/checking/advantage-banking/ (last accessed Mar. 11, 2024) (enter zip code data into search query); Chase, *Checking*, https://personal.chase.com/personal/checking (last accessed Mar. 11, 2024). Capital One checking customers can also add cash to their accounts at any Walgreens or CVS location using the Capital One mobile application without a debit card or ATM. Capital One, *Add Cash in Store*, https://www.capitalone.com/bank/add-cash-in-store/ (last accessed 3/18/2024).

[44] *See, e.g.*, Max Reyes, *Regional Banks Battle for Deposits with Tougher US Rules Looming*, BLOOMBERG (July 17, 2023), https://www.bloomberg.com/news/articles/2023-07-17/regional-banks-battle-for-deposits-with-tougher-us-rules-looming (reporting on increased cost of deposits on smaller banks); Stefan Jacewitz & Jonathan Pogach,

COFC ranked 16th in total transaction account deposits among banks and thrifts—not only behind the nation's largest banks, but also behind PNC Financial Services Group ("PNC"), KeyCorp, Citizens Financial Group ("Citizens"), Huntington Bancshares, and Regions Financial, among others—and the combined COFC-Discover will remain 16th after the Proposed Transaction.[45]

C. The Proposed Transaction will improve access to consumer-friendly banking products.

As a result of the Proposed Transaction, Discover customers will immediately gain access to COFC's branch and café locations and associated services. Investments in Discover's payments networks will also facilitate improved products and services for COFC's banking customers.[46] The combined COFC-Discover will thus be better positioned to grow its banking presence; make more attractive its and Discover's consumer-friendly banking products, including no-minimum-balance, no-overdraft-fee checking accounts and higher-yield checking accounts;[47] and introduce new innovative products and services.

II. Credit Card Issuance

In recent transactions, the Federal Reserve has also considered the potential competitive effects of transactions in the national market for issuance of credit cards. The Proposed Transaction will not result in any substantial lessening of competition in this market.

A. Credit card issuing is not a concentrated industry.

The Federal Reserve and OCC have recognized that any market for credit card issuing is national in scope, intensely competitive, and not concentrated.[48] When COFC acquired HSBC's

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Deposit Rate Advantages at the Largest Banks, 53 J. FIN. SERVS. RSCH. 1 (2018) (finding that the perception of lower risk at large banks led to large banks paying a lower risk premium).

[45] *See* Annex 2.

[46] See discussion *infra* notes 1736-183.

[47] *See supra* notes 27 & 43.

[48] *See, e.g.*, *Capital One, National Association*, CRA Decision #149, at 3 (Mar. 9, 2012) ("CONA and COBNA are two of roughly 5000-plus institutions that offer credit cards in a highly competitive market"), https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2012/crad149.pdf; *Bank of America Corporation*, Conditional Approval #625, at 2-3 (Feb. 24, 2004), https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2004/ca625.pdf ("The OCC and the FRB have recognized that the market for credit card services is national in scope. Credit card companies compete in soliciting and serving customers throughout the United States. This national market is highly competitive and not concentrated."); *Citibank USA, National Association*, CRA Decision #117, at 3 (Oct. 16, 2003), https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2003/crad117.pdf ("The OCC and the Federal Reserve Board have recognized that the market for credit card services is national in scope . . . This national market is highly competitive and unconcentrated. . . . The nationwide population of credit card issuing depository institutions is extensive, and there are numerous alternative card lenders in the national marketplace"); *HSBC Holdings, plc*, Corporate Decision #2003-2, at 2 (Mar. 27, 2003), https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2003/cd03-2.pdf (same); *First USA Bank, N.A., et al.*, Corporate Decision #2001-16, at 3 (June 14, 2001), https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2001/cd01-16.pdf ("The OCC recognizes that the relevant geographic market for credit card services is national in scope."); *Citigroup Inc.*, Corporate Decision #2000-21, at 2 (Nov. 30, 2000), https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2000/cd00-21.pdf (same); *Bank of America, National Association*, Corporate

credit card portfolio in 2012, for example, the OCC stated that the parties "are two of roughly 5,000-plus institutions that offer credit cards in a highly competitive market."[49] Courts have similarly recognized the intensity of competition among issuers for credit cards. In the DOJ's lawsuit against Visa and Mastercard, which began in 1998 and ended in 2003, the Second Circuit characterized competition among credit and charge card issuers in the United States as "robust," where "[thousands of] separate issuers compete to provide products to consumers."[50] The district court in the same litigation found that "no single issuer dominates the industry; the largest credit and charge card issuers have only small shares of total industry output."[51] The DOJ acknowledged in that litigation that "[n]o one disputes that the issuer market is unconcentrated."[52]

These facts remain unchanged today. Thousands of credit card issuers compete to attract customers,[53] and all relevant metrics confirm that no single issuer dominates the market. The market is unconcentrated, concentration levels have not increased since 1998,[54] and, in the last

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Decision No. 98-14, at 2 (Feb. 10, 1998), https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/1998/cd98-14.pdf ("The [credit card servicing] market is very fragmented where even the leading lenders have relatively modest market shares."); and *Associates National Bank (Delaware)*, Corporate Decision #97-23 at 3 (Apr. 9, 1997), https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/1997/cd97-23.pdf ("Competition between issuers of major credit cards is intense"). For the Federal Reserve's decisions, *see Bank of America Corporation*, *supra note* 12, at 9-10 ("[I]ssuing credit cards is an activity that is conducted on a national or global scale, with relatively low barriers to entry and with numerous other large financial organizations providing these services."); *JPMorgan Chase & Co.*, *supra note* 12; *Travelers Group Inc.*, 84 Fed. Res. Bull. 985, at 75 (Sept. 23, 1998), https://www federalreserve.gov/boarddocs/press/bhc/1998/19980923/19980923.pdf ("The record indicates that there are numerous, active competitors providing each of these products and services, [including credit card operations,] and that the markets for these products and services are unconcentrated."); *Banc One Corporation*, 84 Fed. Res. Bull. 961, at 62 n.65 (Sept. 14, 1998), https://www.federalreserve.gov/boarddocs/press/bhc/1998/19980914/19980914.pdf ("The Board previously has determined that the markets for credit card issuers and credit card processors are national and are not concentrated."); and *Banc One Corporation*, 83 Fed. Res. Bull. 602 (May 14, 1997), https://www.federalreserve.gov/boarddocs/press/bhc/1997/19970514/ ("Credit card issuers compete nationally for credit card customers. . . . The market would remain unconcentrated . . . and numerous competitors would remain.").

[49] *Capital One, National Association*, CRA Decision #149, at 3 (Mar. 9, 2012), https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2012/crad149.pdf.

[50] *United States* v. *Visa U.S.A., Inc.*, 344 F.3d 229, 240 (2d Cir. 2003).

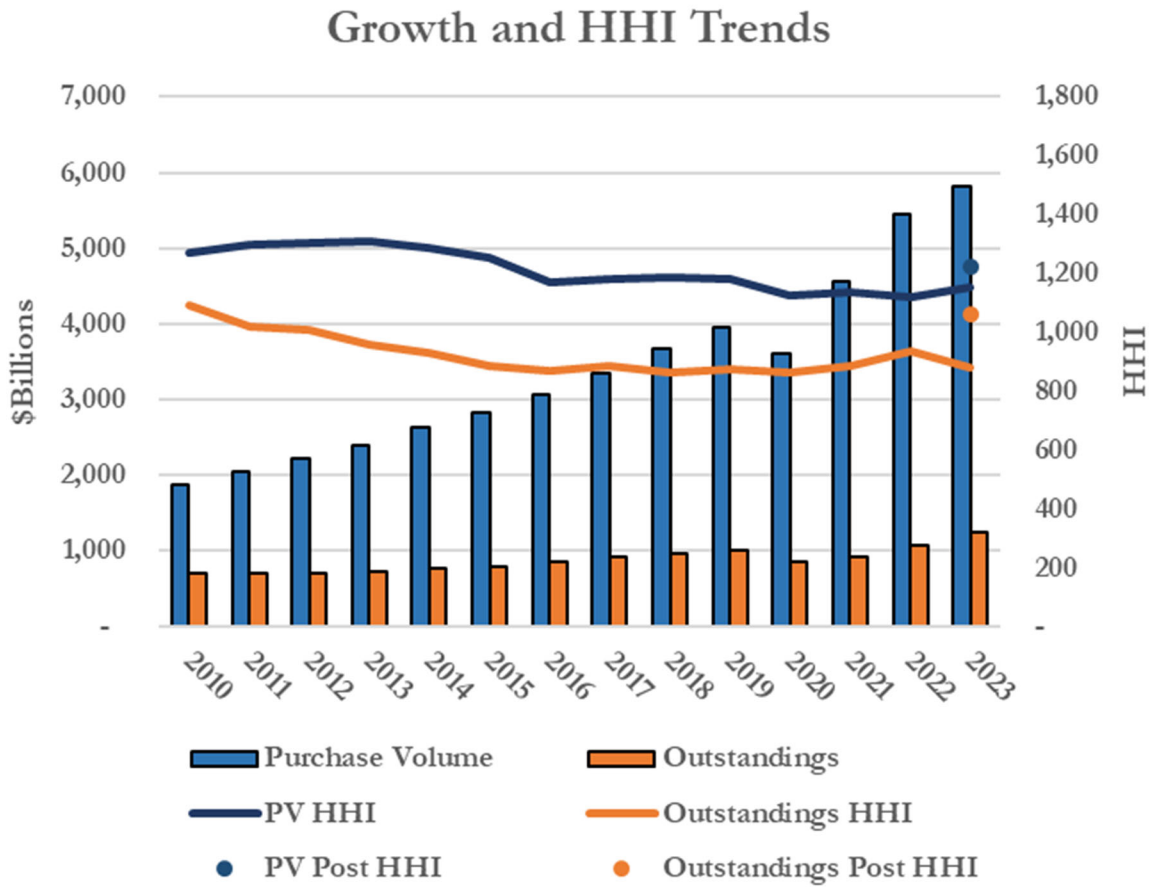
[51] *United States* v. *Visa U.S.A., Inc.*, 163 F. Supp. 2d at 333.

[52] Brief for the United States at 48 n.43, *United States* v. *Visa U.S.A., Inc.*, 344 F.3d 229, 240 (2d Cir. 2003) (No. 02-6074(L)).

[53] CFPB, *The Consumer Credit Card Market*, at 18 (Oct. 2023) (hereinafter, "2023 CFPB Report"), https://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-card-market-report_2023.pdf ("About 4,000 financial institutions offer credit cards."); BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, REPORT TO THE CONGRESS ON THE PROFITABILITY OF CREDIT CARD OPERATIONS OF DEPOSITORY INSTITUTIONS 7 n.7 (July 2018), https://www federalreserve.gov/publications/files/ccprofit2018.pdf (noting that, as of 2018, there were "over 5,000 depository institutions, including commercial banks, credit unions, and savings institutions" that "issue Visa and Mastercard credit cards and independently set the terms and conditions on their plans. Many thousands of other institutions act as agents for card-issuing institutions. In addition to the firms issuing cards through the Visa and Mastercard networks, a few institutions issue cards on two other large networks, American Express and Discover.").

[54] *See Bank of America, National Association*, Corporate Decision No. 98-14, *supra* note 48, at 2 (HHI would increase to approximately 873 as a result of the transaction); *Banc One Corporation*, 84 Fed. Res. Bull. 961, *supra* note 48, at 62 n.65 (HHI would increase 104 points to less than 1,000 as a result of the transaction). As of December 31, 2023, the HHI based on credit card outstanding balances was 882, comparable to HHI concentration

ten years, outstanding balance and purchase volume concentration levels have in fact *declined*.[55] At the same time, purchase volume has grown significantly, further demonstrating that the industry is highly competitive, with no single competitor or group of competitors exercising market power.[56] The Federal Reserve has measured concentration in the credit card issuing market based on national "receivables" (that is, outstanding balances).[57] Under that metric, the market is unconcentrated. Shares based on purchase volume are likewise unconcentrated.



levels in 1998. The post-merger HHI of 1,060 remains less than that in 2010 (1,091). The Nilson Report, Issue Nos. 1258, 1257. [redacted]

[55] The Nilson Report, Issue Nos. 1258, 1257, 1236, 1235, 1214, 1213, 1192, 1191, 1170, 1169, 1148, 1147, 1126, 1125, 1104, 1103, 1081, 1080, 1058, 1057, 1035, 1034, 1012, 1011, 989, 988, 966, 965. [redacted]

[56] Outstanding balances, unlike purchasing volume, may be impacted by regulated leverage and other capital ratios. Banks may securitize or sell credit card assets to satisfy these regulatory requirements, thereby lowering total outstanding credit card balances held by the bank, which may explain why outstanding balances have not grown at the same rate as purchasing volume. Nevertheless, concentration levels for outstanding balances have declined, driven in significant part by a decline in share held by the top 10 credit card issuers, demonstrating the lack of market power by any given issuer. *See* 2023 CFPB Report, *supra* note 53, at 19 fig. 3 (top 10 issuer share has declined from 87.0% in 2016 to 82.9% in 2022, while the next top 20 issuer share has increased from 7.6% to 11.6%).

[57] *See, e.g.*, *First Chicago Corp.*, 73 Fed. Res. Bull. 600, 601, 1987 WL 119316, at *1, n.4 (July 1, 1987) (analyzing competition for credit card issuers based on each issuer's overall national share of "bank credit card and check credit receivables"); *MNC Financial, Inc.*, 76 Fed. Res. Bull. 89, 93, 1990 WL 319504, at *4 (Feb. 1, 1990) (market shares based on "bank credit card receivables in the United States").

B. The credit card industry is intensely competitive and dynamic as issuers are readily able to introduce new products and services and change existing products and services to meet consumer demands.

The persistently low and decreasing concentration level in credit card issuing reflects dynamism, innovation, and competition in the industry.[58] Thousands of issuers compete for new originations and increased purchasing through a multitude of packages and programs based on, *inter alia*, interest rates and fees[59]; point programs that can be redeemed for merchandise, airline tickets, travel, and entertainment (or all of them); cash back programs; amenities such as purchase protection and airport lounges; early spend and sign-up bonuses; and interest-free promotional periods.

These packages can be developed or refined quickly in response to changes in consumer demand or spend. USB's Bank's Cash+ card and the Chase Freedom Flex card, for example, allow consumers to choose and activate categories that are important to them for added cash back.[60] Citigroup's Custom Cash card will automatically adjust rewards based on categories of actual spend.[61] Wells Fargo's Autograph card targets travelers with unlimited 3X points for travel expenses.[62] Airline-specific cards let consumers earn more miles on purchases,[63] and

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[58] *See*, *e.g.*, Susan Herbst-Murphy, FEDERAL RESERVE BANK OF PHILADELPHIA, CREDIT CARD LANDSCAPE UPDATE 2 (Jan. 2018), https://www.philadelphiafed.org/-/media/frbp/assets/consumer-finance/discussion-papers/dp18-01.pdf ("The credit card industry is nothing if not dynamic. . . . New technologies, changes to funding or other costs, and new consumer entrants alter the status quo.").

[59] In 2009, the Credit Card Accountability Responsibility and Disclosure (CARD) Act set certain caps and limitations on the fees credit card issuers could charge and limited certain interest rate hikes. In March 2024, the Consumer Financial Protection Bureau issued a final rule pursuant to the CARD Act that lowers the immunity provision dollar amount for late fees to $8 down from $32. *See* Press Release, CFPB, *CFPB Bans Excessive Credit Card Late Fees, Lowers Typical Fee from $32 to $8* (Mar. 5, 2024), https://www.consumerfinance.gov/about-us/newsroom/cfpb-bans-excessive-credit-card-late-fees-lowers-typical-fee-from-32-to-8/. As a result, the ability for issuers to compete on rates and fees has been significantly constrained. In general, credit card interest rates are pegged to and have followed the federal funds rate. *See* American Bankers Association, Consumer Bankers Association & National Association of Federally−Insured Credit Unions, *Comment to the CFPB Request for Information Regarding Consumer Credit Market*, at 2-3, Docket No. CFPB-2023-0009 (Apr. 24, 2023), https://www.nafcu.org/system/files/files/CFPB-2023-0009%20Joint%20Trades%20Letter%20to%20CFPB%20re%20Consumer%20Credit%20Card%20Market.pdf. Overall profitability, however, has been relatively stable despite fluctuating interest rates. *See* Robert Adams, Vitaly Bord & Bradley Katcher, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, CREDIT CARD PROFITABILITY (Sept. 9, 2022), https://www federalreserve.gov/econres/notes/feds-notes/credit-card-profitability-20220909.html; BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, REPORT TO CONGRESS: PROFITABILITY OF CREDIT CARD OPERATIONS OF DEPOSITORY INSTITUTIONS 3, Table 1 (July 2023) (hereinafter, "Profitability of Credit Card"), https://www.federalreserve.gov/publications/files/ccprofit2023.pdf.

[60] *See* U.S. Bank, *U.S. Bank Cash+ Visa Signature Card*, https://www.usbank.com/credit-cards/cash-plus-visa-signature-credit-card.html (last accessed Mar. 16, 2024); Chase, *Chase Credit Cards*, https://creditcards.chase.com/ (last accessed Mar. 16, 2024).

[61] *See* Citigroup, *View and Compare All Credit Cards*, https://www.citi.com/credit-cards/compare/view-all-credit-cards (last accessed Mar. 16, 2024).

[62] *See* Wells Fargo, *Credit Cards*, https://creditcards.wellsfargo.com/?RCTTST=RCTCTL1&sub_channel=WEB&vendor_code=WF (last accessed Mar. 16, 2024).

[63] *See*, *e.g.*, United Airlines, *Rewards Cards*, https://www2.theexplorercard.com/rewards-cards (last accessed Mar. 16, 2024).

many others offer even more niche benefits, like the NFL Extra Points card.[64]

Issuers can retool their existing offerings with ease. For example, American Express ("Amex") recently moved its co-branded Morgan Stanley brokerage card from a points-based rewards program to a cash-back offering[65]; BOA recently revamped its Customized Cash Rewards card to allow cardholders, among other changes, to earn 3% cash back on electric vehicle charging stations[66]; and in 2024, Citigroup changed its credit guidelines for two of its cards to make them more accessible.[67]

Credit card issuers can appeal to consumers with aggressive no- or low-interest offerings for new purchases or balance transfers for a promotional period. The new TD FlexPay card, for example, is offering consumers a 0% introductory APR on balance transfers for 18 billing cycles,[68] and Amex's Blue Cash Preferred Card offers 0% APR on purchases and balance transfers for 12 months.[69]

Other card offerings, including recently developed products, are specifically designed to help consumers build credit. "Some providers are offering new types of secured credit cards to consumers lacking credit scores or credit files. For example, issuer Varo Bank introduced a credit card which reserves the amount spent from a linked bank account to ensure users never miss a payment," allowing users to build credit and improve their credit score with limited bank

[64] *See NFL Extra Points*, https://www nflextrapoints.com/ (last accessed Mar. 16, 2024).
[65] *See* Kate Fitzgerald, *American Express launches cash-back card for investors*, AMERICAN BANKER (Nov. 10, 2021), https://www.americanbanker.com/news/american-express-launches-cash-back-card-for-investors.
[66] *See* John Adams, *How Bank of America, Barclays make loyalty about more than reward points*, AMERICAN BANKER (Sept. 8, 2023), https://www.americanbanker.com/payments/news/how-bofa-barclays-make-loyalty-about-more-than-reward-points.
[67] *See* Becky Pokora, *Citi Adds Two Cash-Back Credit Cards for Fair Credit*, FORBES (Feb. 5, 2024), https://www forbes.com/advisor/credit-cards/citi-adds-two-cash-back-credit-cards-for-fair-credit/.
[68] *See* TD Bank, *TD FlexPay Credit Card*, https://www.td.com/us/en/personal-banking/credit-cards/flex-pay (last accessed Mar. 16, 2024). TD Bank is actively expanding its credit card offerings. Kate Fitzgerald, *TD Bank launches a credit card with zero interest and a monthly fee*, AMERICAN BANKER (May 9, 2023), https://www.americanbanker.com/payments/news/td-bank-launches-a-credit-card-with-zero-interest-and-a-monthly-fee (announcing launch of two new credit cards, one that eliminates interest and charges a monthly fee —the first of its kind—and another that gives cash-strapped customers a periodic break on payments and fees); TD Stories, *TD Bank Introduces Two New Credit Cards with Launch of Revamped Portfolio* (May 9, 2023), https://stories.td.com/us/en/article/td-bank-introduces-two-new-credit-cards-with-launch-of-revamped-portfolio (announcing launch of two new cards and enhancements to existing TD Double Up and TD Cash credit cards); Dawn Furnas, *TD Bank extends Target credit card deal*, NJ BIZ (Sept. 22, 2022), https://njbiz.com/td-bank-extends-target-credit-card-deal/ (announcing extension of Target co-branding deal).
[69] *See* Amex Blue Cash Preferred, https://www.americanexpress.com/us/credit-cards/card/blue-cash-preferred/ (last accessed Mar. 16, 2024).

risk.[70] Chime, Self, and TomoCredit also offer secured credit cards that applicants can obtain without a credit check,[71] and Nerd Wallet recently announced the launch of its own such card.[72]

Competition in the industry has intensified as data and information collection and solicitation and issuing technology have improved. Credit card issuers, including new entrants, are well-positioned to identify an unmet demand, develop a product to meet the demand, and deploy efficient marketing tactics that target specific populations.[73] And the Federal Reserve has previously recognized, "issuing credit cards is an activity . . . with relatively low barriers to entry and with numerous . . . large financial organizations providing these services."[74] New "card-as-a-service" offerings, in particular, have accelerated the timeline for product launches, providing an avenue for smaller banks and issuers to quickly modernize and improve their digital offerings and technology stack.[75]

Nor do mandated capital ratios limit a bank's capacity to expand or grow its credit card portfolios. Credit card assets represent a relatively small percentage of assets or deposits at some

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[70] CFPB, *The Credit Card Market*, at 160 (Sept. 2021) (hereinafter "2021 CFPB Study"), https://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-card-market-report_2021.pdf.

[71] *Id.*; *see also* Steve Cocheo, *Battle for Credit Cards Waged with Innovation and Sheer Marketing Muscle*, THE FINANCIAL BRAND (Aug. 11, 2021), https://thefinancialbrand.com/news/payments-trends/innovation-and-sheer-marketing-muscle-powering-credit-card-battle-120044/.

[72] *See* Miriam Cross, *NerdWallet explains how its credit card will help vast swath of users*, AMERICAN BANKER (Oct. 30, 2023), https://www.americanbanker.com/news/nerdwallet-explains-how-its-credit-card-will-help-vast-swathe-of-users.

[73] *See* Mark Furletti, THE FEDERAL RESERVE BANK OF PHILADELPHIA, CREDIT CARD PRICING DEVELOPMENTS AND THEIR DISCLOSURE 1 (Jan. 2003) (hereinafter, "Credit Card Pricing"), https://www.philadelphiafed.org/-/media/frbp/assets/consumer-finance/discussion-papers/creditcardpricing_012003.pdf?la=en&hash=C681C5E95BF6626D8C0FDB0EFFBE052 ("Advances in credit scoring, response modeling, and solicitation technologies (*e.g.*, e-mail, direct mail, telemarketing) have allowed experienced issuers to more efficiently market their products and enabled new issuers to enter the card market and grow quickly."); Sandra F. Braunstein, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, CREDIT SCORING, BEFORE THE COMMITTEE ON FINANCIAL SERVICES, SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT, (Mar. 24, 2010), https://www.federalreserve.gov/newsevents/testimony/37519B46AB684C1F91B30089062203E1 htm ("Credit scoring also has increased access to credit for consumers, enhanced competition, and improved market efficiency"); Terri Bradford, FEDERAL RESERVE BANK OF KANSAS CITY, GIVE ME SOME CREDIT: USING ALTERNATIVE DATA TO EXPAND CREDIT ACCESS (June 28, 2023), https://www kansascityfed.org/research/payments-system-research-briefings/give-me-some-credit-using-alternative-data-to-expand-credit-access/ ("[U]sing alternative financial data to assess consumers' creditworthiness resulted in both a higher probability of a consumer being approved for credit and a more favorable interest rate for that credit."); 2023 CFPB Report, *supra* note 53, at 169 ("New data sources for underwriting, such as the use of consumer-permissioned data from bank accounts," could improve access to credit).

[74] *Bank of America Corporation*, *supra* note 12, at 9-10.

[75] *See*, *e.g.*, Christine Gibson, *How 'credit cards as a service' is helping banks charge ahead*, MASTERCARD NEWSROOM (Dec. 6, 2023), https://www mastercard.com/news/perspectives/2023/how-credit-cards-as-a-service-is-helping-banks-charge-ahead/ ("Brim's modular customizable platform can significantly accelerate the deployment of a credit card program for issuers of any size from months to weeks, fully empowering the institution to run and evolve that program according to their customer and market needs."); Suman Bhattacharyya, *Inside Marqeta's plans to grow its 'card-as-a-service' offering*, PAYMENTS DIVE (Mar. 2, 2021), https://www.paymentsdive.com/news/inside-marqetas-plans-to-grow-its-card-as-a-service-offering/595965/ (API-based platform that helps clients launch card offerings in months instead of years); Press Release, First National Bank of Omaha, *First National Bank of Omaha Launches Credit Card-as-a-Service Solution* (Aug. 30, 2022), https://www.businesswire.com/news/home/20220830005403/en/First-National-Bank-of-Omaha-Launches-Credit-Card-as-a-Service-Solution.

of the most active and largest issuers, including JPMC, Citigroup, BOA, USB and Wells Fargo.[76] To the extent any issuer may be capital-constrained, it may sell or securitize credit card balances,[77] thereby expanding available capacity to issue and extend credit. In this environment of a highly elastic supply curve, the Proposed Transaction raises no competitive concern.

C. Consumers can easily switch credit card products and can switch to other transaction or lending products that compete for credit card spend.

Just as credit card issuers can flexibly respond to changing industry and competitive dynamics, so too can consumers. As the OCC has previously noted, "[i]n addition to the numerous [card issuer] alternatives, the market is characterized by the ability of card customers to switch among those card providers with ease and rapidity."[78] Product innovations, such as balance transfer, cash-back programs and no annual fee cards, facilitate and incentivize switching and multi-homing, together with low introductory APRs or balance transfer APRs.[79] Rewards programs, which are prevalent, also incentivize switching.[80] Because the U.S. consumer holds an average of three to four credit cards, this switching occurs not just when a consumer closes an account with one issuer and opens one with another, but also from one transaction to the next.[81]

Increased digitization and availability of data in the industry has further facilitated consumer switching. Credit card applications can be submitted quickly online or on a mobile device,[82] and some issuers approve applicants based on a "soft" credit inquiry (which does not affect a credit rating), thereby eliminating any downside to submitting several credit card

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[76] *See* Annex 3.

[77] *See, e.g.*, Sifma, *US Asset Backed Securities Statistics*, https://www.sifma.org/resources/research/us-asset-backed-securities-statistics/ (approximately $20.3 billion in credit card receivables were newly securitized in 2023); Press Release, Barclays, *Barclays and Blackstone Credit & Insurance Agree to Sale of Credit Card Receivables* (Feb. 27, 2024), https://home.barclays/news/press-releases/2024/02/barclays-and-blackstone-credit---insurance-agree-to-sale-of-cred/.

[78] *Citibank USA, National Association*, CRA Decision #117, *supra* note 48, at 3; *see also United States* v. *Visa U.S.A., Inc.*, 163 F. Supp. 2d at 334 ("Cardholders today can choose from thousands of different card products with varying terms and features, including a wide variety of rewards and co-branding programs . . . Consumers in the United States also have extensive information available to them about card offerings and can readily switch cards and issuers."); 2023 CFPB Report, *supra* note 53, at 88 ("Since consumers often carry more than one card, credit card issuers compete to acquire and retain 'top-of-wallet' status as consumers' primary method of payment. Issuers must refresh product offerings and provide new benefits regularly to ensure cardholders reach for their product first at checkout or keep their card as the default option in a mobile wallet.").

[79] Credit Card Pricing, *supra* note 73, at 2.

[80] 2023 CFPB Report, *supra* note 53, at 98 ("Rewards frequently drive originations, as consumer report rewards and sign-up offers are the top factors influencing their shopping decisions. After a consumer chooses to open a card, rewards continue to play a major role, often determining card choice at point-of-sale. The fight for both new customers and 'top-of-wallet' status for existing cardholders has intensified competition on rewards offerings in the past two years."); Sumit Agarwal, Sujit Chakravorti & Anna Lunn, *Why Do Banks Reward Their Customers to Use their Credit Cards?* (Fed. Reserve Bank of Chi., WP No. 2010-19, 2010), http://www.chicagofed.org/digital_assets/publications/working_papers/2010/wp2010_19.pdf ("[R]ewards have [a] significant impact on credit card debt especially via substitution from another issuer's credit card suggesting that rewards are an effective tool to steal customers from a financial institution's competitors.").

[81] *See* Stefan Lembo Stolba, *What is the Average Number of Credit Cards per US Consumer?*, EXPERIAN (Apr. 8, 2021), https://www.experian.com/blogs/ask-experian/average-number-of-credit-cards-a-person-has/.

[82] 2021 CFPB Study, *supra* note 70, at 66.

applications.[83] The increased use of digital wallets has eliminated physical limitations to the number of cards an individual can hold.[84] These digital wallets allow cardholders to switch card usage based on a particular purchase, and new mobile applications help consumers quickly identify which card provides the best reward for any particular purchase.[85]

Consumers also have an increasing wealth of available payment and credit options that compete for each consumer transaction; those payment and credit options are a significant constraint on credit card issuers. Debit cards are a preferred payment card of choice[86] and debit card transactions are growing proportionally faster than credit card transactions.[87] Advancements in real-time payments networks have made bank-to-bank transfers seamless, and peer-to-peer payment providers such as Venmo, Zelle and Apple Cash are growing in popularity and use.[88] Payments technology is likely only to become more competitive with Real Time Payments from The Clearing House[89] and the launch of FedNow, which enables instant payments among participating financial institutions.[90]

Consumer lending has also become more competitive. Although other forms of consumer lending have always competed to some degree with credit card lending,[91] newer

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[83] *See* 2023 CFPB Report, *supra* note 53, at 162-63; Ben Luthi, *Amex Introduces Soft Pull Credit Card Approval Feature*, FORBES (Nov. 30, 2022), https://www forbes.com/advisor/credit-cards/amex-introduces-credit-card-pre-approval-feature/ (reporting on Amex's introduction of a soft pull credit card approval feature).

[84] *See* Amanda Claypool, *53% of Americans Use Digital Wallets More than Traditional Payment Methods: Poll*, FORBES ADVISOR (Aug. 23, 2023), https://www.forbes.com/advisor/banking/digital-wallets-payment-apps/; Vaibhav Goel et al., McKinsey & Co., *New trends in US consumer digital payments* (Oct. 26, 2021), https://www mckinsey.com/industries/financial-services/our-insights/banking-matters/new-trends-in-us-consumer-digital-payments ("More than four in five Americans used some form of digital payment in 2021"); Julie L. Stackhouse, FEDERAL RESERVE BANK OF ST. LOUIS, FINTECH: HOW DIGITAL WALLETS WORK (June 24, 2019), https://www.stlouisfed.org/on-the-economy/2019/june/fintech-digital-wallets-work ("Experian reports that digital payments topped $720 billion in 2017.").

[85] *See*, *e.g.*, Jaime Catmull, *3 Top Credit Card Rewards Tracking Apps*, FORBES (Jan. 19, 2022), https://www forbes.com/sites/jaimecatmull/2022/01/19/3-top-credit-card-rewards-tracking-apps/?sh=20386bd144bc (reporting on uThrive); KUDOS, https://www.joinkudos.com/ (last accessed Mar. 16, 2024).

[86] *See* McKayla Wooldridge, *Debit surpasses credit as consumers' preferred payment card*, S&P GLOB. MKT. INTEL. (Sept. 27, 2022), https://www.spglobal.com/marketintelligence/en/news-insights/research/debit-surpasses-credit-as-consumers-preferred-payment-card.

[87] *See* Ling Ling Ang et al., *Fintech Developments and Antitrust Considerations in Payments*, 35 ANTITRUST 69, 71-72 (Spring 2021) (noting blurring between credit card and bank payments as improvements in ACH and peer-to-peer payment applications allowed real-time bank transfers); THE FEDERAL RESERVE PAYMENTS STUDY: 2022 TRIENNIAL INITIAL DATA RELEASE, https://www federalreserve.gov/paymentsystems/fr-payments-study.htm (last updated July 27, 2023); The Nilson Report, Issue No. 1257, at 10-12 (2024) (showing Visa and Mastercard debit growth as compared to credit growth).

[88] *See* Kevin Foster et al., FEDERAL RESERVE BANK OF ATLANTA, 2022 SURVEY AND DIARY OF CONSUMER PAYMENT CHOICE: SUMMARY RESULTS 1 (2023), https://www.atlantafed.org/-/media/documents/banking/consumer-payments/survey-diary-consumer-payment-choice/2022/sdcpc_2022_report.pdf ("Two-thirds of consumers reported that they had adopted an online payment account such as PayPal, Venmo, or Zelle.").

[89] *See RTP*, THE CLEARING HOUSE, https://www.theclearinghouse.org/payment-systems/rtp ("RTP from The Clearing House is a real-time payments platform that all federally insured U.S. depository institutions are eligible to use for payments innovation") (last accessed Mar. 10, 2024).

[90] *About the FedNow Service*, FRBSERVICES.ORG, https://www frbservices.org/financial-services/fednow/about html (last accessed Mar. 16, 2024).

[91] *See* Profitability of Credit Card, *supra* note 59, at 6. https://www.federalreserve.gov/publications/files/ccprofit2023.pdf ("[S]ome borrowers have turned to personal loans for debt consolidation, including the refinancing of credit card debt.").

product innovations have made switching across products even easier. For example, access to personal loans, which serve as a means for consumers to consolidate credit card debt, has expanded with new fintech offerings, including from SoFi[92] and Upgrade,[93] intensifying credit card lending competition.[94] Most notably, "buy now, pay later" ("BNPL") products such as Affirm, Afterpay and Klarna—which offer consumers the ability to make a single purchase using a point-of-sale, short-term, and typically interest-free or low-interest loan with predetermined repayment schedules—have, as reported by the Federal Reserve Bank of Kansas City, "the potential to replace credit card payments," accounting for $8 billion to $10 billion in lost bank revenue annually.[95] Credit card issuers have responded to these innovations by offering their own installment payment plans using a cardholder's existing line of credit.[96] Banks have also introduced new small-dollar loans, which can be deposited and used in a matter of minutes. Wells Fargo's Flex Loan, for example, is a digital-only small dollar loan ($250 or $500) available for a flat fee, with funds deposited within seconds after acceptance, enabling Wells Fargo debit card holders to immediately complete a transaction.[97] The ease with which consumers can switch credit cards or other forms of payment or credit, particularly in a market with so many competitors, makes the exercise of market power—whether unilaterally or through coordinated interaction—implausible.

D. The Proposed Transaction will not substantially lessen competition for credit card issuing.

The Proposed Transaction will not reduce competition in this fragmented and dynamic industry. Concentration and share levels as a result of the Proposed Transaction are well below

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[92] *See Credit Card Debt Consolidation Loans*, SOFI, https://www.sofi.com/personal-loans/credit-card-consolidation-loans/ (last accessed Mar. 16, 2024).

[93] *See Personal Loans*, UPGRADE, https://www.upgrade.com/personal-loans/ (touting benefit of refinancing credit card debt) (last accessed Mar. 16, 2024).

[94] *See* Eldar Beiseitov, FEDERAL RESERVE BANK OF SAINT LOUIS, THE ROLE OF FINTECH IN UNSECURED CONSUMER LENDING TO LOW- AND MODERATE-INCOME INDIVIDUALS: HOW HAS FINTECH CHANGED ACCESS TO UNSECURED CONSUMER LOANS 2, 4 (Sept. 2022), https://www.newyorkfed.org/medialibrary/media/newsevents/events/regional_outreach/2022/092922/2022-09-29-eldar-beiseitov-fintech-personal-loans-ny-fed.

[95] Julian Alcazar & Terri Bradford, FEDERAL RESERVE BANK OF KANSAS CITY, PAYMENT SYSTEMS RESEARCH BRIEFING, THE RISE OF BUY NOW, PAY LATER: BANK AND PAYMENT NETWORK PERSPECTIVES AND REGULATORY CONSIDERATIONS (Dec. 1, 2021), https://www.kansascityfed.org/research/payments-system-research-briefings/the-rise-of-buy-now-pay-later-bank-and-payment-network-perspectives-and-regulatory-considerations/. *See also* Tom Akana, FEDERAL RESERVE BANK PHILADELPHIA, BUY NOW, PAY LATER: SURVEY EVIDENCE OF CONSUMER ADOPTION AND ATTITUDES (2022), https://www.philadelphiafed.org/-/media/frbp/assets/consumer-finance/discussion-papers/dp22-02.pdf (reporting on survey relating to BNPL usage with 31% of respondents having used BNPL in the previous 12 months); Profitability of Credit Card, *supra note* 5*991*, at 6 ("[T]he buy-now-pay-later (BNPL) market has grown significantly over the past several years as an alternative payment method for consumers at point of sale.").

[96] *See* 2023 CFPB Report, *supra* note 53, at 106-07 ("At the time of writing, five of the ten largest general purpose credit card issuers offer this feature in some capacity. Each of these programs was launched between 2017 and 2021, coinciding with the increasing popularity of 'buy now, pay later' ('BNPL') loans.").

[97] *See* Rica Dela Cruz, *Wells Fargo unveils digital-only, small-dollar loan*, S&P GLOB. MKT. INTEL. (Nov. 16, 2022).

relevant safe harbor thresholds.[98] Based on current data,[99] the parties' combined share of credit card purchase volume in the U.S. credit card issuing market is 13.6%, and the combined share of credit card outstanding balances is 19.0%. HHI levels are similarly well within safe harbor levels, whether measured by purchase volume or outstanding balances.[100]

Credit Card Issuers[101]	Change in HHI	Post-merger HHI	Combined Share
Purchase Volume	74	1,226	13.6%
Outstanding Balances	178	1,060	19.0%

While the combined COFC-Discover will be a leading credit card issuer, the company will continue to face many significant competitors, including Amex and large financial institutions such as JPMC, Citigroup, BOA, Wells Fargo, USB, and Barclays PLC through its U.S. subsidiary, Barclays Bank Delaware ("Barclays"), which are profiled with their holding companies further below. Numerous other banks and financial institutions also compete in the credit card issuing market, including, among others, Credit One Financial, First National of Nebraska, Inc., First Premier Bank, CardWorks, Inc. (through Merrick Bank), Navy Federal Credit Union, PNC, Synchrony Financial ("Synchrony"), Toronto-Dominion Bank (through its U.S. subsidiary TD Bank, N.A. ("TD Bank")), Truist Financial Corporation ("Truist"), and United Services Automobile Association (through its subsidiary USAA Federal Savings Bank).

COFC is presently the twelfth largest bank holding company by total assets. As a result of the transaction, COFC will rank eighth, behind industry leaders JPMC, BOA, Citigroup, Wells Fargo, Goldman Sachs, Morgan Stanley, and USB. These large financial institutions have and will continue to have significantly greater resources than COFC to invest in and develop new or existing products and services in competition with COFC. Other large banks such as PNC, Truist, TD Bank, and Barclays are of comparable or larger size and will also continue to compete with COFC. Amex, the second largest card issuer in the United States in terms of both

[98] *See* Bank Merger Guidelines and 2023 Merger Guidelines, discussed *supra* note 3.

[99] These data are based on The Nilson Report, Issue Nos. 1257 and 1258 (2024), and limited to the top 20 U.S. general purpose credit card issuers (excluding private label). Volumes for Amex are assigned to the issuing bank where Amex itself is not the issuer. Outstanding balances refers to total ending outstandings as of December 31, 2023 of on-balance and off-balance sheet figures. Purchase volume refers to purchase volume initiated by all general purpose credit cards issued in the United States. [redacted]

[100] The parties' shares and industry concentration levels are comparable and similarly safe harbor when looking at mid-year balances as of June 30, 2023 or purchasing volume for the first six months ending June 30, 2023. Based on June 2023 data, the parties' combined share by purchase volume was 13.4% and concentration levels by purchase volume would increase 72 points to 1,213 as a result of the transaction. The parties' combined share by outstanding credit card balances was 18.7% and concentration levels by outstanding balances would increase 172 points to 1,046 as a result of the transaction. *See* The Nilson Report, Issue Nos. 1248 and 1249 (2023). [redacted]

[101] The HHI is calculated as the sum of the square of the shares of the largest 20 U.S. credit card issuers, with shares determined as a percent of the entire market. As shares of issuers beyond the top 20 are relatively small, this accurately measures the HHI for all credit card issuers. [redacted]

outstanding balances and purchase volume, will also continue to compete fiercely after the transaction. Amex, like Discover, operates a payments network in competition with Visa and Mastercard. Both Amex's credit card portfolio and credit card network are significantly larger than Discover's today,[102] and Amex has continuously invested and innovated within the credit card space.[103]

In addition to the numerous competitors actively issuing credit cards today, other newer and innovative forms of payment and credit present significant competitive threats to credit card issuers. The Proposed Transaction will not change these dynamics as the combined COFC-Discover faces competition from these numerous and varied competitors.

E. The Proposed Transaction will increase access to credit and improve services for consumers and merchants.

The Proposed Transaction will likely increase access to credit. COFC's distinct underwriting capabilities—which facilitate expanded access to credit for all consumers—will enable card offers to some consumers who do not satisfy Discover's credit requirements today,[104] resulting in more overall credit card issuance by the combined company. The Proposed Transaction also has the potential to further improve COFC's underwriting abilities to expand access even further. As a result of the transaction, COFC will have access to differentiated information and data on its customers' credit card use through Discover's integrated payments platform, reducing information sharing costs. As Amex touts, its "integrated payments platform allows [it] to analyze information on Card Member spending and build algorithms and other analytical tools that we use to underwrite risk . . ."[105]

COFC's additional scale in card issuing and access to the Discover payments networks will also enable it to better connect consumers and merchants across new offers, rewards, and opportunities. For example, the networks will give COFC access to transactional data that can be used to improve the Capital One Shopping and Capital One Travel experiences, more seamlessly bring relevant and timely offers to consumers, and provide merchants with greater visibility thereby facilitating more sales.[106] As Amex touts that its integrated payments platform

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[102] In 2023, Amex had $149.9 billion in credit card balances outstanding compared to Discover's $102.3 billion. Including all volumes on Amex cards issued by others, Amex had $157.7 billion in balances outstanding. The Amex payments network accounts for almost 20% of credit card purchasing volume as compared to Discover's credit card network, which accounted for only 4% of such purchasing volume. The Nilson Report, Issue Nos. 1257 and 1258 (2024); *cf. Ohio* v. *Am. Express Co.*, 585 U.S. at 537.

[103] *See* discussion *infra* notes 146-156.

[104] Per the CFPB's Terms of Credit Card Plans data for January 1, 2023 through June 30, 2023, Capital One offered several unsecured credit cards in target credit tiers of borrowers with a credit score of 619 or less or no score, whereas Discover only offered one secured credit card with a target credit tier of borrowers with a credit score of 619 or less and did not offer any credit card with a target credit tier of borrowers with no score. CFPB, Terms of Credit Card Plans (TCCP) Survey, https://files.consumerfinance.gov/f/documents/cfpb_tccp-data_2023-01-01_2023-06-30.xlsx.

[105] Amex, Form 10-K for year ended December 31, 2023, at 4 (hereinafter "Amex 2023 Form 10-K"), https://s26.q4cdn.com/747928648/files/doc_financials/2023/ar/American-Express-Annual-Report-2023.pdf.

[106] *See Your Personalized Deals*, CAPITAL ONE SHOPPING, https://capitaloneshopping.com/ (last accessed Mar. 16, 2024); CAPITAL ONE TRAVEL, https://capitalonetravel.com/ (last accessed Mar. 16, 2024).

allows it to "provide targeted marketing and other information services for merchants and partners and special offers and services to Card Members,"[107] so too can COFC post-merger.

F. Select Competitor Profiles

JPMC is the largest bank holding company in the United States headquartered in New York, New York, with $3,875 billion in assets as of December 31, 2023, and a market capitalization of $548.1 billion as of March 15, 2024. JPMC has a full-service bank and financial services company with over 4,500 branches, a leading digital banking platform,[108] and the leading credit card issuing business in the United States by all metrics.[109] Its credit card business touts an impressive retention rate of 98%.[110] Its leadership in credit card issuance, however, has been the product of continual and persistent investment and innovation. Since 2019, JPMC has launched or refreshed 24 credit card products, and in 2023 alone, opened five airport lounges as it makes further investments in lifestyle benefits and experiences.[111] During its 2023 Investor Day presentation, JPMC noted its strategy to "[g]row our card member base across key segments" by "launch[ing] new, tailored products" and "fuel[ing] continued growth through our world-class marketing and distribution engine."[112] From 2019 to 2022, JPMC increased its credit card acquisition spend nearly 40% from $3.1 billion to $4.3 billion translating to a 23% increase in new accounts. The company also continued to invest in card benefits, increasing its benefits spend (including co-branding efforts) from $1.3 billion in 2019 to $1.6 billion in 2022.[113]

Citigroup is the third largest bank holding company in the United States, headquartered in New York, New York, with $2,412 billion in assets as of December 31, 2023, and a market capitalization of $110.1 billion as of March 15, 2024. Citigroup has a full-service bank offering commercial and retail banking together with wealth management and investment products and services in its 647 retail branches and online.[114] Citigroup is a leading credit card issuer and ranked third in outstanding credit card balances and purchase volume as of December 31, 2023.[115] It presently offers eight different Citi® branded credit cards,[116] including the Custom Cash card, which it launched in 2021.[117] As noted above, the Custom Cash card adjusts reward categories based on a cardholder's actual spend. In 2024, Citigroup updated its guidelines for credit scores eligible for the Custom Cash card, as well as its Double Cash card, which are now

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[107] *See* Amex 2023 Form 10-K, *supra* note 105, at 2.
[108] *See* JPMC, Consumer & Community Banking, Investor Day 2023 Presentation, at 5, 34 (May 22, 2023) https://www.jpmorganchase.com/content/dam/jpmc/jpmorgan-chase-and-co/investor-relations/documents/events/2023/jpmc-investor-day-2023/consumer-community-banking.pdf.
[109] [redacted]
[110] *Id*. at 51-52.
[111] *Id*. at 53.
[112] *Id*. at 52.
[113] *Id.* at 55-56.
[114] *See* Citigroup, Form 10-K for year ended December 31, 2023, https://www.citigroup.com/rcs/citigpa/storage/public/10k20231231.pdf.
[115] [redacted]
[116] *See View and Compare All Credit Cards*, CITI, https://www.citi.com/credit-cards/compare/view-all-credit-cards (last accessed Mar. 16, 2024).
[117] *See* Press Release, Citigroup*, Citi Launches Custom Cash—A Next-Gen Cash Back Credit Card* (June 10, 2021), https://www.citigroup.com/global/news/press-release/2021/citi-launches-custom-cash-a-next-gen-cash-back-credit-card.

available to applicants with "fair" credit.[118] Citigroup also issues co-branded credit cards, including American Airlines,[119] AT&T,[120] Brooks Brothers,[121] Costco,[122] and Tractor Supply.[123]

BOA is the second largest bank holding company in the United States, headquartered in Charlotte, North Carolina, with $3,180 billion in assets as of December 31, 2023,[124] and a market capitalization of $279.4 billion as of March 15, 2024. BOA has a full-service bank with 3,800 retail financial centers and a network of 15,000 ATMs, complemented by its digital offerings. Its Consumer Banking business segment offers a range of consumer and commercial deposit and lending products and services,[125] including a robust credit card offering. As of December 31, 2023, BOA ranked fifth by outstanding credit card balances and purchasing volume.[126] BOA recently noted that it is "investing more in [credit] card[s], and it's growing a bit in response,"[127] consistent with efforts in recent years to revamp its credit card portfolio.[128] This has included retooling the Customized Cash Rewards Card, as noted above, which touts an impressive 98% retention rate,[129] and adding new credit card offerings, including the Premium Rewards Elite card, Executive Explorer card, and Business Advantage Unlimited Cash Rewards card (including a secured version).[130]

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[118] *See* Becky Pokora, *Citi Adds Two Cash-Back Credit Cards for Fair Credit*, FORBES ADVISOR (Feb. 5, 2024), https://www.forbes.com/advisor/credit-cards/citi-adds-two-cash-back-credit-cards-for-fair-credit/.

[119] *View and Compare All Credit Cards*, CITI, *supra* note 116.

[120] *See* Press Release, *Citigroup, Citi and AT&T Renew Long-Standing Credit Card Collaboration* (June 4, 2021), https://www.citigroup.com/global/news/press-release/2021/citi-and-att-renew-long-standing-credit-card-collaboration.

[121] Press Release, *Citigroup, Citi Retail Services and Brooks Brothers Extend Consumer Credit Card Relationship* (Jan. 28, 2022), https://www.citigroup.com/global/news/press-release/2022/citi-retail-services-and-brooks-brothers-extend-consumer-credit-card-relationship.

[122] Citi Costco Card, CITI, https://www.citi.com/usc/LPACA/COSTCO/cards/Dual/ps/index html (last accessed Mar. 16, 2024).

[123] Press Release, Citigroup, *Citi Retail Services and Tractor Supply Company Extend 20+ Year Credit Card Relationship* (May 24, 2021), https://www.citigroup.com/global/news/press-release/2021/citi-retail-services-and-tractor-supply-company-extend-20-year-credit-card-relationship.

[124] *See* Bank of America Corp., Form 10-K for year ended December 31, 2023, https://investor.bankofamerica.com/regulatory-and-other-filings/all-sec-filings/content/0000070858-24-000122/0000070858-24-000122.pdf.

[125] *Id*. at 34-35.

[126] [redacted]

[127] *See* Brian Moynihan, Chair and CEO, Bank of Am., Remarks at the Goldman Sachs US Financial Services Conference 3 (Dec. 5, 2023), https://d1io3yog0oux5.cloudfront net/_7df4f14ecc26670a17a4902079294191/bankofamerica/db/775/9990/webcast_transcript/2023-1205+Goldman+Sachs+Conference_BAC.pdf.

[128] *See* Katherine Doherty, *Bank of America to Make Its Credit Cards From Recycled Plastic*, BLOOMBERG (Apr. 21, 2022), https://www.bloomberg.com/news/articles/2022-04-21/bank-of-america-to-make-its-credit-cards-from-recycled-plastic.

[129] *See* John Adams, *How Bank of America, Barclays make loyalty about more than reward points*, AMERICAN BANKER (Sept. 8, 2023), https://www.americanbanker.com/payments/news/how-bofa-barclays-make-loyalty-about-more-than-reward-points.

[130] *See* Katherine Doherty & Jennifer Surane, *BofA Leans on Private Jets, Supercars to Draw Big Card Spenders*, BLOOMBERG (Dec. 9, 2021), https://www.bloomberg.com/news/articles/2021-12-09/bofa-leans-on-private-jets-supercars-to-draw-big-card-spenders?embedded-checkout=true; Katherine Doherty, *Bank of America Unveils New Credit Card for High-Flying Business Travelers*, BLOOMBERG (Aug. 4, 2021), https://www.bloomberg.com/news/articles/2021-08-04/bofa-unveils-new-credit-card-for-high-flying-business-travelers?embedded-checkout=true; Press Release, *Bank of America, Bank of America Launches Business*

USB is the seventh largest bank holding company in the United States, headquartered in Minneapolis, Minnesota, with $663 billion in assets as of December 31, 2023,[131] and a market capitalization of $65.6 billion as of March 15, 2024. As a full service bank operating over 2,200 branches and 4,500 ATMs nationwide, together with a strong digital offering, USB provides consumer and business banking; wealth, corporate commercial and institutional banking, and payment services,[132] including a leading line of credit card offerings.[133] At the end of 2023, USB ranked seventh by outstanding credit card balances and purchasing volume.[134] USB has consistently expanded and improved its credit card solutions. For example, in 2021, USB rolled out two new secured credit cards;[135] in 2022, USB launched the Altitude Connect Card offering rewards with extra rewards for travel, gas, and grocery spend;[136] in 2023, USB launched its Commercial Rewards Card targeting middle market companies, which, in addition to offering credit, provides travel spend management for businesses;[137] and in 2024, USB launched a new cash-back credit card, the U.S. Bank Shopper Cash Rewards Card.[138] USB also operates a separate payment services business unit which recently launched USB's own BNPL offering.[139]

Wells Fargo is the fourth largest bank holding company in the United States, headquartered in San Francisco, California, with $1,932 billion in assets as of December 31, 2023,[140] and a market capitalization of $205.7 billion as of March 15, 2024. Wells Fargo offers a full portfolio of financial products and services, including investment and mortgage products as well as retail and commercial banking products and services, which includes credit card issuing.[141] At the end of

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Advantage Unlimited Cash Rewards Card for Entrepreneurs (Oct. 21, 2021), https://newsroom.bankofamerica.com/content/newsroom/press-releases/2021/10/bank-of-america-launches-business-advantage-unlimited-cash-rewar html; Press Release, Bank of America, *Bank of America Announces New Secured Credit Offerings and Digital Resources to Help Entrepreneurs Start and Grow Their Businesses* (Mar. 23, 2022), https://newsroom.bankofamerica.com/content/newsroom/press-releases/2022/03/bank-of-america-announces-new-secured-credit-offerings-and-digit html https://www.prnewswire.com/news-releases/bank-of-america-announces-new-secured-credit-offerings-and-digital-resources-to-help-entrepreneurs-start-and-grow-their-businesses-301508970 html.

[131] *See* USB, 2023 ANNUAL REPORT 3-4, https://ir.usbank.com/files/doc_financials/2023/ar/US-Bancorp-2023-Annual-Report_ADA.pdf.

[132] *Id*. at 3.

[133] *See id*. at 11.

[134] [redacted]

[135] *See US Bank Debuts Two Secured Credit Cards*, PYMNTS (Oct. 12, 2021), https://www.pymnts.com/credit-cards/2021/us-bank-debuts-two-secured-credit-cards/.

[136] *See* Elizabeth Gravier, *U.S. Bank launches new credit card with 50k-point welcome bonus, plus earn rewards on travel, gas, groceries and more*, CNBC SELECT (Mar. 11, 2022), https://www.cnbc.com/select/us-bank-launches-new-altitude-connect-visa-signature-credit-card/.

[137] *See* John Adams, *U.S. Bank adds AI to business travel payments as competition heats up*, AMERICAN BANKER (June 27, 2023), https://www.americanbanker.com/payments/news/u-s-bank-adds-ai-to-business-travel-payments-as-competition-heats-up.

[138] *See* Tessa Campbell, *U.S. Bank Shopper Cash Rewards Card Review 2024*, BUSINESS INSIDER (Feb. 7, 2024), https://www.businessinsider.com/personal-finance/us-bank-shopper-cash-rewards-card-review.

[139] *See* John Adams, *U.S. Bank is leaning on Elavon for BNPL reach*, AMERICAN BANKER (Nov. 13, 2023), https://www.americanbanker.com/payments/news/u-s-bank-is-leaning-on-elavon-for-bnpl-reach.

[140] *See* Wells Fargo, 4Q 2023 FINANCIAL RESULTS 6 (2024), https://www08.wellsfargomedia.com/assets/pdf/about/investor-relations/earnings/fourth-quarter-2023-financial-results.pdf.

[141] *See* Wells Fargo, Form 10-K for year ended Dec. 31, 2023, https://www08.wellsfargomedia.com/assets/pdf/about/investor-relations/sec-filings/2023/10k.pdf.

2023, Wells Fargo ranked eighth in outstanding balances and purchasing volume.[142] Wells Fargo offers credit cards under its own brand, including the launch of Reflect and Active Cash Card in 2021 and its Autograph card in 2022,[143] and, in recent years, has made a push to issue even more co-branded cards.[144] The company's large balance sheet and diversified offerings allow Wells Fargo to invest significantly across varied financial products and services, including in new technologies that can improve services across different products. In 2024, Wells Fargo plans to launch new credit cards, including a new travel card and a new small business credit card, while improving its digital offerings including the launch of a new digital wallet.[145]

Amex is a leading U.S. credit card issuer and operates a leading credit network with $261 billion in total assets as of December 31, 2023, and a market capitalization of $158.1 billion as of March 15, 2024. Headquartered in New York, New York, Amex is the second largest credit card issuer by outstanding credit card balances and purchase volume.[146] Unlike most other credit card issuers—Discover being the other exception—Amex negotiates directly with merchants to increase and maintain acceptance of its cards.[147] Amex issues credit cards under the American Express brand and partners with others to co-brand cards on the Amex network, such as Delta Air Lines, Marriott International, Hilton Worldwide Holdings, and British Airways.[148] Amex has consistently innovated within the credit card space: it was the first to introduce a "Gold" premium credit card, one of the early adopters of BNPL with the launch of Plan It in 2017,[149] one of the first to add non-fungible tokens as a card reward,[150] has integrated with Paypal to offer consumers the ability to split payments across credit and debit solutions,[151] and is the first issuer to pilot facial and fingerprint recognition for online checkouts.[152] In recent years, Amex has also

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[142] [redacted]

[143] *See* Polo Rocha, *Wells Fargo's new rewards card is latest move in lagging unit's revamp*, AMERICAN BANKER (June 27, 2022), https://www.americanbanker.com/news/wells-fargos-new-rewards-card-is-latest-move-in-lagging-units-revamp; Daniel Wolfe, *Wells Fargo to launch Reflect 0% APR card in October*, AMERICAN BANKER (Sept. 29, 2021), https://www.americanbanker.com/payments/news/wells-fargo-to-launch-reflect-0-apr-card-in-october; Polo Rocha, *Wells Fargo's 2% cash-back card is a bid to bolster lagging unit*, AMERICAN BANKER (June 8, 2021), https://www.americanbanker.com/news/wells-fargos-2-cash-back-card-is-a-bid-to-bolster-lagging-unit.

[144] *See*, *e.g.*, Arpita Banerjee, *Choice Hotels to launch co-branded credit card with Wells Fargo, Mastercard*, S&P GLOB. MKT. INTEL. (Feb. 14, 2023); Polo Rocha, *Wells Fargo, eyeing growth in credit cards, lands hotel chain as partner*, AMERICAN BANKER (Feb. 14, 2023), https://www.americanbanker.com/news/wells-fargo-eyeing-growth-in-credit-cards-lands-hotel-chain-as-partner (Choice, Bilt Rewards, Dillards, and Hotel.com); Jennifer Surane, *New Wells Fargo Credit Card Gives Customer Rewards for Rent Payments*, BLOOMBERG (Mar. 28, 2022), https://www.bloomberg.com/news/articles/2022-03-28/wells-fargo-to-give-apartment-dwellers-rewards-for-rent-payments.

[145] Wells Fargo, 4Q 2023 FINANCIAL RESULTS 20, *supra* note 140.

[146] [redacted]

[147] *See* Amex, 2023 Form 10-K, *supra* note 105, at 1-2.

[148] *Id*. at 4.

[149] *See* Polo Rocha, *American Express launches new 'buy now, pay later' option for air travel*, AMERICAN BANKER (May 13, 2021), https://www.americanbanker.com/news/american-express-launches-new-buy-now-pay-later-option-for-air-travel.

[150] *See* Laura Alix, *American Express turns NFTs into a credit card perk*, AMERICAN BANKER (July 12, 2021), https://www.americanbanker.com/news/american-express-turns-nfts-into-a-credit-card-perk.

[151] *See* Kate Fitzgerald, *American Express debuts in-app connection to PayPal*, AMERICAN BANKER (Oct. 7, 2021), https://www.americanbanker.com/payments/news/american-express-debuts-in-app-connection-to-paypal.

[152] *See* Press Release, Amex, *American Express is First Card Issuer to Pilot Facial and Fingerprint Recognition for Safer Online Checkouts* (Oct. 5, 2023), https://www.americanexpress.com/en-us/newsroom/articles/innovation/american-express-is-first-card-issuer-to-pilot-facial-and-finger.html.

expanded its suite of banking products and services. In 2021, Amex introduced a new, fully digital business checking account for small and midsized businesses,[153] and, in 2022, launched a rewards-based consumer checking account.[154] Amex has also made recent investments, including through its acquisition of Nipendo in 2023, to improve B2B digitization.[155] In 2023, Amex generated $60.5 billion in revenues, an increase of 14% from the prior year, reflecting, in part, "the high levels of new card acquisition and Card Member retention, as well as [its] cycle of product refreshes."[156]

Barclays PLC is a UK-based financial services company with a market capitalization of $34.6 billion as of March 15, 2024, that operates a leading U.S. consumer bank—Barclays Bank Delaware—specialized in credit card servicing.[157] The U.S. operations of Barclays US LLC held $187 billion in assets as of December 31, 2023. Barclays is the ninth largest U.S. card issuer by balances and purchase volume.[158] In 2023, Barclay's Consumer, Cards, and Payments division generated £5.3 billion in revenue with its U.S. business reporting a 24% increase year over year.[159] Barclays specializes in co-branded credit cards, partnering with retailers and others, to issue and service cards. Significant partners include American Airlines, Frontier, Carnival, Barnes & Noble, UPromise, and Xbox, among others.[160] Barclays is continuously updating its partner programs and, in 2023, announced changes to its award-winning JetBlue partnership, launching a new loyalty program to improve the card's points offering and accelerated path to higher airline status.[161] Responding to the growth of BNPL offerings and usage, Barclays

[153] *See* Maitree Christian, *American Express launches checking account for small, midsize US businesses*, S&P GLOB. MKT. INTEL. (Oct. 28, 2021).
[154] *See* Kate Fitzgerald, *American Express launches consumer checking with rewards*, AMERICAN BANKER (Feb. 8, 2022), https://www.americanbanker.com/payments/news/american-express-launches-consumer-checking-with-rewards.
[155] *See* John Adams, *Inside Amex's quest to digitize business payments*, AMERICAN BANKER (May 11, 2023), https://www.americanbanker.com/payments/news/inside-amexs-quest-to-digitize-business-payments; Kate Fitzgerald, *American Express buying invoicing firm to boost B2B payments*, AMERICAN BANKER (Jan. 12, 2023), https://www.americanbanker.com/payments/news/american-express-buying-invoicing-firm-to-boost-b2b-payments; Robin Arnfield, *How American Express has bulked up its B2B services*, AMERICAN BANKER (Oct. 11, 2022), https://www.americanbanker.com/payments/news/how-american-express-has-bulked-up-its-b2b-services; Robin Arnfield, *Amex pushing beyond cards to woo small businesses*, AMERICAN BANKER (May 10, 2021), https://www.americanbanker.com/news/amex-pushing-beyond-cards-to-woo-small-businesses.
[156] Amex, 2023 Form 10-K, *supra* note 105.
[157] *See* Barclays PLC, ANNUAL REPORT 2023, 1, 21, https://home.barclays/content/dam/home-barclays/documents/investor-relations/reports-and-events/annual-reports/2023/Barclays-PLC-Annual-Report-2023.pdf.
[158] [redacted]
[159] *Id*. at 21.
[160] *See* Barclays, US CONSUMER BANK INVESTOR UPDATE 92 (Feb. 20, 2024), https://home.barclays/content/dam/home-barclays/documents/investor-relations/ResultAnnouncements/FullYear2023Results/20240220-Barclays-US-Consumer-Bank-Investor-Update.pdf.
[161] *See* John Adams, *How Bank of America, Barclays make loyalty about more than reward points*, AMERICAN BANKER (Sept. 8, 2023), https://www.americanbanker.com/payments/news/how-bofa-barclays-make-loyalty-about-more-than-reward-points.

launched its own BNPL product in 2020,[162] and has announced plans to develop a white-label BNPL product with fintech company, Amount.[163]

Synchrony is a financial services company that offers private label, patented dual, co-brand and general purpose credit cards, as well as short- and long-term installment loans and other consumer banking products.[164] It reported $117.0 billion in assets as of December 31, 2023, and had a market capitalization of $17.0 billion as of March 15, 2024. It is a digital-only bank and is the eleventh largest credit card issuer by outstanding balances and tenth by purchase volume.[165] Synchrony specializes in co-branded credit cards, partnering with retailers, manufacturers, and others, to issue and service credit cards. Significant co-branding partners include Walgreens, Lowe's, Sam's Club, Amazon, and Paypal.[166] In 2023, Synchrony added 16 new partners to its portfolio, including Albertsons, Roto Rooter, and J.Crew,[167] and launched a new Synchrony branded credit card for outdoor vehicle owners.[168]

III. Payments Networks

The Proposed Transaction will not substantially lessen competition in any payments network market, and will instead promote competition by deconcentrating these highly concentrated markets, over which Visa and Mastercard tower. As noted above, Discover operates three payments networks; COFC does not own or operate any payments network. The transaction will thus not increase share in any payments network market, will not increase concentration levels in any such market, and in fact will *deconcentrate* and improve competition in credit and debit payments network markets. Post-transaction, COFC plans to grow payments volumes on Discover's credit and debit networks. Given the reduced and declining share—and limited current competitive significance—of Discover's networks today, the Proposed Transaction will increase competition among payments networks.

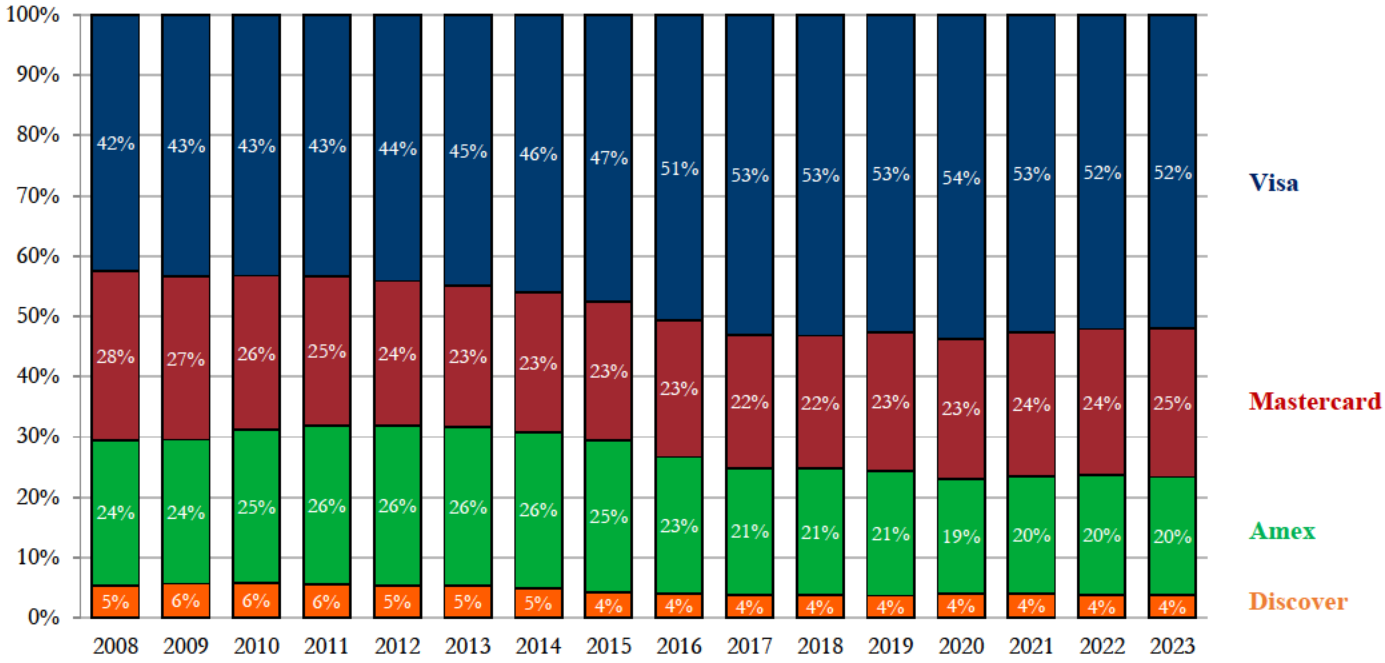
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[162] *See* Kate Fitzgerald, *Barclays issuing private-label cards to reach more retailers*, AMERICAN BANKER (Jan. 31, 2022), https://www.americanbanker.com/payments/news/why-barclays-has-begun-issuing-private-label-credit-cards.
[163] *See* Kate Fitzgerald, *Barclays, Amount add installment loans*, AMERICAN BANKER (Apr. 27, 2021), https://www.americanbanker.com/payments/news/barclays-amount-add-installment-loans-for-cobranded-credit-cards.
[164] *See* Synchrony Financial, Form 10-K for year ended December 31, 2023 at 7, 17-19, https://investors.synchrony.com/filings-regulatory/sec-filings/all-sec-filings/content/0001601712-24-000047/0001601712-24-000047.pdf.
[165] Rankings from The Nilson Report are determined with Amex volumes distributed to its issuing banks. If its volumes were not distributed, Synchrony would rank tenth largest by balances above Navy Federal Credit Union. *See* The Nilson Report, Issue No. 1258.
[166] *See id*.; Synchrony, INVESTOR PRESENTATION (Feb. 2023), https://d1io3yog0oux5.cloudfront net/_521a66dd58871e0d41cb981c8b55799b/synchrony/db/3583/33295/pdf/synchrony-investor-slides-final.pdf.
[167] *Id*.
[168] *See* Press Release, Synchrony, *New Synchrony Outdoors Credit Card Delivers Comprehensive Payments Solution for Powersports Dealers and Enthusiasts* (Mar. 8, 2023), https://www.synchrony.com/contenthub/newsroom/new-synchrony-outdoors-credit-card-delivers.html.

A. The Proposed Transaction will deconcentrate a highly concentrated industry.

Credit and debit networks are notoriously concentrated industries. The Visa, Mastercard and Amex networks account for 96% of credit card purchase volume in the United States.[169] The Discover credit card network accounts for just 4% of credit card purchase volume, down from 6% in 2011.[170] Since 2015, Visa's share has *increased by 5%* since 2015—an amount greater than Discover's entire share (4%).[171]

Annual Credit Purchase Volume by Network



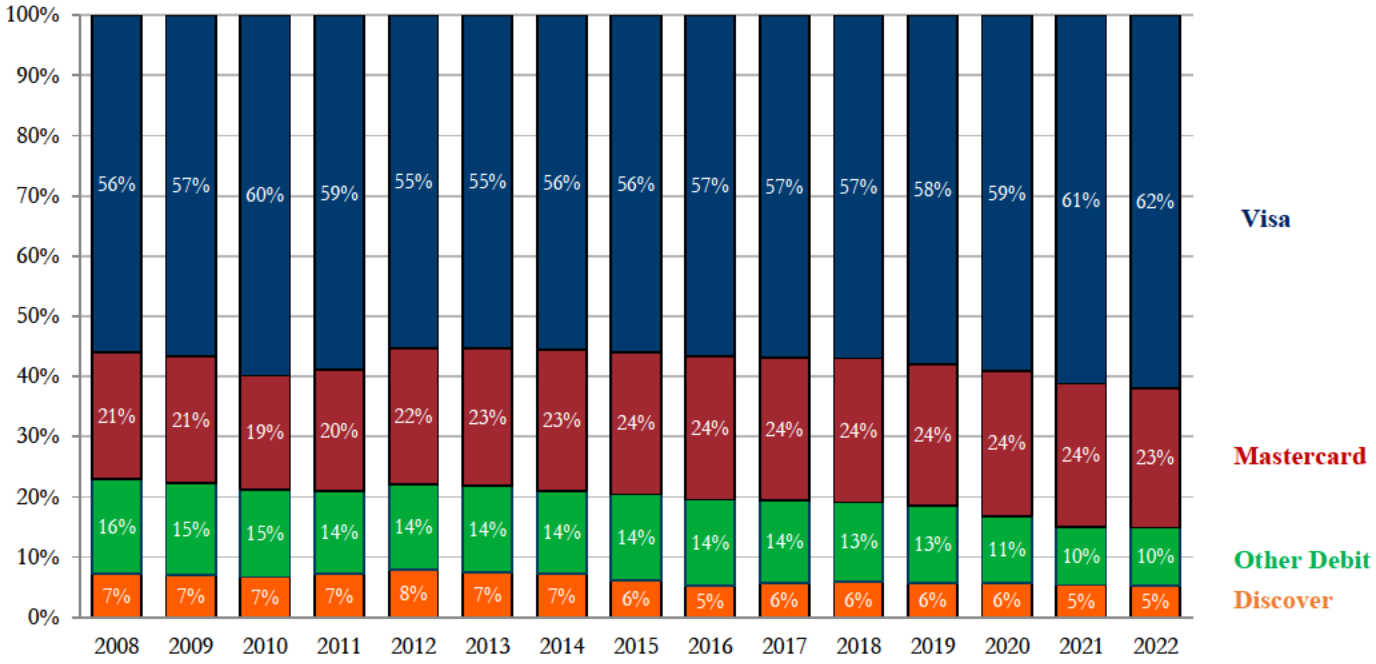
[169] The Nilson Report, Issue No. 1257 (2024).

[170] The Nilson Report, Issue Nos. 1257, 1235, 1213, 1191, 1169, 1147, 1125, 1103, 1080, 1057, 1034, 1011, 988, 965, 942, 924. [redacted]

[171] *Cf. Ohio* v. *Am. Express Co.*, 585 U.S. at 537; *United States* v. *Visa U.S.A., Inc.*, 163 F. Supp. 2d at 341 (Visa accounted for approximately 47% of credit card purchases, Mastercard accounted for approximately 26% of credit card purchases, Amex accounted for approximately 20% of credit card purchases, and Discover accounted for approximately 6% of credit card purchases).

Likewise, the Visa and Mastercard debit networks accounted for 85% of 2023 debit purchase volumes, whereas Discover debit networks accounted for only 5% of such purchases, down from a high of 8% in 2012.[172] This long-run picture of competition is similar to that in credit networks: Visa's share has *increased* by an amount greater than Discover's *entire* share.

Annual Debit Purchase Volume by Network



Moving COFC's debit and credit volumes to Discover's payments networks will strengthen the Discover networks and deconcentrate the payments network markets.[173] Moving all of COFC's debit volume to Discover, for example, would result in an HHI decrease of approximately [redacted] and increase Discover's debit network volume share to approximately [redacted].[174] And moving all of COFC's credit volume to Discover would result in an HHI decrease

[172] The Nilson Report, Issue Nos. 1237, 1235, 1216, 1213, 1201, 1191, 1176, 1168, 1155, 1147, 1131, 1125, 1109, 1103, 1084, 1080, 1062, 1057, 1039, 1034, 1016, 1011, 993, 988, 970, 965, 947, 942, 924, 923. Debit purchase volume refers to gross spend on debit cards issued in the United States, excluding ATM transactions. Visa and Mastercard volumes include prepaid cards. Discover debit purchase volumes are as reported annually in Discover's 10-Ks, which includes Discover Pulse and Discover Signature debit. [redacted]. Other debit networks include STAR (whose parent, Fiserv, has a market capitalization of about $90 billion), NYCE (whose parent, Fidelity National Information Services, has a market capitalization of about $40 billion), and Shazam (a member-owned network focused on serving community banks).

[173] COFC plans to move its debit cards to the Discover network and a meaningful and growing portion of its credit card volume to Discover. [redacted]

[174] [redacted]

of approximately [redacted] and increase Discover's credit network volume share to approximately [redacted].[175] As COFC competes to grow its credit and debit volumes, facilitated in part by the Proposed Transaction, it will seek to further deconcentrate these otherwise concentrated industries.

B. The Proposed Transaction will increase competition among payments networks and improve products and services for customers and merchants.

Payment systems are classically subject to what economists call network effects: the value of any given system increases as the number of its users increases.[176] As the Supreme Court articulated in *Ohio* v. *American Express*, payments networks are also characterized by indirect network effects, "where the value of the two-sided platform to one group of participants depends on how many members of a different group participate."[177] The more consumers who use cards issued on Discover's payments networks, the more value those networks have to merchants, and the more merchants that accept cards on the Discover networks, the more consumers will use Discover for payments.

The Proposed Transaction will not substantially lessen competition in any payments network market as defined by the Supreme Court in *Ohio* v. *American Express*, and instead promises to inject competition into the industry for the benefit of both cardholders and merchants. As demonstrated above, the market shares of Discover's networks have been in long-term decline. COFC intends to reverse those trends by adding immediate scale to the networks and by significantly investing in the networks, both by adding new debit and credit volumes to the Discover networks on a go-forward basis, and by building greater brand awareness, merchant acceptance, consumer perception of merchant acceptance, and volume to merchants. COFC has the resources to make these investments, but Discover does not. This additional scale will increase the networks' attractiveness to consumers and merchants, further deconcentrate the industry, and create a much-needed competitive alternative to Visa, Mastercard, and Amex.

Moreover, as a result of the transaction, COFC will also have lower network-related costs. Today, Visa and Mastercard earn a network fee for their services,[178] a cost which COFC will internalize as a result of the Proposed Transaction for transactions that are processed on a

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[redacted]
[175] [redacted] Because COFC does not currently intend to move all of its credit card issuing to Discover, this calculation of change in concentration is demonstrative. The ultimate reduction in HHI will be less than [redacted]. [redacted]

[176] *See* David S. Evans & Richard Schmalensee, *Multi-sided Platforms*, *in* THE NEW PALGRAVE DICTIONARY OF ECONOMICS (2017).

[177] 585 U.S. at 535.

[178] *See*, *e.g.*, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, 2021 INTERCHANGE FEE REVENUE, COVERED ISSUER COSTS, AND COVERED ISSUER AND MERCHANT FRAUD LOSSES RELATED TO DEBIT CARD TRANSACTIONS 13 n. 11 (Oct. 2023), https://www federalreserve.gov/paymentsystems/files/debitfees_costs_2021.pdf.

Discover network. These improved economics will allow COFC to invest in and grow its banking product portfolio, including by expanding and making more attractive its consumer-friendly checking and credit card portfolios to the benefit of consumers. Just as "Amex's business model . . . increased the availability of card services, including free banking and card-payment services for low-income customers who otherwise would not be served," a combined COFC-Discover will improve the quality and quantity of network transactions for a wide range of banking consumers.[179]

COFC also plans to make significant investments in Discover's payments networks to, *inter alia*, improve its technology stack and risk management and compliance.[180] These upgrades and improvements[181] will enable COFC to reduce unnecessary transaction declines, reduce fraud, and improve payment and fraud dispute resolution processes to the benefit of merchants and consumers; collectively, these investments will strengthen the networks and position them to better compete against Visa, Mastercard and Amex.[182] The integration of merchant data through Discover's direct connections to merchants will further facilitate COFC's making the aforementioned network upgrades and improvements, as well as facilitate future network innovations for the benefit of merchants and cardholders.[183]

The Proposed Transaction and this Application thus present the most viable chance to sustain and grow the Discover payments networks and to deconcentrate and increase competition among payment networks in the United States.

Conclusion

The parties do not overlap in any local banking market as defined by the Federal Reserve Banks and will have a *de minimis* impact with respect to nationwide deposits. Both COFC and Discover are credit card issuers, but any such market is not concentrated and intensely competitive, and the Proposed Transaction will not affect the competitive dynamics of card issuing. The combined share of COFC and Discover in credit card issuing on a pro-forma basis, whether measured with respect to purchase volume (13.6%) or outstanding balances (19.0%),

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[179] *Ohio* v. *Am. Express Co.*, 585 U.S. at 549-50.

[180] *See* Part II.6 (describing COFC's risk management strengths, including strong enterprise risk management framework, compliance management program, and payments governance and plans to enhance its second line management capabilities to support the payments networks).

[181] *See* Aaron Nicodemus, *Discover 'paying the price' for not investing in compliance*, COMPLIANCE WEEK (Aug. 21, 2023), https://www.complianceweek.com/risk-management/discover-paying-the-price-for-not-investing-in-compliance/33453.article (reporting on Discover's public statements relating to its historical underinvestment in compliance and risk management).

[182] As the district court in *United States* v. *Visa U.S.A., Inc.* acknowledged, the Visa and Mastercard networks facilitated national credit cards, reduced the financial qualifications required for a credit card, and increased access to credit. The technological improvements to the networks reduced authorization times and decreased fraud rates further fostering the development of new products and services. 163 F. Supp. 2d at 333-34.

[183] [redacted] As Amex describes, "[c]ompared to an open-loop system where card issuers partner with third-party banks, this closed-loop system helps provide American Express with more visibility into data that is necessary to detect and prevent suspicious transactions – particularly ones made outside of your normal spending habits." *How Amex Helps You Protect Yourself Against Credit Card Fraud*, Amex (Oct. 31, 2023), https://www.americanexpress.com/en-us/credit-cards/credit-intel/fraud-alerts/ (last accessed March 16, 2024).

and the HHI changes and post-merger HHIs resulting in these categories, are well within safe harbor levels.

The competitive characteristics of the credit card industry—including the heterogeneity of products and issuers, the ease with which issuers may change or expand their product offerings, and the ease with which consumers may add credit cards or switch credit cards or between credit cards and other payment and lending solutions—prevent the exercise of market power or successful coordinated anticompetitive behavior in any segment of the industry. In sum, even if the Federal Reserve were to assess the proposed acquisition's effect on credit cards separately from the cluster of banking products and services provided by Capital One and Discover, the proposed acquisition will not have any adverse impact on competition among the myriad credit card issuers in the United States.

Indeed, the transaction has meaningful procompetitive effects by deconcentrating the debit and credit network industries, which sorely need an injection of competitive rivalry. As a result of the transaction, COFC will be better able to invest in and grow its banking products, to innovate and bring to market new products and services, and make Discover's payments networks more attractive through, *inter alia*, increased payment volumes and improved compliance and risk management. By vertically integrating a more scaled credit card portfolio with Discover's payments networks, the Proposed Transaction will strengthen competition in the industry. Accordingly, the competitive considerations of the Proposed Transaction are consistent with approval of the Application.

ANNEX 1

National Adjusted Deposits as of 12/31/2023

Calculated as per the National Deposits Cap

Company	Adjusted Deposits	% of Total
Capital One Financial Corporation	379,858,095	2.14
Discover Financial Services	113,226,408	0.64
Combined	**493,084,503**	**2.78**
HHI		401.8
Change in HHI		2.7
Post-merger HHI		404.5
All Institutions		
JPMorgan Chase & Co.	2,059,464,500	11.61
Bank of America Corporation	1,977,297,000	11.15
Wells Fargo & Company	1,445,115,943	8.15
Citigroup Inc.	787,601,000	4.44
U.S. Bancorp	525,454,648	2.96
The PNC Financial Services Group, Inc.	434,085,030	2.45
Truist Financial Corporation	417,351,000	2.35
Capital One Financial Corporation	379,858,095	2.14
The Goldman Sachs Group, Inc.	365,781,000	2.06
Morgan Stanley	363,903,000	2.05
The Toronto-Dominion Bank	341,047,219	1.92
The Charles Schwab Corporation	292,307,000	1.65
The Bank of New York Mellon Corporation	225,156,794	1.27
Bank of Montreal	209,139,471	1.18
Citizens Financial Group, Inc.	193,434,082	1.09
Fifth Third Bancorp	182,009,000	1.03
M&T Bank Corporation	170,556,104	0.96
Ally Financial Inc.	161,575,000	0.91
State Street Corporation	159,065,000	0.90
Huntington Bancshares Incorporated	156,280,992	0.88
KeyCorp	155,332,930	0.88
First Citizens Bancshares, Inc.	150,341,702	0.85
American Express Company	147,874,253	0.83
HSBC Holdings plc	134,299,682	0.76
Regions Financial Corporation	133,553,000	0.75
Discover Financial Services	113,226,408	0.64
United Services Automobile Association	97,324,000	0.55
UBS Group AG	91,600,214	0.52
Others	5,808,192,275	32.75
Total Banks/Thrifts	17,678,226,342	99.67
Insured Foreign Branches	57,931,930	0.33
Grand Total	17,736,158,272	100.00

Source: Call Report Data (Deposit Insurance Section) as provided by S&P Market Intelligence
Totals calculated at an institution level aggregated to the top holding company.
Adjusted Deposits = Total Deposit Liabilities Before Exclusions - Total Allowable Exclusions + Interest Accrued and Unpaid on Deposits

ANNEX 2

Selected Deposits as of 12/31/2023

Calculated at an institution level and aggregated to holding company

Parent Name	Total Domestic Deposits ($000)	%	Rank	MMDA & Other Savings Deposits ($000)	%	Rank	Total Transaction Account Deposits ($000)	%	Rank
Capital One Financial Corporation	374,037,440	2.2	8	226,479,871	2.7	7	64,544,040	1.1	16
Discover Financial Services	112,624,604	0.6	26	64,446,676	0.8	21	2,937,689	0.0	142
Combined	**486,662,044**	**2.8**	**6**	**290,926,547**	**3.5**	**6**	**67,481,729**	**1.1**	**16**
HHI	**403**			**589**			**440**		
Change in HHI	**3**			**4**			**0**		
Post-merger HHI	**405**			**593**			**440**		
All Institutions	**17,336,881,336**	**100.0**		**8,350,678,203**	**100.0**		**6,120,075,345**	**100.0**	
Wells Fargo & Company	1,407,626,039	8.1	3	358,416,000	4.3	4	853,632,224	13.9	1
Citigroup Inc.	747,614,000	4.3	4	153,831,000	1.8	9	464,020,000	7.6	2
JPMorgan Chase & Co.	2,037,915,500	11.8	1	1,282,309,000	15.4	2	463,202,000	7.6	3
Bank of America Corporation	1,921,122,000	11.1	2	1,317,322,000	15.8	1	447,507,000	7.3	4
Morgan Stanley	361,236,000	2.1	10	28,645,000	0.3	32	271,643,000	4.4	5
Truist Financial Corporation	407,515,000	2.4	7	145,565,000	1.7	11	218,389,000	3.6	6
The Goldman Sachs Group, Inc.	363,006,000	2.1	9	85,433,000	1.0	16	184,453,000	3.0	7
The Bank of New York Mellon Corporation	214,168,794	1.2	13	22,382,000	0.3	40	181,829,794	3.0	8
State Street Corporation	158,902,000	0.9	19	7,633,000	0.1	92	145,167,000	2.4	9
Fifth Third Bancorp	175,648,000	1.0	16	52,588,000	0.6	24	107,301,000	1.8	10
The PNC Financial Services Group, Inc.	428,490,983	2.5	6	302,432,068	3.6	5	94,490,102	1.5	11
KeyCorp	148,528,430	0.9	22	42,373,093	0.5	27	91,386,857	1.5	12
Citizens Financial Group, Inc.	181,058,662	1.0	15	73,607,660	0.9	18	80,770,716	1.3	13
Huntington Bancshares Incorporated	155,523,945	0.9	20	66,497,929	0.8	20	73,901,342	1.2	14
Regions Financial Corporation	130,154,000	0.8	25	45,968,000	0.6	25	69,189,000	1.1	15
Capital One Financial Corporation	374,037,440	2.2	8	226,479,871	2.7	7	64,544,040	1.1	16
U.S. Bancorp	517,223,585	3.0	5	406,778,123	4.9	3	59,409,296	1.0	17
HSBC Holdings plc	130,184,217	0.8	24	58,814,869	0.7	23	47,311,992	0.8	18
Zions Bancorporation, National Association	74,960,838	0.4	32	19,482,796	0.2	48	45,482,433	0.7	19
The Toronto-Dominion Bank	334,268,615	1.9	11	261,955,515	3.1	6	43,582,048	0.7	20
M&T Bank Corporation	167,293,851	1.0	17	104,013,061	1.2	13	42,521,566	0.7	21
First Citizens BancShares, Inc.	149,562,994	0.9	21	91,714,769	1.1	15	40,730,477	0.7	22
New York Community Bancorp, Inc.	81,523,024	0.5	30	21,514,614	0.3	43	37,533,892	0.6	23
Popular, Inc.	64,044,637	0.4	36	17,554,546	0.2	49	37,409,628	0.6	24
Comerica Incorporated	67,983,506	0.4	34	24,046,000	0.3	35	35,663,506	0.6	25
Western Alliance Bancorporation	55,689,308	0.3	39	14,790,510	0.2	55	30,792,380	0.5	26
The Charles Schwab Corporation	290,411,000	1.7	12	214,460,000	2.6	8	27,654,000	0.5	27
Synovus Financial Corp.	51,343,156	0.3	41	15,285,653	0.2	53	25,275,022	0.4	28
Cullen/Frost Bankers, Inc.	42,410,482	0.2	46	12,903,744	0.2	67	24,021,671	0.4	29
Deutsche Bank Aktiengesellschaft	26,281,027	0.2	65	2,922,000	0.0	179	23,139,000	0.4	30
Others	6,071,154,303	35.0		2,872,959,382	34.4		1,788,122,359	29.2	

Source: Call Report Data (Deposit Section) as provided by S&P Market Intelligence.
U.S. regulatory data at an institution level aggregated to the top holding company.

ANNEX 3

Credit Card Loans to Assets (%)

December 31, 2023

Company	Total Assets ($000)	Credit Card Loans Outstanding ($000)	Credit Cards Loans/ Total Assets (%)
JPMorgan Chase & Co.	3,875,393,000	185,793,000	4.8
Bank of America Corporation	3,180,151,000	102,200,000	3.2
Citigroup Inc.	2,411,834,000	173,014,000	7.2
Wells Fargo & Company	1,932,472,000	53,047,000	2.7
U.S. Bancorp	663,491,000	28,711,000	4.3

Source: FR Y-9C as provided by S&P Capital IQ Pro.
Includes on-balance sheet balances only.

EXHIBIT 5

APPLICATION

to the

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

for prior approval for

CAPITAL ONE FINANCIAL CORPORATION

to acquire

DISCOVER FINANCIAL SERVICES

pursuant to
Section 3 of the Bank Holding Company Act
and
Section 225.15 of Regulation Y

March 20, 2024

Board of Governors of the Federal Reserve System

Application to Become a Bank Holding Company and/or Acquire an Additional Bank or Bank Holding Company—FR Y-3

Capital One Financial Corporation
Corporate Title of Applicant

1680 Capital One Drive
Street Address

McLean	VA	22102
City	State	Zip Code

Corporation
(Type of organization, such as corporation, partnership, business trust, association, or trust)

Hereby applies to the Board pursuant to:

☐ (1) Section 3(a)(1) of the Bank Holding Company Act of 1956, as amended, (''BHC Act''—12 U.S.C. § 1842), under ''Procedures for other bank acquisition proposals'' as described in section 225.15 of Regulation Y;

☑ (2) Section 3(a)(3) of the BHC Act, under ''Procedures for other bank acquisition proposals'' as described in section 225.15 of Regulation Y; or

☑ (3) Section 3(a)(5) of the BHC Act, under ''Procedures for other bank acquisition proposals'' as described in section 225.15 of Regulation Y.

for prior approval of the acquisition of direct or indirect ownership, control, or power to vote at least 250,555,294 (100%) of a class of voting shares or otherwise to control:
Number Percent

Discover Financial Services

2500 Lake Cook Road

Riverwoods	IL	60015
City	State	Zip Code

Does applicant request confidential treatment for any portion of this submission?

☑ Yes

- ☑ As required by the General Instructions, a letter justifying the request for confidential treatment is included.
- ☑ The information for which confidential treatment is being sought is separately bound and labeled ”Confidential.”

☐ No

Public reporting burden for this collection of information for applications filed pursuant to section 3(a)(1) of the BHC Act are estimated to average 53 hours per response while applications filed pursuant to section 3(a)(3) or section 3(a)(5) of the BHC Act are estimated to average 63.5 hours per response, including the time to gather and maintain data in the required form, to review instructions and to complete the information collection. The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project (7100-0121), Washington, DC 20503.

Name, title, address, telephone number and facsimile number of person(s) to whom inquiries concerning this notification may be directed:

Rosemary Spaziani, Esq.
Wachtell, Lipton, Rosen & Katz, 51 W. 52nd Street, New York, NY 10019
(212) 403-1342, (212) 403-2354 (fax)
rspaziani@wlrk.com

with a copy to:

Richard K. Kim, Esq.
Wachtell, Lipton, Rosen & Katz, 51 W. 52nd Street, New York, NY 10019
(212) 403-1354, (212) 403-2354 (fax)
rkim@wlrk.com

Certification

I certify that the information contained in this notification has been examined carefully by me and is true, correct, and complete, and is current as of the date of this submission to the best of my knowledge and belief. I acknowledge that any misrepresentation or omission of a material fact constitutes fraud in the inducement and may subject me to legal sanctions provided by 18 USC 1001 and 1007.

I also certify, with respect to any information pertaining to an individual and submitted to the Board in (or in connection with) this notification, that the notificant has the authority, on behalf of the individual, to provide such information to the Board and to consent or to object to public release of such information. I certify that the notificant and the involved individual consent to public release of any such information, except to the extent set forth in a written request by the notificant or the individual, submitted in accordance with the Instructions to this form and the Board's Rules Regarding Availability of Instructions to this form and the Board's Rules Regarding Availability of Information (12 CFR Part 261), requesting confidential treatment for the information.

I acknowledge that approval of this notification is in the discretion of the Board of Governors of the Federal Reserve System (the "Federal Reserve"). Actions or communications, whether oral, written, or electronic, by the Federal Reserve or its employees in connection with this filing, including approval if granted, do not constitute a contract, either express or implied, or any other obligation binding upon the agency, the United States or any other entity of the United States, or any officer or employee of the United States. Such actions or communications will not affect the ability of the Federal Reserve to exercise its supervisory, regulatory, or examination powers under applicable laws and regulations. I further acknowledge that the foregoing may not be waived or modified by any employee or agency of the Federal Reserve or of the United States.

Signed this 20th day of March, 2024.

DocuSigned by:
Matt Cooper
D150659537B4416...

cutive Officer or Designee

Matthew Cooper, General Counsel & Corporate Secretary
Typed Name and Title

Application to Become a Bank Holding Company and/or Acquire an Additional Bank or Bank Holding Company—FR Y-3

Vega Merger Sub, Inc.

1680 Capital One Drive

McLean	VA	22102
City	State	Zip Code

Corporation
(Type of organization, such as corporation, partnership, business trust, association, or trust)

Hereby applies to the Board pursuant to:

☐ (1) Section 3(a)(1) of the Bank Holding Company Act of 1956, as amended, (''BHC Act''—12 U.S.C. §1842), under ''Procedures for other bank acquisition proposals'' as described in section 225.15 of Regulation Y;

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☑ (3) Section 3(a)(5) of the BHC Act, under ''Procedures for other bank acquisition proposals'' as described in section 225.15 of Regulation Y.

for prior approval of the acquisition of direct or indirect ownership, control, or power to vote at least 250,555,294 (Number) (100%) (Percent) of a class of voting shares or otherwise to control:

Discover Financial Services

2500 Lake Cook Road

Riverwoods	IL	60015
City	State	Zip Code

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Name, title, address, telephone number and facsimile number of person(s) to whom inquiries concerning this notification may be directed:

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(212) 403-1342, (212) 403-2354 (fax)
rspaziani@wlrk.com

with a copy to:

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I acknowledge that approval of this notification is in the discretion of the Board of Governors of the Federal Reserve System (the "Federal Reserve"). Actions or communications, whether oral, written, or electronic, by the Federal Reserve or its employees in connection with this filing, including approval if granted, do not constitute a contract, either express or implied, or any other obligation binding upon the agency, the United States or any other entity of the United States, or any officer or employee of the United States. Such actions or communications will not affect the ability of the Federal Reserve to exercise its supervisory, regulatory, or examination powers under applicable laws and regulations. I further acknowledge that the foregoing may not be waived or modified by any employee or agency of the Federal Reserve or of the United States.

Signed this 20th day of March, 2024.

DocuSigned by:
Matt Cooper
D150659537B4416...

Signature of Chief Executive Officer or Designee

Matthew Cooper, Secretary

Typed Name and Title

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Request for Confidential Treatment

Confidential treatment is being requested under the federal Freedom of Information Act, 5 U.S.C. § 552 (the "FOIA"), and the implementing regulations of the Board of Governors of the Federal Reserve System (the "Federal Reserve"), for the information contained in the Confidential Exhibits Volume to this application (the "Confidential Materials"). The Confidential Materials include, for example, nonpublic pro forma financial information and information regarding the business strategies and plans of (1) Capital One Financial Corporation ("COFC"), Vega Merger Sub, Inc. ("Merger Sub") and Capital One, National Association ("CONA") and (2) Discover Financial Services ("Discover") and Discover Bank ("Discover Bank"), and other information regarding additional matters of a similar nature, which is commercial or financial information that is both customarily and actually treated as private by COFC, Merger Sub, CONA, Discover and Discover Bank and provided to the government under an assurance of privacy. Certain information in the Confidential Materials also includes confidential supervisory information, which is protected from disclosure as defined in the Federal Reserve's regulations at 12 CFR § 261.2. None of this information is the type of information that would otherwise be made available to the public under any circumstances. All such information, if made public, could result in substantial and irreparable harm to COFC, Merger Sub, CONA, Discover and Discover Bank. Other exemptions from disclosure under the FOIA may also apply. In addition, investors and potential investors could be influenced or misled by such information, which is not reported in any documents filed or to be filed in accordance with the disclosure requirements of applicable securities laws, as a result of which COFC, Merger Sub, CONA, Discover and Discover Bank could be exposed to potential inadvertent violations of law or exposure to legal claims. Accordingly, confidential treatment is respectfully requested for the Confidential Materials under the FOIA and the Federal Reserve's implementing regulations.

Please contact Rosemary Spaziani (212-403-1342) or Richard K. Kim (212-403-1354) before any public release of any of this information pursuant to a request under the FOIA or a request or demand for disclosure by any governmental agency, congressional office or committee, court or grand jury. Such prior notice is necessary so that COFC, Merger Sub, CONA, Discover and Discover Bank may take appropriate steps to protect such information from disclosure.

PRELIMINARY STATEMENT

Capital One Financial Corporation ("COFC" and, together with its subsidiaries "Capital One" or the "Company") and Vega Merger Sub, Inc. ("Merger Sub") are hereby submitting this application (the "Application") to the Board of Governors of the Federal Reserve System (the "Federal Reserve"), respectfully requesting approval to acquire Discover Financial Services ("Discover") via a merger, and thereby acquiring control of its wholly owned subsidiary, Discover Bank ("Discover Bank"), a Delaware state-chartered nonmember bank. COFC will acquire Discover through a merger of Merger Sub, a newly formed, wholly owned merger subsidiary, with and into Discover, with Discover continuing as the surviving corporation and a subsidiary of COFC (the "First Step Merger"). Immediately following the First Step Merger and as part of a single, integrated transaction, Discover will merge with and into COFC, with COFC continuing as the surviving corporation (the "Second Step Merger"). Immediately following the Second Step Merger, Discover's wholly owned bank subsidiary, Discover Bank, will merge with and into COFC's wholly owned bank subsidiary, Capital One, National Association ("CONA"), with CONA continuing as the surviving bank (the "Bank Merger," and together with the First Step Merger and the Second Step Merger, the "Proposed Transaction"). Both COFC and Merger Sub are applying for such prior Federal Reserve approvals pursuant to section 3 of the Bank Holding Company Act of 1956, as amended (the "BHC Act"), and the Federal Reserve's Regulation Y. COFC is also concurrently submitting a notification pursuant to section 4(c)(8) of the BHC Act and the Federal Reserve's Regulation Y of its intention to acquire Discover's nonbanking businesses (the "Notification"). For the purposes of this Application, references to Capital One refer to the consolidated organization, inclusive of COFC and CONA.

An application is being submitted to the Office of the Comptroller of the Currency (the "OCC") for prior approval of the Bank Merger pursuant to section 18(c) of the Federal Deposit Insurance Act (the "Bank Merger Act").[1] The boards of directors of the respective companies have approved the Proposed Transaction.

COFC, Merger Sub and Discover entered into the Agreement and Plan of Merger on February 19, 2024 (the "Agreement"), for COFC to acquire Discover through a merger and, thereby indirectly acquire Discover Bank. Each outstanding share of Discover's common stock ("Discover Common Stock") will be converted into the right to receive 1.0192 shares (the "Exchange Ratio") of COFC common stock (the "COFC Common Stock"). Each share of Discover preferred stock will be automatically converted into the right to receive one (1) share of the applicable series of new COFC preferred stock and each outstanding Discover depositary share will be automatically converted into a new COFC depositary share. Each Discover restricted stock unit award (a "Discover RSU award") that is outstanding immediately prior to the effective time will be converted into a restricted stock unit award with respect to COFC Common Stock (a "COFC RSU award"), with the number of shares underlying such award adjusted based on the Exchange Ratio. Each such COFC RSU award will otherwise continue to be subject to the same terms and conditions (including vesting terms) as applied to the corresponding Discover RSU award. Each Discover performance stock unit award (a "Discover PSU award") that is outstanding immediately prior to the effective time will be converted into a cash-based award (a "COFC cash-based award") in respect of an amount in cash equal to the

[1] 12 U.S.C. § 1828(c).

product of (i) the total number of shares subject to the Discover PSU award, with the number of shares of Discover Common Stock determined based on the greater of target and actual performance through the last quarter ending simultaneously with or prior to the effective time for Discover PSU awards for which as of the effective time more than one year of the performance period has elapsed, and target performance for Discover PSU awards for which as of the effective time one year or less of the performance period has elapsed, multiplied by the product of the Exchange Ratio and the average of the closing sale prices of COFC Common Stock for the five full trading days ending on the day preceding the closing date. Each converted COFC cash-based award will otherwise continue to be subject to the same terms and conditions (including service-based vesting terms) as applied to the corresponding Discover PSU award. A copy of the Agreement is in Exhibit 1.

The Proposed Transaction will substantially enhance Capital One's ability to distribute its broad suite of consumer and business banking products and services, and better position the combined organization to compete with the largest banking organizations in the United States. Capital One will scale and leverage the benefits of its eleven-year technology transformation across all of Discover's businesses and the Discover payments networks to provide customers and merchants expanded products and services within Capital One's robust risk management framework. These investments in the Discover payments networks also promise to promote competition and financial stability by deconcentrating these already concentrated markets.

Executive Summary

With this Application, COFC and Merger Sub are seeking the Federal Reserve's prior approval for the Proposed Transaction, pursuant to section 3 of the BHC Act. Upon the consummation date of the Proposed Transaction (the "Closing"), the existing subsidiaries of Discover would become subsidiaries of COFC. As part of the Proposed Transaction, following the Bank Merger, CONA would be the surviving bank and would become the parent company to Discover Bank's existing subsidiaries. Prior to Closing, COFC and Discover (and their respective subsidiaries) will establish an integration plan to ensure continued safe and sound operations following consummation of the Proposed Transaction and extensive integration preparation efforts are already underway, as further described herein.

For all the reasons discussed herein, COFC and Merger Sub submit that the Proposed Transaction and Application satisfy each of the criteria that the Federal Reserve is required to consider under section 3 of the BHC Act. The Proposed Transaction is a strategic combination of two banking organizations with customer-centric business models that are dedicated to the enhancement of the communities in which they operate. The combined credit card business will be in a better position to deliver industry-leading products and experiences that span the credit card marketplace across consumers, small businesses, and merchants.

In acting on the Application, the Federal Reserve must consider the requirements for an interstate transaction, the financial and managerial resources and future prospects of the institutions involved and their effectiveness in combatting money laundering, the competitive effects of the Proposed Transaction, the extent to which the Proposed Transaction would result in greater or more concentrated risks to the stability of the U.S. banking or financial system, the effects of the Proposed Transaction on the convenience and needs of the communities to be

served, and the relevant banks' records of performance under the Community Reinvestment Act of 1977 (the "CRA").[2]

The Proposed Transaction meets the requirements for an interstate banking transaction under section 3(d) of the BHC Act. The Proposed Transaction would result in CONA holding less than 3% of deposits nationwide – far less than the 10% nationwide deposit cap in section 3(d) of the BHC Act. In contrast, at the present time, there are two interstate banking organizations with over 10% of nationwide deposits: JPMorgan Chase & Co. ("JPMC") and Bank of America Corporation ("BOA") and one, Wells Fargo & Co. ("Wells Fargo"), with more than 8%. In addition, the Proposed Transaction would be consistent with the state deposit cap concentration, age and community reinvestment statute requirements for a permissible interstate transaction. Upon consummation of the Proposed Transaction COFC would hold $458 billion of consolidated deposits, or approximately 2.6% of nationwide deposits as of December 31, 2023, which would be well under the nationwide deposit concentration limit.[3]

Capital One has ample financial and managerial resources to consummate the Proposed Transaction and successfully integrate Discover, Discover Bank and their subsidiaries. It is a financially strong and well managed banking organization. COFC and CONA have highly experienced Boards of Directors and management teams to oversee the integration with a long track record of successfully integrating acquired institutions.

COFC and CONA have capital ratios well in excess of the minimum capital ratios required in the supervisory stress testing exercises as demonstrated by their most recent capital plan submitted as part of the Federal Reserve's annual capital plan submission process under its capital plan rule. On consummation of the Proposed Transaction, the capital and liquidity resources and ratios of COFC and CONA will remain well above regulatory requirements and consistent with supervisory expectations. COFC and CONA will continue to maintain prudent capital and liquidity planning and associated risk management practices, including capital and liquidity stress testing programs.

Capital One will continue to have strong managerial resources and risk management systems to continue operating in a safe and sound manner and complete a successful integration of Discover. Capital One has a robust risk management program in place, including for capital, liquidity, credit, market, operational and compliance risks. To assist in the decision-making process for the Proposed Transaction and planning for a successful integration, Capital One, including CONA management, led a comprehensive due diligence review of all lines of business and functional areas of Discover and Discover Bank, including credit, compliance, risk management, Bank Secrecy Act/anti-money laundering ("BSA/AML"), cyber security, liquidity, operations, human resources, finance, internal audit and legal. A summary of key findings is included as Confidential Exhibit A.

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[2] 12 U.S.C. § 2901 *et seq.*

[3] Calculation represents Total Liabilities Before Exclusions less Total Allowable Exclusions plus Interest Accrued and Unpaid on Deposits aggregated for all FDIC-insured banks and thrifts and reported on their Consolidated Report of Condition and Income for the quarter ended December 31, 2023. As of December 31, 2023, banks and thrifts held $17.7 trillion in adjusted domestic deposits.

Capital One has implemented and maintains a strong and effective compliance risk management program, including for compliance with the BSA and other AML laws; sanctions restrictions issued by the U.S. Department of Treasury's Office of Foreign Assets Control (together, "BSA/AML/Sanctions Compliance"); and fair lending and other consumer protection laws ("Consumer Compliance"). Capital One also has a strong Enterprise Risk Management Framework that is applied across all risk categories and all three Lines of Defense to ensure effective risk identification, management and reporting. Capital One will begin to apply its Risk Management Framework and policies to Discover's businesses and risk management functions immediately upon Closing, and will fully integrate Discover's risk management functions into Capital One's programs through a comprehensive integration plan.

The Proposed Transaction will not substantially lessen competition in any market. To the contrary, it promises to promote competition in two significant segments of the financial services industry—debit and credit card networks—that would meaningfully benefit from the injection of investment that COFC promises to bring. The parties do not overlap in any local banking market as defined by the Federal Reserve Banks, and competition for deposits nationwide will remain robust after the Proposed Transaction. The Proposed Transaction will similarly not substantially lessen competition with respect to credit card issuing. Share and concentration levels for credit card issuing are well below safe harbor thresholds and the industry is intensely competitive and dynamic ─ in part due to the ease with which issuers and consumers can switch among products and services. In fact, the Proposed Transaction will *increase* competition among credit and debit networks by strengthening Discover's payments networks to the benefit of the network users (both cardholders and merchants), thereby facilitating more robust competition against Visa and Mastercard, the two leading operators of debit and credit networks. Following the Proposed Transaction, CONA's pro forma assets will be approximately $640 billion, which is still less than one-third of the average domestic assets held by each of the four largest U.S. banks.

In addition, the Proposed Transaction would not pose any significant risk to the stability of the U.S. banking or financial system. Capital One is a highly diversified financial services provider based in the United States, subject to the oversight of the Federal Reserve and the OCC. Both CONA and Discover Bank provide traditional banking services, for which there are numerous competitors in all cases. Upon consummation of the Proposed Transaction, Capital One would be less than one-third of the average size of the four largest U.S. banks[4] and would remain a Category III banking organization for regulatory purposes; and its globally systemically important bank ("GSIB") score would remain well below the threshold to be considered systemically important. CONA's insured deposits would be approximately 79% of its total deposits, which is expected to be the highest insured deposit percentage amongst the 10 largest U.S. banks. Moreover, while the Proposed Transaction would result in adjustments to Capital One's overall resolution planning, it would not complicate any resolution process in the event of serious financial distress.

The resulting institution will benefit the convenience and needs of the communities served by CONA and Discover Bank, including their customers, communities and employees, by combining two organizations with strong customer-oriented cultures and compatible business models. Both CONA and Discover Bank have a strong commitment to serving the needs of their

[4] Based on consolidated asset size as of December 31, 2023.

communities as demonstrated by each bank's strong CRA performance record, as well as each organization's ongoing community engagement activities. Moreover, CONA is committed to integrating Discover Bank and its activities into Capital One's risk, compliance and CRA framework. Both organizations are committed to supporting the needs of historically underrepresented groups and continue to innovate solutions to support diversity within their businesses and each of their respective geographies. There are no planned branch closures in connection with the Proposed Transaction and Discover Bank customers will have access to a broader set of financial products and services, including, but not limited to, full service digital banking products and a robust network of 259 branches (as of June 2024, reflecting previously determined actions unrelated to the Proposed Transaction), and 55 Capital One Cafés (as of June 2024, reflecting previously determined actions unrelated to the Proposed Transaction). CONA has a long and proud history of innovation designed to benefit the consumer, and its flagship 360 Checking account is Bank On certified. CONA was also the first major bank to completely eliminate overdraft fees.

Based on the foregoing and as explained in more detail below and in the exhibits to the Application, the Proposed Transaction will satisfy all of the factors the Federal Reserve is required to consider and, accordingly, the Application is fully consistent with approval and should be approved.

The Companies

Capital One Financial Corporation

COFC is a Delaware corporation and the top-tier holding company for the Capital One organization, a leading financial services provider headquartered in McLean, Virginia.

Established in 1994, Capital One is a diversified financial services provider with a history of strong and sustainable financial performance that strategically positions it for growth across its core businesses. Capital One offers a broad array of financial products and services to consumers, small businesses and commercial clients through digital channels, branch locations, cafés and other distribution channels. Capital One has continued to bring technological innovations to the world of finance by being one of the first large enterprises to move entirely to the public cloud.

Capital One is registered as a bank holding company under the BHC Act and a financial holding company under the Gramm-Leach-Bliley Act amendments to the BHC Act. COFC operates through CONA, its national bank subsidiary, and other nonbank subsidiaries. Capital One's international activities are performed primarily through Capital One (Europe) plc ("COEP"), an indirect subsidiary of CONA that provides consumer lending products in the United Kingdom, and Capital One Bank (Canada Branch), a foreign branch office of CONA that provides consumer lending products in Canada.

At December 31, 2023, COFC had total assets on a consolidated basis of approximately $478.5 billion, consolidated total deposits of approximately $348.4 billion, and consolidated total shareholders' equity of approximately $58.1 billion. Capital One exceeds the requirements to be

"well capitalized" under the Federal Reserve's regulations for bank holding companies.[5] As of December 31, 2023, COFC had, on a consolidated basis, a Tier 1 risk-based capital ratio of 14.2%, a total risk-based capital ratio of 16.0%, a leverage ratio of 11.2%, and a common equity tier 1 risk-based capital ratio of 12.9%.

COFC's common stock trades on the New York Stock Exchange under the symbol "COF" and is included in the S&P 500 Index.

Capital One, National Association

CONA is a national bank with its headquarters and main office in McLean, Virginia. CONA is a wholly owned subsidiary of COFC and currently operates licensed, domestic branches in seven states (Connecticut, Louisiana, Maryland, New Jersey, New York, Texas and Virginia) and the District of Columbia. CONA offers a broad spectrum of financial products and services directly to consumers, small businesses and commercial clients, including retail and commercial deposits, credit cards, auto loans, small business and commercial loans and cash management services.

Capital One also offers products and services outside of the United States principally through COEP, an indirect subsidiary of CONA organized and located in the United Kingdom, and through a branch of CONA in Canada. Both COEP and the Canadian branch of CONA have the authority to provide credit card loans.

As of December 31, 2023, CONA had total consolidated assets of approximately $475.6 billion and total deposits of approximately $374.2 billion.

CONA exceeds the requirements to be "well capitalized" under the regulations of the OCC.[6] As of December 31, 2023, CONA had a Common Equity Tier 1 risk-based capital ratio of 13.1%, Tier 1 risk-based capital ratio of 13.1%, a total risk-based capital ratio of 14.3% and a leverage ratio of 10.3%.

For additional information regarding CONA, please refer to Exhibit 2 for the public portions of the Consolidated Report of Condition and Income for CONA for the quarter ended December 31, 2023.

Discover Financial Services

Discover is a Delaware corporation, bank holding company and financial holding company, headquartered in Riverwoods, Illinois. Discover provides digital banking and payment services through its subsidiaries, including Discover Bank, and had total consolidated assets of approximately $151.5 billion and total deposits of approximately $109.0 billion as of December 31, 2023. Discover operates vertically integrated global payments networks.

As part of its payment services, Discover, through its subsidiaries, operates the Discover Network, the PULSE network ("PULSE") and Diners Club International ("Diners Club"),

[5] *See* 12 CFR § 225.2(r)(1).
[6] *See* 12 CFR § 6.4(b)(1).

collectively known as the "Discover Global Network." The Discover Network processes transactions for Discover-branded credit and debit cards and provides payment transaction processing and settlement services. PULSE operates an electronic funds transfer network, providing financial institutions issuing debit cards on the PULSE network with access to ATMs domestically and internationally, as well as merchant acceptance throughout the United States for debit card transactions. Diners Club is a global payments network of licensees, which are generally financial institutions, that issue Diners Club branded charge cards and/or provide card acceptance services. Discover provides Diners Club licensees with payment processing and settlement services for transactions as well as a centralized service center and technological services.

Discover Bank

Discover Bank is a Delaware state-chartered nonmember bank that is a wholly owned direct subsidiary of Discover. Discover Bank is regulated by the Federal Deposit Insurance Corporation ("FDIC") and the Delaware State Bank Commissioner. Discover Bank offers Discover-branded credit cards to individuals and small businesses, as well as home and personal loans, related add-on products, and obtains deposits from customers directly or through affinity relationships. Discover previously provided student loans, but stopped accepting new applications for private student loans as of February 1, 2024. Discover is targeting to complete the sale of its student loan business in the second half of 2024 but the sale process remains in the early stages. Discover Bank has a single retail location at its main office address in Greenwood, Delaware, and operates as a direct bank on a national basis. As a direct bank, Discover Bank offers and services its lending and deposit products and services nationwide primarily through use of digital channels, telephone, print materials, email, arrangements with third parties, and direct mail channels.

As of December 31, 2023, Discover Bank had $149.4 billion in assets representing 98.6% of Discover's assets on a consolidated basis. The asset portfolio primarily consists of $119.1 billion in net loan receivables, with net credit card receivables representing 79.4% of the net loan portfolio and 63.3% of total assets. Discover Bank had total liabilities of $136.6 billion, of which deposits accounted for approximately $112.6 billion. Discover Bank earned $2.6 billion in net income for the year ending December 2023, which represents approximately 90.1% of Discover's consolidated net income. For additional information regarding Discover Bank, please refer to Exhibit 3 for the public portions of the Consolidated Report of Condition and Income for Discover Bank for the quarter ended December 31, 2023.

Structure and Terms of the Proposed Transaction

Structure of the Proposed Transaction

In the Proposed Transaction, there will be three mergers. First, Merger Sub will merge with and into Discover, with Discover continuing as the surviving corporation to effectuate the First Step Merger. Immediately following the First Step Merger, and as part of a single, integrated transaction, the Second Step Merger will occur in which Discover will merge with and into COFC, with COFC continuing as the surviving corporation and, following the Second Step Merger, the separate corporate existence of Discover will cease. Immediately following the

Second Step Merger, the Bank Merger will take place in which Discover Bank will merge with and into CONA, with CONA continuing as the surviving entity and the separate corporate existence of Discover Bank will cease to exist.

Each outstanding share of Discover Common Stock will be converted into the right to receive the Exchange Ratio. Each share of Discover preferred stock will be automatically converted into the right to receive one (1) share of the applicable series of new COFC preferred stock and each outstanding Discover depositary share will be automatically converted into a new COFC depositary share. Each Discover RSU award that is outstanding immediately prior to the effective time will be converted into a COFC RSU award, with the number of shares underlying such award adjusted based on the Exchange Ratio. Each such COFC RSU award will otherwise continue to be subject to the same terms and conditions (including vesting terms) as applied to the corresponding Discover RSU award. Each Discover PSU award that is outstanding immediately prior to the effective time will be converted into a COFC cash-based award in respect of an amount in cash equal to the product of (i) the total number of shares subject to the Discover PSU award, with the number of shares of Discover Common Stock determined based on the greater of target and actual performance through the last quarter ending simultaneously with or prior to the effective time for Discover PSU awards for which as of the effective time more than one year of the performance period has elapsed, and target performance for Discover PSU awards for which as of the effective time one year or less of the performance period has elapsed, multiplied by the product of the Exchange Ratio and the average of the closing sale prices of COFC Common Stock for the five full trading days ending on the day preceding the closing date. Each converted COFC cash-based award will otherwise continue to be subject to the same terms and conditions (including service-based vesting terms) as applied to the corresponding Discover PSU award. See the summary of terms of the Proposed Transaction provided in Exhibit 4.

On consummation of the Proposed Transaction, the subsidiaries of Discover Bank will become subsidiaries of CONA ("Bank Subsidiaries") and the other direct and indirect subsidiaries of Discover will become direct or indirect subsidiaries of COFC. In Exhibits 5 and 6, please find: (i) the current organizational structure of Discover and (ii) the current organizational structure of COFC, respectively. A pro forma organizational chart of COFC is provided in Confidential Exhibit B.

Merger Agreement and Bank Merger Agreement

Concurrently with the execution of the Agreement, CONA and Discover Bank entered into an Agreement and Plan of Merger providing for the Bank Merger to occur following the effectiveness of the First Step Merger and the Second Step Merger and subject to the approval of the OCC and all other necessary authorizations and approvals. A copy of the Agreement is provided in Exhibit 1 and a copy of the Bank Merger Agreement is provided in Exhibit 7.

Resolutions approving the Proposed Transaction by COFC's Board of Directors and resolutions of the Board of Directors of CONA approving the Bank Merger and the filing of the related regulatory filings, as well as the related consent of COFC as the sole stockholder of CONA approving the Bank Merger, are provided in Exhibit 8, Exhibit 9 and Exhibit 10, respectively. Stockholder consent of COFC, as the sole stockholder of Merger Sub, and

resolutions of Merger Sub's Board of Directors approving the First Step Merger are provided in Exhibit 11 and Exhibit 12, respectively.

Joint resolutions of the Boards of Directors of Discover and Discover Bank approving the Proposed Transaction, including the Bank Merger, and the filing of the Bank Merger application, as well as the related consent of Discover as the sole stockholder of Discover Bank, are provided in Exhibit 13 and Exhibit 14, respectively.

On February 22, 2024, COFC filed a Current Report on Form 8-K announcing the Proposed Transaction in connection with entering into the Agreement, which is provided in Exhibit 15. The Agreement contains customary representations and warranties from both COFC and Discover, and each party has agreed to customary covenants, including, among others, covenants relating to (1) the conduct of its business during the interim period between the execution of the Agreement and the Closing, (2) its obligations to call a meeting of its stockholders to, in the case of Discover, adopt the Agreement and the transactions contemplated thereby (the "Discover Stockholder Approval"), and, in the case of COFC, approve the issuance of shares of COFC Common Stock constituting the consideration to be received by Discover common stockholders in the Mergers, in accordance with applicable New York Stock Exchange rules and regulations (the "Capital One Stockholder Approval") and, subject to certain exceptions, for the Board of Directors of each of COFC and Discover to recommend that its stockholders vote in favor of such approvals, and (3) its non-solicitation obligations relating to alternative acquisition proposals.

Required Approvals

In addition to the Application, applications to regulatory agencies will include:

- A notice to the Federal Reserve under section 4(c)(8) of the BHC Act to acquire nonbanking activities and companies as part of the Proposed Transaction;

- An application to the OCC for prior approval for Discover Bank to merge with and into CONA, with CONA as the surviving institution, pursuant to the Bank Merger Act and to operate Discover Bank's branch as a licensed branch of CONA pursuant to the Bank Merger Act, section 36(d) of the National Bank Act and the OCC's implementing regulations (the "OCC Application");[7] and

- An application to the Delaware State Bank Commissioner for prior approval to acquire control of Discover Bank immediately prior to the Bank Merger, pursuant to Title 5 Del. C. § 843, and for a waiver of the 30% state deposit concentration limit pursuant to Title 5 Del. C. § 795H.

[7] *See* 12 U.S.C. §§ 24, 24a, 36(d), 1828(c) and 1831u; 12 CFR §§ 5.26, 5.33, 5.34, 5.35, 5.36 and 5.39.

In addition, Capital One and Discover will submit appropriate filings or notices of the Proposed Transaction to any state, federal or foreign regulatory bodies that may be required in connection with the Proposed Transaction.

Public Notice

The form of newspaper notice for the Application is provided in Exhibit 16. Notice will be published in each of: (1) *Washington Post*, a newspaper of general circulation in McLean, Virginia, the community in Fairfax County, Virginia in which the headquarters of COFC and the main office of CONA are located; and (2) *The News Journal*, a newspaper of general circulation in Greenwood, Delaware, the city in which the main office of Discover Bank is located. Copies of the publication affidavits from those newspapers will be provided to the Federal Reserve once they become available.

Factors for Federal Reserve Review

I. Interstate Banking Requirements and Liabilities Concentration

A. Interstate Banking Requirements

Section 3(d) of the BHC Act ("Section 3(d)"), as amended by the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 and the Dodd-Frank Wall Street Reform and Consumer Protection Act, permits the Federal Reserve to authorize a bank holding company that is well capitalized and well managed to acquire control of a bank located in a state other than the home state of such bank holding company, notwithstanding contrary state law.[8] For purposes of this provision, the home state of COFC is Virginia, the state in which the deposits of its subsidiary banks were largest when it became a bank holding company.[9] For purposes of Section 3(d), the Federal Reserve considers a bank proposed to be acquired to be "located" for these purposes "in the states in which the bank is chartered, headquartered or operates a branch."[10] Discover Bank is deemed to be "located" for Section 3(d) purposes in Delaware.

COFC will be "well capitalized" and "well managed," as those terms are used in Section 3(d), when it acquires Discover Bank.[11] Section 3(d) also imposes requirements relating to (1) the age of the target bank, (2) concentration limits and (3) community reinvestment compliance.[12] Each of these conditions is satisfied in the case of the Proposed Transaction.

Age of the Acquired Bank. Section 3(d) specifies that the Federal Reserve may not approve a proposed interstate acquisition if the effect would be to permit an out-of-state bank holding company "to acquire a bank in a host State that has not been in existence for the minimum period of time, if any, specified in the statutory law of the host State," subject to a cap

[8] 12 U.S.C. § 1842(d)(1)(A).
[9] 12 U.S.C. § 1841(o)(4).
[10] *See, e.g.*, *The PNC Financial Services Group, Inc.*, 94 Fed. Res. Bull. C38 (2008); *BBVA USA Bancshares Incorporated*, 93 Fed. Res. Bull. C94 (2007).
[11] *See* 12 U.S.C. §§ 1841(o)(1) and (o)(9), 12 CFR § 217, and 12 CFR § 225.2(s).
[12] 12 U.S.C. § 1842(d)(1)-(3).

of five years.[13] Discover Bank was established as a Delaware state-chartered trust company in 1911 (under the name of Greenwood Trust Company). That institution converted to a Delaware state-chartered credit card bank in 1985 and changed its name to Discover Bank in 2000. Accordingly, the bank has been in existence much longer than five years. Therefore, the Federal Reserve is authorized under Section 3(d)(1)(B)(ii) of the BHC Act to approve the Proposed Transaction regardless of any state law age requirements.[14]

Nationwide Concentration Limit. Section 3(d) provides that the Federal Reserve may not approve an interstate acquisition if, upon consummation, the applicant would control more than 10% of the total amount of adjusted deposits of insured depository institutions in the United States ("nationwide deposits").[15] As of December 31, 2023, CONA and Discover Bank had nationwide deposits totaling $374.2 billion and $112.6 billion, respectively. Upon consummation of the Proposed Transaction, CONA would hold $486.9 billion, which is less than 3% of nationwide deposits as of December 31, 2023 and, thus, would be well under the nationwide deposit concentration limit.[16]

Statewide Concentration Limit. Section 3(d)(2)(B) also provides that the Federal Reserve may not approve an interstate acquisition if:

(1) immediately before consummation, the applicant controls any insured depository institution or any branch of an insured depository institution in the home state of any bank to be acquired or in any host state in which any such bank maintains a branch; and

(2) the applicant, upon consummation of the acquisition, would control 30% or more of the total amount of deposits in any such state (or such higher percentage as may be permitted by state law, regulation or order).[17]

Discover Bank's home state is Delaware and it does not have a branch in any other state. Discover Bank operates a digital bank and accepts deposits nationwide. CONA has a location in Delaware, which is an operational facility and accepts deposits[18] via the CONA website from customers nationwide. As of December 31, 2023, approximately 64% of CONA's deposits are attributable to its location in the State of Delaware for purposes of Section 3(d) of the BHC Act.

As of June 30, 2023, CONA and Discover Bank had deposits totaling $224.2 billion and $101.2 billion, respectively, booked in these Delaware locations. Thus, reflecting that both CONA and Discover Bank book deposits from customers nationwide at locations in Delaware,

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[13] The Federal Reserve may approve an acquisition of a bank that has been in existence for at least five years without regard to a contrary minimum period of time specified in a host state's law. 12 U.S.C. § 1842(d)(1)(B).
[14] Delaware does not have a state age requirement of more than five years.
[15] 12 U.S.C. § 1842(d)(2)(A).
[16] Calculation represents Total Liabilities Before Exclusions less Total Allowable Exclusions plus Interest Accrued and Unpaid on Deposits aggregated for all FDIC-insured banks and thrifts and reported on their Consolidated Report of Condition and Income for the quarter ended December 31, 2023. As of December 31, 2023, banks and thrifts held $17.7 trillion in adjusted domestic deposits.
[17] 12 U.S.C. §§ 1842(d)(2)(B), and (D)(i).
[18] While this CONA location is not a branch, it is conservatively assumed that an operational facility that accepts deposits is deemed to be a branch solely for the purposes of Section 3(d)'s state concentration limit.

on a combined basis, CONA would hold approximately $325.4 billion or 64.9% of the $501.4 billion total amount of the reported deposits of insured depository institutions in Delaware.[19]

Although on a combined basis, CONA would exceed 30% of the deposits in Delaware, Section 3(d)(2)(D) provides that the Federal Reserve may approve an acquisition that does not otherwise qualify under subpart (B) referenced above if the acquisition is approved by the appropriate State bank supervisor of such State and the standard on which such approval is based does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies. Delaware state law expressly authorizes the State Banking Commissioner to approve a Proposed Transaction that would result in a banking organization that holds more than 30% of the deposits in the state.[20]

Therefore, subject to the approval of the Delaware State Bank Commissioner, the Proposed Transaction would comply with the statewide concentration limit requirements of Section 3(d).

Community Reinvestment Act Compliance. Section 3(d) of the BHC Act directs the Federal Reserve to consider an applicant's record under the CRA and take into account its record of compliance under state community reinvestment laws.[21] CONA currently has an overall CRA rating of "Outstanding" and Discover Bank currently has an overall CRA performance rating of "Satisfactory." Detailed information about the CRA compliance records of CONA and Discover Bank are in the *Commitment to the CRA* section below. CONA and Discover Bank are in compliance with applicable state community reinvestment statutes and related requirements.[22]

Conclusion under Section 3(d). The Proposed Transaction would satisfy each of the conditions for an interstate acquisition in Section 3(d). Accordingly, the Federal Reserve is permitted to approve the Application under Section 3(d).

B. Liabilities Concentration

The BHC Act and the Federal Reserve's implementing Regulation XX generally prohibit a financial company, including, among others, a bank holding company and an insured depository institution, from merging or consolidating with, or acquiring control of, another company if the total consolidated liabilities of the acquiring financial company after consummation of the transaction would exceed 10% of the aggregate consolidated liabilities of all financial companies ("Total Liabilities") at the end of the calendar year preceding the

[19] Importantly, (a) less than 1% of CONA's deposits that are booked in Delaware and (b) slightly over 1% of the Discover Bank deposits that are booked in Delaware are owned by depositors who provide CONA and Discover Bank, respectively, with a primary address in the State of Delaware. Counting only these Delaware-based depositors, CONA would hold slightly over $3 billion in deposits, representing less than 2% of Delaware deposits on an adjusted basis (i.e., deducting CONA's and Discover Bank's non-Delaware-based depositors from the denominator, as well).

[20] *See* 5 Del. C. § 843(b).

[21] *See* 12 U.S.C. § 1842(d)(3).

[22] Discover Bank has its main office in Delaware, which does not have a state CRA law. CONA has branches in three jurisdictions (i.e., Connecticut, the District of Columbia and New York) that have enacted state CRA statutes. *See* CT Gen. Stat. § 36a-30; D.C. Code § 26-431; N.Y. Banking Law § 28-b. CONA is in compliance with such CRA laws.

transaction.[23] As of December 31, 2023, COFC and Discover Financial Services had consolidated national liabilities of $389.4 billion and $114.5 billion, respectively. On a pro forma basis, on consummation of the Proposed Transaction, COFC would have Total Liabilities of approximately $556.9 billion, which, assuming national liabilities of $23.7 trillion, is only 2.3% of Total Liabilities.[24] Accordingly, the liabilities concentration limit would not preclude Federal Reserve approval of the Proposed Transaction.

II. Financial and Managerial Resources and Future Prospects

In acting on the Application, section 3 of the BHC Act requires the Federal Reserve to consider the financial and managerial resources and future prospects of the organizations involved.[25] The Proposed Transaction represents a strategic transaction to increase Capital One's product offerings to better serve its and Discover's customers.

Capital One will benefit from the compatible business lines and diversification of customers and geographies acquired through the Proposed Transaction. The Proposed Transaction will introduce the Discover Global Network to Capital One. Currently, Discover processes approximately 5% of total debit purchase volume and 4% of total credit purchase volume in the United States. Capital One expects to utilize its strong credit card issuance platform to drive increased volume to the Discover Global Network, which, coupled with expected additional investments in the Discover Global Network, position the Discover Global Network to compete more effectively with Visa, Mastercard, and Amex.

Capital One, including CONA, has strong financial, capital, liquidity and managerial resources, including a robust risk management framework ("RMF"), that will enable it to consummate the Proposed Transaction, successfully integrate the operations of Discover into Capital One and Discover Bank into CONA, and ensure the continued safe and sound operation of Capital One, including CONA, going forward.

Senior management of Capital One will continue to take steps to ensure that COFC and CONA maintain suitable capital planning, liquidity management, managerial resources, corporate governance, enterprise risk management programs, compliance and technological infrastructure commensurate with its size, complexity, risk profile, and scope of operations and otherwise meet the Federal Reserve's and OCC's supervisory expectations. As a Category III organization under the Federal Reserve's prudential standards for large bank holding companies (Regulation YY, 12 CFR part 252), COFC has already been subject to enhanced prudential supervisory standards, including the Supplementary Leverage Ratio, Countercyclical Capital Buffer requirements of the banking agencies' regulatory capital rules, company-run capital stress testing and single counterparty credit limits, as well as the liquidity coverage ratio requirement (the "LCR") and net stable funding requirement (the "NSFR") and resolution planning

[23] *See* 12 U.S.C. § 1852(b); 12 CFR § 251.
[24] This percentage is estimated using the method of calculation in the Federal Reserve's Regulation XX, 12 CFR § 251, and the amount of Total Liabilities in effect through June 30, 2024, stated by the Federal Reserve. *Announcement of Financial Sector Liabilities*, Federal Reserve System Docket No. OP-1808 (June 12, 2023). *See*, https://www.federalregister.gov/documents/2023/06/12/2023-12389/announcement-of-financial-sector-liabilities.
[25] 12 CFR § 225.13 (b)(1)-(2).

requirements.[26] COFC has satisfactorily met all these requirements and standards and will continue to have the governance, infrastructure and systems to meet all the relevant regulatory requirements and supervisory expectations for a Category III banking organization. Furthermore, the Proposed Transaction will have the effect of bringing the assets, liabilities and operations of the Discover organization under the heightened requirements applicable to Category III organizations, described above.

Based on all the information below and in the exhibits, it is evident that the financial, managerial and future prospects factors that the Federal Reserve must consider all support approval of the Application.

A. Financial, Capital and Liquidity Strength

Since January 1, 2020, the federal banking agencies' capital and liquidity rules classify all banking organizations with $100 billion or more in total consolidated assets into one of four categories (Category I, II, III or IV), based on the banking organization's asset size and risk profile, with the most stringent capital and liquidity requirements applicable to Category I firms and the least restrictive requirements applying to Category IV firms. Based on this regulatory framework, COFC currently qualifies as a Category III organization. Following the Proposed Transaction, COFC will have approximately $646 billion[27] in total consolidated assets and will remain well under $75 billion in cross-jurisdictional activity. For additional information on cross-jurisdictional activities see "*Financial Stability Risk Considerations – Cross-Border Activity*." Capital One would become subject to Category II standards if it has $700 billion or more in total consolidated assets or $75 billion or more in cross-jurisdictional activity, each as measured based on the average for the four most recent calendar quarters.[28] Accordingly, upon consummation of the Proposed Transaction, the combined organization will continue to be a Category III firm. Capital One understands the additional regulatory requirements applicable to Category II firms and will be prepared to meet such additional requirements to the extent future growth results in Capital One exceeding the applicable thresholds for classification as a Category II firm.

Capital. Capital One employs comprehensive and rigorous capital planning and capital stress testing programs, and the acquired operations of Discover will be covered by these effective programs. The respective capital and leverage ratios of COFC, CONA, Discover and Discover Bank exceed the minimum ratios necessary for "well capitalized" status and, on consummation of the Proposed Transaction, the capital ratios and leverage ratios of COFC and CONA are projected to exceed the required minimum levels necessary for "well capitalized" status and meet supervisory expectations. The Proposed Transaction is expected to result in a holding company and bank with stronger financial and operating metrics, and increased profitability and scale that will permit the combined organization to better compete against the largest banking organizations and larger regional banking organizations in the United States. For

[26] *See* Prudential Standards for Large Bank Holding Companies, Savings and Loan Holding Companies, and Foreign Banking Organizations, 84 Fed. Reg. 59032 (Nov. 1, 2019).
[27] This pro forma total consolidated asset amount includes Discover's student loan portfolio. As discussed below, Discover is targeting to complete the sale of its student loan business prior to the consummation of the Proposed Transaction.
[28] *See* 12 CFR §§ 252.2 and 252.5.

more detailed information on the current, pro forma and projected financials, capital ratios and asset quality of COFC and CONA, please see Exhibit 17 and Confidential Exhibit C.

Liquidity. COFC and CONA are subject to the LCR as implemented by the Federal Reserve and OCC (the "LCR Rule").[29] The LCR Rule requires each of COFC and CONA to hold an amount of eligible high quality liquid assets that equals or exceeds 100% of its respective projected adjusted net cash outflows over a 30-day period, each as calculated in accordance with the LCR Rule. As a Category III institution with less than $75 billion in weighted average short-term wholesale funding, COFC's and CONA's total net cash outflows are subject to an outflow adjustment percentage of 85%. The LCR Rule requires each of COFC and CONA to calculate its respective LCR daily.

The NSFR requires COFC and CONA to maintain an amount of available stable funding, which is a weighted measure of a company's funding sources over a one-year time horizon, calculated by applying standardized weightings to equity and liabilities based on their expected stability, that is no less than a specified percentage of its required stable funding, which is calculated by applying standardized weightings to assets, derivatives exposures and certain other items based on their liquidity characteristics. As a Category III institution, COFC and CONA are each required to maintain available stable funding in an amount at least equal to 85% of its required stable funding.

Capital One maintains a robust liquidity risk management program and manages liquidity risk at the consolidated company level to help ensure that it (1) can obtain cost-effective funding to meet current and future obligations under both normal "business as usual" and stressful circumstances, and (2) maintains an appropriate level of contingent liquidity. Management monitors liquidity through a series of early warning indicators that may indicate a potential market or Capital One-specific liquidity stress event, performs liquidity stress tests over multiple time horizons with varying levels of severity, and maintains a contingency funding plan to address a potential liquidity stress event. Capital One's liquidity guidelines and liquidity-related risk limits are established at an enterprise level, as well as managed and monitored at various entity levels, including CONA. Capital One's liquidity risk management program will cover the acquired operations of Discover and Discover Bank on consummation of the Proposed Transaction. Substantial focus has been placed by regulators, the markets and, the banks themselves on a bank's level of insured deposits in absolute terms and relative to total deposits. On a pro forma, Capital One's insured deposits would be approximately 79% of its total deposits, which is expected to be the highest insured deposit percentage amongst the 10 largest U.S. banks.

Resolution Planning. COFC is a Category III organization for purposes of the Federal Reserve's resolution planning requirements[30] and CONA is an insured depository institution with more than $50 billion in total assets that is subject to the FDIC's resolution planning requirements.[31] Following consummation of the Proposed Transaction, COFC will continue to

[29] 12 CFR § 50 (OCC) and 12 CFR § 249 (Federal Reserve).
[30] *See* Regulation QQ, 12 CFR § 243.
[31] *See* 12 CFR § 360.10.

be a Category III organization, subject to the Federal Reserve's resolution planning rules, and CONA will continue to be subject to the FDIC's resolution planning rules.

Capital One does not expect that the Proposed Transaction will make COFC or CONA materially more difficult to resolve if they fail or experience financial distress. The Proposed Transaction does not involve the acquisition or assumption of complex assets or liabilities. Although Capital One will have a larger asset base after consummation of the Proposed Transaction, approximately 99% of the combined organization's total assets will be held by or through CONA. The introduction of the new operations, legal entities, and activities related to the Discover Global Network is not expected to increase the relatively low level of complexity of Capital One's operations from a resolution standpoint, especially given that the Discover Global Network could be viewed as a standalone and marketable asset.

Capital One anticipates that its existing resolution planning processes and governance framework, including ongoing enhancements designed to address regulatory rules and expectations, are appropriate to incorporate Discover, including the Discover Global Network, into Capital One's resolution and recovery planning strategy. Discover's most significant business lines and the significant majority of its assets and liabilities consist of activities at Discover Bank, namely credit card lending and direct banking. Capital One has extensive existing operations, expertise and experience, including extensive resolution planning experience with respect to those activities. The services provided by the Discover Global Network to CONA's material entities and core business lines will be appropriately mapped and evaluated as part of Capital One's resolution strategy. Capital One is currently evaluating the impact of the Proposed Transaction on its resolution plans and resolution strategy, and expects to submit interim updates to its resolution plans within a reasonable timeframe following the consummation of the Proposed Transaction.

B. Managerial Resources

COFC and CONA have diverse, highly accomplished and experienced Boards of Directors and senior executive management teams, which provide them with outstanding managerial resources to ensure their safe and sound operation.

Boards of Directors

COFC and CONA. The COFC and CONA Boards of Directors and management will evaluate the proposed composition of the Boards of COFC and CONA following the Proposed Transaction, considering the appropriate size, skill sets, geographic representation, diversity as well as other governance considerations. The Board of COFC will add three members of the Discover Board of Directors and expand from 12 to 15 directors. These individuals will be named at a later date. The current directors of COFC and CONA are set forth in Exhibit 18.

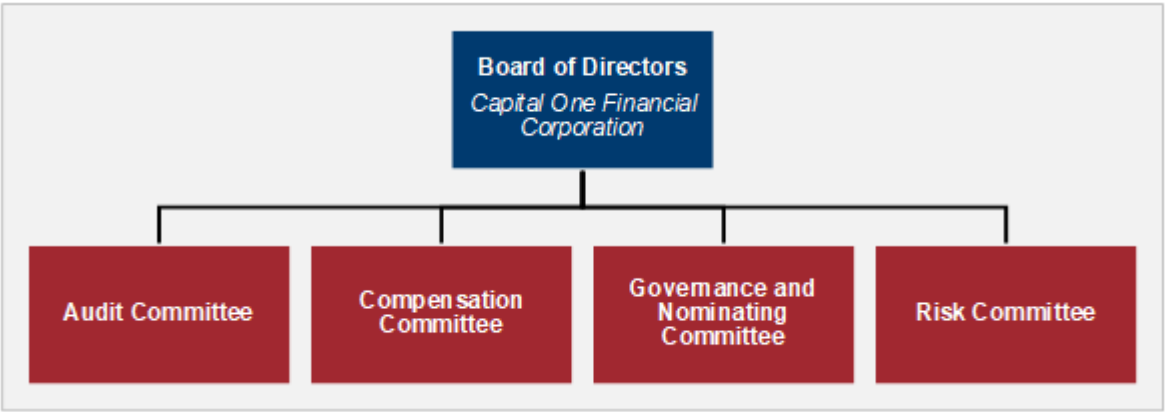
The independent directors of the COFC Board (the "Independent Directors"), each year in conjunction with the Board of Directors' self-assessment, evaluate the continued effectiveness of its leadership structure in the context of Capital One's specific circumstances, culture, strategic objectives, and challenges.

The Board of Directors has determined that the existing leadership structure with a combined Chairman/CEO and a Lead Independent Director provides the most effective governance framework and allows Capital One to benefit from Mr. Fairbank's talent, knowledge, and leadership as the founder of Capital One and allows him to use the in-depth focus and perspective gained in running Capital One to effectively and efficiently lead the Board. As CEO, Mr. Fairbank oversees Capital One's day-to-day operations and strategic planning, and as Chairman of the Board he leads the Board in its oversight role, including with respect to strategic matters and risk management.

COFC and the Board of Directors also benefit from an active and empowered Lead Independent Director who provides strong, independent leadership for the Board. Recognizing the importance of independent perspectives to the Board to balance the combined Chairman and CEO roles, Capital One appropriately maintains strong independent and effective oversight of its business and affairs through its Lead Independent Director; fully-independent Board committees with independent chairs that oversee Capital One's operations, risks, performance, compliance and business strategy; experienced and committed directors; and regular executive sessions.

The COFC Board of Directors currently have four standing committees: (i) Audit Committee, (ii) Risk Committee, (iii) Governance and Nominating Committee, and (iv) Compensation Committee. The standing committees of the COFC Board of Directors also act as committees of the CONA Board of Directors. In addition, the CONA Board of Directors has another standing committee, the Trust Committee, which oversees the wind-down of the legacy wealth management and trust activities of CONA. Each committee chair provides recurring reports to the Board regarding its discussions and activities.

COFC Board Committee Structure

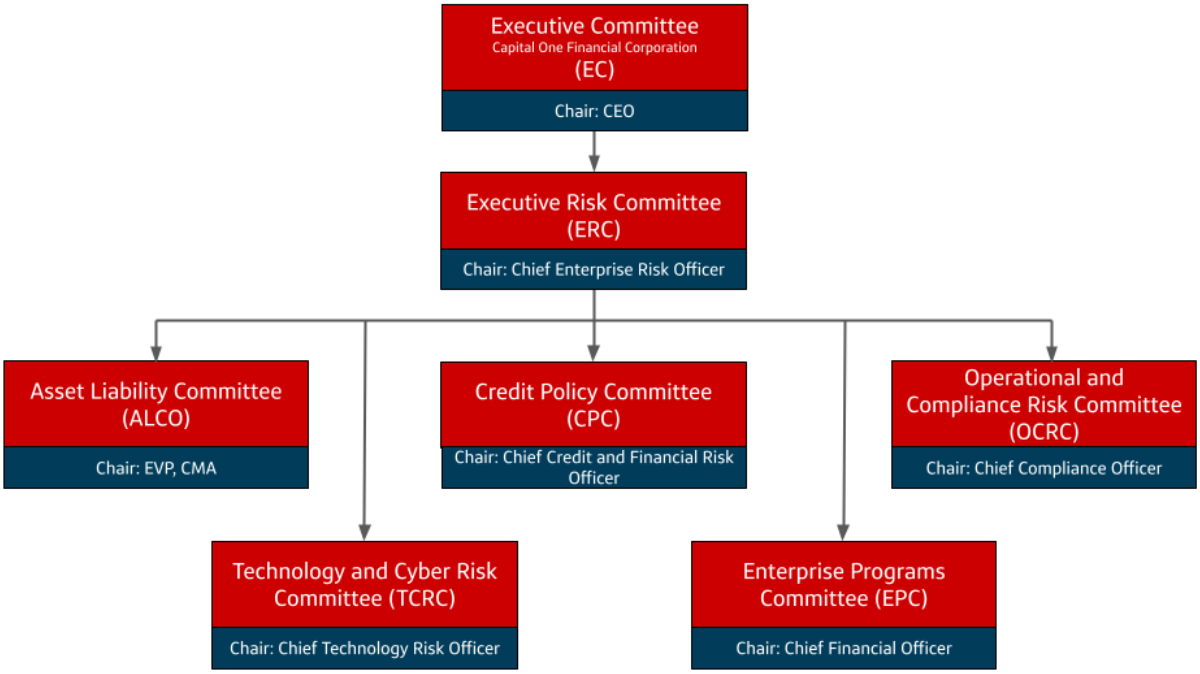


Management

Capital One does not anticipate material changes to the management structure and team of COFC or CONA. Mr. Fairbank will remain Chairman and Chief Executive Officer of COFC and Chairman, President and Chief Executive Officer of CONA. The current Senior Executive Officers of COFC and CONA are set forth in Exhibit 19. As part of the integration planning, the management structure and team will be reviewed for any appropriate changes.

As part of its management structure, Capital One has senior management committees, which are governance forums established to advise and assist the CEO and other accountable executives, as subject matter expert advisory panels, in the management of Capital One's strategy, financial results, business operations, compliance with laws and regulations (including those pertaining to consumer protection), and enterprise risk matters, including the Company's performance against risk appetites and limits. The senior management committee structure is an important part of Capital One's broader governance framework.

Senior Management Committee Structure



1. Governance Structure

Capital One is dedicated to strong and effective corporate governance that provides the appropriate framework for the COFC Board of Directors to engage with and oversee the management of the organization. Robust and dynamic corporate governance policies and practices are the foundation of an effective and well-functioning Board, and are vital to preserving the trust Capital One has built with its stakeholders, including customers, stockholders, regulators, suppliers, associates, communities, and the general public.

The COFC Board of Directors and its committees are accountable for oversight of Capital One's business affairs and operations. In carrying out this responsibility, among other things, the Board and its committees oversee management's development and implementation of the Company's (i) corporate culture; (ii) corporate strategy; (iii) financial performance and associated risks; (iv) the enterprise-wide RMF, including cybersecurity and technology risk; (v) succession planning for the Company's CEO and other key executives; (vi) compensation policies and practices; and (vii) policies, programs, and strategies related to Environmental, Social, and Governance matters.

The COFC Board of Directors and its committees regularly review and approve key governance policies and plans. The Corporate Governance Guidelines adopted by the COFC Board of Directors formalize Capital One's key corporate governance practices and facilitate efficient and effective Board oversight. The Guidelines enable the COFC Board of Directors to engage in responsible decision-making, work with management to pursue Capital One's strategic objectives and promote the long-term interests of its stockholders. The Corporate Governance Guidelines embody many of Capital One's long-standing practices, policies, and procedures, which collectively form a corporate governance framework that promotes the long-term interests of its stockholders, promotes responsible decision-making and accountability, and fosters a culture that allows the COFC Board of Directors and management to pursue Capital One's strategic objectives.

To maintain and enhance independent oversight, the COFC Board of Directors regularly reviews and refreshes its governance policies and practices as changes in corporate strategy, the regulatory environment and financial market conditions occur, and in response to stakeholder feedback and engagement.

The COFC Board of Directors has also adopted Capital One's Code of Conduct, which applies to Capital One's directors, executives and associates, including Capital One's CEO, CFO, Principal Accounting Officer, and other persons performing similar functions. The Code of Conduct reflects Capital One's commitment to honesty, fair dealing, and integrity, and guides the ethical actions and working relationships of Capital One's directors, executives, and associates.

The COFC and CONA Boards of Directors receive both initial and ongoing training and education to ensure they remain current on the industry and relevant developments. Additional information on director training is provided in Exhibit 20.

Capital One's governance framework is supported by policies, standards, and procedures across the enterprise, including a Corporate Governance Framework Policy approved by the COFC and CONA Boards of Directors. These policies, standards, and procedures are designed to capture how Capital One's governance operates in each function and to support a culture of good corporate governance. The governance framework also incorporates legal entities to ensure oversight meets legal and supervisory expectations. Capital One's policies, standards, and procedures are regularly reviewed and updated to support continued effectiveness.

Capital One's governance structure is designed to ensure that its business is conducted in compliance with all legal and regulatory requirements. As part of the integration process, Capital One will maintain its governance framework in order to continue providing strong and effective oversight of the combined operations.

2. Employees

Acquiring and investing in great talent is a key competitive differentiator for Capital One, and Capital One is dedicated to a successful transition for both Capital One and Discover employees. Through the course of the integration, workforce planning will be done to evaluate

the combined organization as synergies and efficiencies are identified while retaining and investing in key destination talent.

3. Integration Planning and Experience

Capital One's leadership is dedicated to ensuring that the integration of Discover into the Capital One organization is well-planned and effectively managed and implemented. Capital One conducted extensive due diligence on Discover. Capital One's management led a cross-divisional team who conducted a thorough review of Discover's lines of business, and functional areas, including human relations, finance, internal audit, legal and risk management, including credit, compliance, operational and market risks. A summary of the due diligence conducted by Capital One is provided in Confidential Exhibit A. Capital One is an experienced acquirer, having completed over 40 acquisitions over the last 15 years, and will devote significant management resources to the full integration of Discover with and into Capital One. Capital One will plan to operate its disciplined integration process, focused on deploying enterprise-wide processes and capabilities and managing risk at all stages.

Key to the execution of a seamless integration, Capital One has committed some of its most senior executives to the integration process, who will be accountable for delivering a timely closing and well managed integration. Specifically, Capital One has established an Integration Leadership Team ("ILT") and supporting integration management office ("IMO") that will support the integration effort across the enterprise. The ILT reports to Capital One's General Counsel, the Integration Executive Officer, who is overseeing all integration activities beginning immediately and continuing through the estimated two-year post-closing integration period. The Integration Executive Officer reports directly to COFC's Chief Executive Officer. The ILT will provide regular reporting to the Board and appropriate Board and Management committees on the status of the integration, work streams and associated risks. In addition, leadership will provide regular integration updates to local examination representatives, including to representatives of the Federal Reserve and OCC. For additional information on Capital One's ILT, see Confidential Exhibit D.

The ILT has senior representatives of Capital One's business lines and its Risk, Human Resources, Legal, Finance, Technology, Cyber and Audit functions. Subject to certain information sharing restrictions, each workstream is responsible for conducting a gap assessment and developing a detailed project plan and timeline and supporting communication of information and decisions about the integration across relevant stakeholders. The broad, cross-functional integration team has commenced the integration efforts and defining of end-state destinations across all of the impacted businesses and enterprise teams. The current integration timeline is scheduled to be materially completed within two years following the Closing of the Proposed Transaction.

For additional information on Capital One's integration plan, see Confidential Exhibit E.

4. Risk Management

Capital One dedicates significant resources to Risk Management and maintains a robust RMF, including coverage of liquidity and funding, credit, market, operational (including data

and technology), strategic, reputational, and compliance risks. The RMF is rooted in the Risk Appetite Statement for Capital One, which is established by the COFC and CONA Boards of Directors and sets forth the high-level principles that govern risk taking at Capital One. The Risk Appetite Statement defines the Boards of Directors' tolerance for certain risk outcomes at an enterprise level and enables senior management to manage and report within these boundaries. This Risk Appetite Statement is also supported by specific risk appetite statements for each risk category as well as metrics and qualitative factors and, where appropriate, Board Limits and Board Notification Thresholds. Capital One's Risk Appetite Statement and associated metrics will be reviewed with the COFC and CONA Boards of Directors and adjusted to reflect necessary changes, upon integration of Discover's businesses (e.g., Card Concentration). For additional information on Capital One's current Risk Appetite Statement, see Confidential Exhibit F.

The RMF is codified in the Enterprise Risk Management Policy, which is reviewed and approved at least annually by the Board of Directors. Capital One maintains a robust structure of policies and supporting documents, which collectively establish clear and specific risk management requirements, commensurate with Capital One's complexity, size, and risk profile.

Risk Officer Structure

Capital One utilizes a dual Chief Risk Officer ("CRO") structure. The Chief Enterprise Risk Officer ("CERO") oversees Compliance Risk, Operational Risk, Reputation Risk, and Strategic Risk, and leads the Enterprise Risk Management function. The Chief Credit and Financial Risk Officer ("CCFRO"), oversees Credit Risk, Liquidity Risk, and Market Risk and leads the Model Risk Management function.

Each CRO reports directly to the CEO and Risk Committee Chair, has unrestricted access to the Board and its committees, is responsible for Risk Committee planning and debriefing interactions with the Chair, and holds membership in all Senior Management Committees. In addition, the CCFRO provides administrative oversight to the Credit Review function, which independently reports to the Risk Committee of the Board.

Lines of Defense

The RMF sets consistent expectations for Capital One's "Three Lines of Defense" model, which defines the roles, responsibilities and accountabilities for taking and managing risk across Capital One. Accountability for overseeing an effective RMF resides with COFC's Board of Directors either directly or through its committees. CONA has adopted COFC's RMF as permitted by the OCC's Heightened Standards.

	First Line	Second Line	Third Line
	Identifies and Owns Risk	Advises & Challenges First Line	Provides Independent Assurance
Key Responsibilities	Identify, assess, measure, monitor, control, and report the risks associated	Independent Risk Management ("IRM"): Independently oversees,	Provides independent and objective assurance to the Board of Directors and

	First Line	Second Line	Third Line
	Identifies and Owns Risk	Advises & Challenges First Line	Provides Independent Assurance
	with their business.	challenges, and assesses risk taking activities for the First Line.	senior management that the systems and governance processes are designed and working as intended and that the RMF is appropriate for the size, complexity, and risk profile of Capital One.

The First Line consists of any line of business or function that is accountable for risk-taking and is responsible for: (1) engaging in activities designed to generate revenue or reduce expenses; (2) providing operational support or servicing to any business function for the delivery of products or services to customers; or (3) providing technology services in direct support of first line business areas. Each Capital One line of business or First Line function must manage the risks associated with their activities, including identifying, assessing, measuring, monitoring, controlling, and reporting the risks within its business activities consistent with the RMF.

The Second Line consists of two types of functions: IRM and support functions that are centers of specialized experts ("Support Functions"). IRM oversees risk-taking activities and assesses risks and issues independent of the First Line. IRM functions play a central role in defining the risk management standards that guide the risk taking activities of the First Line, in addition to providing effective challenge to first line risk taking activities. IRM is responsible for designing and updating the RMF; setting policies and standards for risk identification, assessment, measurement, monitoring, control, and reporting by the First Line; identifying and assessing material aggregate risks consistent with Capital One's risk appetite; establishing and adhering to enterprise risk policies that include concentration risk limits; and monitoring the risk profile relative to the approved risk appetite. No First Line executive may oversee an IRM unit. IRM functions provide effective challenge across the relevant risk categories to the first line of defense and, when appropriate, certain activities conducted by support functions. Support Functions include Human Resources, Accounting and Legal, which leverage their skills and expertise to advise Capital One across all lines of defense in performing their respective activities or in identifying, assessing, measuring, monitoring, controlling, and reporting the risks associated with business activities owned by the First Line.

The Third Line is comprised of Capital One's Internal Audit and Credit Review functions. The third line provides independent and objective assurance to senior management and the Board that the first and second lines of defense have systems and governance processes which are well-designed and working as intended and that the RMF is appropriate for the size, complexity, and risk profile of Capital One. Additionally, in carrying out its responsibilities, the third line maintains a complete and current inventory of Capital One's material processes, product lines, services, and functions, and assesses the risks, including emerging risks, associated with each, which collectively provide a basis for the audit plan. No First Line executive may oversee any Internal Audit or Credit Review units. Third Line functions provide effective

challenge and determine how and when effective challenge is conducted, including the evidentiary requirements.

Elements of the RMF

The RMF consists of the following nine elements:

- *Governance and Accountability*. The RMF sets the foundation for the methods for governing risk taking and the interactions within and among the three lines of defense. Capital One's risk governance structure and culture of accountability is a core focus to effectively and consistently oversee the management of risks across the Company. The Board of Directors, CEO, and management team establish the tone at the top regarding the culture of the Company, including management of risk, which is reinforced throughout the various levels of the organization. Senior Management Committees are governance forums established to assist the CEO and other management team accountable executives in the management of the strategy, financial results, business operations, and enterprise risk management for Capital One.

- *Strategy and Risk Alignment.* Capital One's strategy is informed by and aligned with its risk appetite, from development to execution, including how initiatives may impact Capital One's overall risk profile. The strategy is developed with input from teams in the First, Second, and Third Lines, as well as the Board of Directors.

- *Risk Identification.* The First Line is responsible for identifying risks, including concentration and emerging risks, across the relevant risk categories associated with their current and proposed business activities and objectives. IRM and certain Support Functions, where appropriate, provide effective challenge in the risk identification process. IRM is also responsible for identifying material aggregate risks on an ongoing basis.

- *Assessment, Measurement and Response.* Risks are assessed to understand their severity and likelihood of occurrence under both normal and stressful conditions. Risk severity is measured through modeling and other quantitative estimation approaches, as well as qualitative approaches, based on management judgment. As part of the risk assessment process, the First Line also evaluates the effectiveness of the existing control environment and mitigation strategies. Management determines the appropriate risk response, which may include implementing new controls, enhancing existing controls, developing additional mitigation strategies to reduce the impact of the risk, and/or monitoring the risk. These risk assessments and mitigation strategies are challenged by the Second Line.

- *Monitoring and Testing.* Management monitors risks to ensure alignment with Capital One's risk appetite and to evaluate how the risk is affecting Capital One's strategy, business objectives and resilience. The First Line is required to evaluate the effectiveness of risk management practices and controls through testing and other activities. IRM and Support Functions, as appropriate, assess the First Line's

evaluation of risk management, which may include providing effective challenge, performing independent monitoring, or conducting risk or control validations.

- *Aggregation, Reporting and Escalation.* Capital One's risk aggregation processes aggregate risk information from lower levels of the business hierarchy to higher levels to determine material risk themes across the Enterprise and provide a comprehensive view of performance against risk appetite. Material risks are reported to the Risk Committee of the Board of Directors and the appropriate senior management committees no less than quarterly.

- *Capital and Liquidity Management (including stress testing).* Capital One's risk management practices inform key aspects of Capital One's capital planning, including the development of stress scenarios, the assessment of the adequacy of post-stress capital levels, and the appropriateness of potential capital actions. In assessing its capital adequacy at both COFC and CONA, Capital One identifies how and where its material risks are accounted for within the capital planning process. Monitoring and escalation processes exist for key capital thresholds and metrics to continuously monitor capital adequacy. Prudent balance sheet management is a critical component of Capital One's overall business strategy as it enables management to manage risk and allows Capital One to achieve its long-term financial objectives. Capital One identifies and manages funding and liquidity risks that could affect its earnings, balance sheet strength, and investor confidence. Capital One also manages its liquidity position to satisfy regulatory requirements.

- *Risk Data and Enabling Technology.* Risk data and technology are utilized for risk reporting and to monitor changes to Capital One's risk profile. Core governance and risk systems are used as the systems of record to monitor risks, controls, issues, and events and support the analysis, aggregation, and reporting capabilities across the risk categories.

- *Culture and Talent Management.* The RMF relies on the culture, talent, and skills of Capital One's employees. Every associate at the Company is responsible for risk management; however, associates with specific risk management skills and expertise within the first, second, and third lines of defense are critical to execute appropriate risk management across the enterprise.

Enterprise Risk Management and Categories of Risk

Enterprise Risk Management

Capital One devotes significant resources to maintaining and continuously improving the company's Risk Management Capabilities. A key component of its Risk Management system is the Enterprise Risk Management function and the role it plays in developing, implementing, maintaining, and monitoring adherence to the RMF and the supporting Enterprise Risk Management Policy.

Capital One's Enterprise Risk Management function is led by the Head of Enterprise Risk Management and reports directly to the CERO as well as maintains a seat on the senior leadership team of the Credit and Financial Risk Management organization. The Enterprise Risk Management function is responsible for the following:

- Setting enterprise guidelines and frameworks to support the identification, assessment, measurement, monitoring, controlling, and reporting of risks including concentrations of risk.

- Establishing enterprise risk management governance and strategy; providing advice to the three lines of defense, as the advice relates to enterprise risk management; and communicating significant risk management trends and insights from the enterprise level.

- Conducting oversight, including review and challenge by providing effective challenge; independently monitoring enterprise risk management activities; and independently escalating enterprise risk management gaps and issues.

- Driving risk aggregation, including maintaining a complete and current inventory of material risks; and analyzing and independently assessing the Enterprise Risk Profile across all categories.

- Driving holistic reporting of risk to senior management and the Board through the Enterprise Risk Profile report and other reporting.

- Administering, monitoring, and supporting enterprise-wide communication of the Risk Appetite Program.

The Enterprise Risk Management function fulfills these responsibilities through the establishment of processes and capabilities which support the Enterprise Risk Management Framework.

Capital One applies its RMF to protect itself from the major categories of risk that it is exposed to through its business activities. Capital One has seven major categories for the management of risk, as described below.

Categories of Risk	
Compliance	The risk to current or anticipated earnings or capital arising from violations of laws, rules or regulations. Compliance risk can also arise from nonconformance with prescribed practices, internal policies and procedures, contractual obligations or ethical standards that reinforce those laws, rules or regulations
Credit	The risk to current or projected financial condition and resilience arising from an obligor's failure to meet the terms of any contract with the Company or otherwise perform as agreed

Liquidity	The risk that the Company will not be able to meet its future financial obligations as they come due, or invest in future asset growth because of an inability to obtain funds at a reasonable price within a reasonable time
Market	The risk that an institution's earnings or the economic value of equity could be adversely impacted by changes in interest rates, foreign exchange rates or other market factors
Operational	The risk of loss, capital impairment, adverse customer experience or reputational impact resulting from failure to comply with policies and procedures, failed internal processes or systems, or from external events
Reputation	The risk to market value, recruitment and retention of talented associates and maintenance of a loyal customer base due to the negative perceptions of internal and external constituents regarding the Company's business strategies and activities
Strategic	The risk of a material impact on current or anticipated earnings, capital, franchise or enterprise value arising from the Company's competitive and market position and evolving forces in the industry that can affect that position; lack of responsiveness to these conditions; strategic decisions to change the Company's scale, market position or operating model; or, failure to appropriately consider implementation risks inherent in the Company's strategy

Compliance Risk Management

Capital One recognizes that compliance requirements for financial institutions are increasingly complex and that there are heightened expectations from financial services regulators and customers. In response, Capital One continuously evaluates the regulatory environment and proactively adjusts its compliance program to fully address these requirements and expectations.

Capital One's Compliance Management Program establishes expectations for determining compliance requirements, assessing the risk of new product offerings, creating appropriate controls and training to address requirements, monitoring for control performance, and independently testing for adherence to compliance requirements. The program also establishes regular compliance reporting to senior business leaders, the executive committee and the Board of Directors.

The Chief Compliance and Ethics Officer is responsible for establishing and overseeing Capital One's Compliance Management Program. Business areas incorporate compliance requirements and controls into their business policies, standards, processes and procedures. They regularly monitor and report on the efficacy of their compliance controls and Compliance periodically independently tests to validate the effectiveness of business controls. The Chief Compliance and Ethics Officer also oversees the company's Ethics Office, which administers the Code of Conduct and provides training and guidance to ensure the company meets its high expectations for ethical behavior and business practices.

Credit Risk Management

Capital One recognizes that it is exposed to changes in credit quality driven by economic cycles, market pressures and other factors. Consequently, the Company follows robust risk management practices designed to ensure its credit portfolio is resilient to economic downturns and other drivers of changing credit performance. The tools Capital One relies on in this endeavor include customer selection, underwriting, monitoring, remediation, and portfolio management. In unsecured consumer loan underwriting, Capital One generally ensures lending decisions are resilient to higher credit losses than those prevailing at the time of the underwriting. In commercial underwriting, Capital One generally requires strong cash flow, collateral, covenants, and guarantees. In addition to sound underwriting, Capital One continually monitors its portfolio and takes steps to collect or work out distressed loans.

The CCFRO, in conjunction with the Chief Credit Officers for each line of business, is responsible for establishing credit risk policies and procedures, including underwriting and hold guidelines and credit approval authority, and monitoring credit exposure and performance of Capital One's lending-related transactions. The Chief Credit Officers are responsible for evaluating the risk implications of credit strategy and the oversight of credit for both the existing portfolio and any new credit investments.

Capital One's credit policies establish standards in five areas: customer selection, underwriting, monitoring, remediation and portfolio management. The standards in each area provide a framework comprising specific objectives and control processes. These standards are supported by detailed policies and procedures for each component of the credit process. Starting with customer selection, Capital One's goal is to generally provide credit on terms that generate above hurdle returns. Capital One uses a number of quantitative and qualitative factors to manage credit risk, including setting credit risk limits and guidelines for each of its lines of business. Capital One monitors performance relative to these guidelines and reports results and any required mitigating actions to appropriate senior management committees and its Board of Directors.

Liquidity Risk Management

Capital One recognizes that liquidity risk is embedded within its day-to-day and strategic decisions. Liquidity is essential for banks to meet customer withdrawals, account for balance sheet changes, and provide funding for growth. Capital One has acquired and built deposit gathering businesses and actively monitors its funding concentration. Capital One manages liquidity risk, which is driven by both internal and external factors, centrally and establishes quantitative risk limits to continually assess liquidity adequacy.

The CCFRO, in conjunction with the Head of Liquidity, Market and Capital Risk Oversight, is responsible for the establishment of liquidity risk management policies and standards for governance and monitoring of liquidity risk at a corporate level. Capital One assesses liquidity strength by evaluating several different balance sheet metrics under severe stress scenarios to ensure it can withstand significant funding degradation. Results are reported to the Asset Liability Committee monthly and to the Risk Committee no less than quarterly. Capital One also continuously monitors market and economic conditions to evaluate emerging

stress conditions and to develop appropriate action plans in accordance with its Contingency Funding Plan and Recovery Plan.

Capital One uses internal and regulatory stress testing and the evaluation of other balance sheet metrics within its Liquidity Framework to confirm that the firm maintains a fortified balance sheet. Capital One relies on a combination of stable and diversified funding sources, along with a stockpile of liquidity reserves, to effectively manage liquidity risk. Capital One maintains a sizable liquidity reserve of cash and cash equivalents, high-quality unencumbered securities and investment securities and certain loans that are either readily marketable or pledgeable. Capital One also continues to maintain access to secured and unsecured debt markets through regular issuance.

Market Risk Management

Capital One recognizes that interest rate and foreign exchange risk are present in its business due to the nature of its assets and liabilities. Market risk is inherent from the financial instruments associated with Capital One's business operations and activities including loans, deposits, securities, short-term borrowings, long-term debt and derivatives. Capital One manages market risk exposure, which is principally driven by balance sheet interest rate risk, centrally and establishes quantitative risk limits to monitor and control its exposure.

The CCFRO, in conjunction with the Head of Liquidity, Market, and Capital Risk Oversight, is responsible for the establishment of market risk management policies and standards for the governance and monitoring of market risk at a corporate level. The market risk position is calculated and analyzed against pre-established limits. Capital One uses industry accepted techniques to analyze and measure interest rate and foreign exchange risk and performs sensitivity analysis to identify its risk exposures under a broad range of scenarios. Results are reported to the Asset Liability Committee monthly and to the Risk Committee no less than quarterly.

Management is authorized to utilize financial instruments as outlined in Capital One's policy to actively manage market risk exposure. Investment securities and derivatives are the main levers for the management of interest rate risk. In addition, Capital One also uses derivatives to manage foreign exchange risk.

Operational Risk Management

Capital One recognizes the criticality of managing operational risk on both a strategic and day-to-day basis and that there are heightened expectations from its regulators and customers. Capital One has implemented appropriate operational risk management policies, standards, processes and controls to enable the delivery of high quality and consistent customer experiences and to achieve business objectives in a controlled manner.

The Chief Operational Risk Officer ("CORO"), in collaboration with the Chief Technology Risk Officer ("CTRO"), is responsible for establishing and overseeing Capital One's Operational Risk Management Program. Both the CORO and CTRO report to the CERO. The program establishes practices for assessing the operational risk profile and executing key control processes for operational risks. These risks include topics such as internal and external fraud,

cyber and technology risk, data management, model risk, third-party risk management, country risk, payments risk, and business continuity. Operational Risk Management and Technology Risk Management enforce these practices and deliver reporting of operational risk results to senior business leaders, the executive committee and the Board of Directors.

Reputation Risk Management

Capital One recognizes that reputation risk is of particular concern for financial institutions and, increasingly, technology companies, in the current environment. Areas of concern have expanded to include company policies, practices and values and, with the growing use of social and digital platforms, public corporations face a new level of scrutiny and channels for activism and advocacy. The heightened expectations of internal and external stakeholders have made corporate culture, values, and conduct pressure points for individuals and advocates voicing concerns or seeking change. Capital One manages both strategic and tactical reputation issues and builds relationships with government officials, media, community and consumer advocates, customers and other constituencies to help strengthen the reputations of both Capital One and the industry. Capital One's actions include implementing pro-customer practices in its business and serving low- to moderate-income ("LMI") populations and communities in its market area consistent with a quality bank and an innovative technology leader. The Executive Vice President, Head of External Affairs, is responsible for managing Capital One's overall reputation risk program. Day-to-day activities are controlled by the frameworks set forth in the Reputation Risk Management Policy and other risk management policies.

Strategic Risk Management

Capital One recognizes that strategic risk is present within its business and strategy. Capital One monitors risks for the impact on current or future earnings, capital growth or enterprise value arising from changes to the Company's competitive and market positions, including as a result of evolving forces in the industry. Additionally, Capital One monitors timely and effective responsiveness to these conditions, strategic decisions that impact the Company's scale, market position or operating model and failure to appropriately consider implementation risks in the Company's strategy. Potential areas of opportunity or risk inform the Company's strategy, which is led by the Chief Executive Officer and other senior executives. The CERO, in consultation with the CCFRO, oversees the identification and assessment of risks associated with the Company's strategy and the monitoring of these risks throughout the year.

Capital One's Strategic Risk Management Policy, processes and controls encompass an ongoing assessment of risks associated with corporate or line of business specific strategies. These risks are managed through periodic reviews, along with regular updates to senior management and the Board.

Key Risk Management Strengths

Capital One maintains several key risk management processes that operate across risk categories including: Capital Management, Balance Sheet Management, Model Risk Management, Technology Risk Management, and Data Risk Management.

Capital Management

The prudent management of capital is one of Capital One's highest priorities. Capital One's capital must be sufficient to support the business plans and risk profiles of its business activities to absorb adverse shocks (systemic as well as idiosyncratic) and to protect against unexpected losses. Capital is vital to the Company's continued operation and ability to lend to creditworthy businesses and consumers, both in normal market environments and in periods of market stress and uncertainty. Capital One actively manages capital adequacy and ensures appropriate transparency with its Board and senior management through ongoing monitoring, reporting, and supporting analysis.

Capital Adequacy Process Framework. Capital One's Capital Policy codifies its Capital Adequacy Process ("CAP") Framework, which ensures COFC's and CONA's capital adequacy and resilience to potential uncertainties, consistent with the risk appetite, capital targets, and capital goals established by its Board. Capital One's CAP framework establishes the oversight roles and responsibilities for governance bodies and senior management, as well as the internal control framework that defines the roles for the Company's three lines of defense across the CAP components. These internal controls ensure adherence to policies and procedures, and support the integrity of the Company's capital projections. Capital One monitors and reports to senior management and the COFC and CONA Boards of Directors current and projected capital ratios against defined targets, goals, and composition objectives for both COFC and CONA. Capital One's capital goals, capital targets, and respective triggers are determined using internal stress testing, regulatory requirements (i.e., the Stress Capital Buffer, Federal Reserve minimums, and the Prompt Corrective Action framework), and market considerations. The Capital Policy also establishes the Company's destination capital level, which represents the level of capital at which management expects to operate in the long term.

Capital Planning and Stress Testing. Capital One develops its capital plan under the Federal Reserve's capital plan rules. Capital One's Capital Plan describes the development and review of capital forecasts under Bank Holding Company and supervisory baseline and stress scenarios, and planned capital actions over the planning horizon. Capital One's Capital Plan is updated and approved by its Board of Directors at least annually (more frequently if there are material changes to its risk profile, balance sheet, or anticipated capital levels). As part of capital planning and stress testing, Capital One develops capital forecasts to assess how to maintain a capital base and structure that adequately supports its risk exposures. While common equity is Capital One's predominant form of capital, the firm assesses opportunities to supplement or replace a portion of its common equity base with additional forms of capital (e.g., Tier 2 capital) to optimize its capital structure, adhere to regulatory requirements and to manage the associated costs based on need. The issuance, redemption, or repurchase of common equity, non-cumulative perpetual preferred securities, or Tier 2 capital instruments is included in Capital One's Capital Plan and requires the prior approval of its Board of Directors.

Capital One's planned capital actions are consistent with effective capital distribution limitations, ensure that the Company maintains sufficient capital to protect against identified risks, satisfies regulatory capital requirements, and enables asset growth (as allocated through its managerial capital process).

Balance Sheet Management

Prudent balance sheet management is a critical component of Capital One's overall business strategy as it enables management to manage risk and allows the Company to achieve its long-term financial objectives. Capital One is exposed to liquidity risk primarily through its involvement in the traditional banking activities of taking deposits and extending loans and lines of credit, as well as through its utilization of the capital markets to raise funding. Capital One identifies and manages funding and liquidity risks that could affect its earnings, balance sheet strength, and investor confidence. The Company also manages its liquidity position to satisfy regulatory requirements.

The Company implements its liquidity management philosophy through the Liquidity Adequacy Framework (the "Liquidity Framework"). The Liquidity Framework enables Capital One to meet its liquidity goal of maintaining a fortified balance sheet that is resilient to uncertainties that may arise because of systemic and/or idiosyncratic liquidity events. The Liquidity Framework also enables the Company to manage its liquidity in accordance with current requirements and prospective regulatory guidance.

Corporate governance, monitoring, and oversight across the three lines of defense form the foundation that ensures the integrity of liquidity management at Capital One. Additionally, the Liquidity Framework comprises the governing principles that apply to the management of liquidity. These principles are used to monitor, measure, and report liquidity risk; to develop funding and investment strategies that enable the Company to maintain an adequate level of liquidity to support its businesses and satisfy regulatory requirements; and to protect the Company from a broad range of liquidity events should they arise.

Model Risk Management

Model risk is the potential for adverse consequences from decisions based on incorrect or misused model outputs and reports. Model risks may have various causes, including erroneous implementation, model underperformance, catastrophic breakdown, or gradual degradation. Inappropriate use may occur when models (even sound models) are used in ways that are inconsistent with the original intent or assumptions, used outside of their range of applicability, or when combined with other models with which they interact or depend. Balancing the materiality of model risk along with the business decision it supports, models are expected to be reliable, fall within reasonable performance expectations, and be conceptually as well as technically sound. Capital One establishes and monitors risk appetite metrics for model risk through specific model governance and model validation processes.

Model risk that exceeds established metrics and limits is reported to the CCFRO and, where appropriate, to the relevant Risk Steward to assess if the model risk compromises the ability to operate within the relevant risk appetite and to determine if escalation to the Board of Directors is needed.

Capital One mitigates model risk by establishing the Model Risk Management Framework. Capital One's Model Risk Management Framework manages model risk by specifically addressing the (i) identification of models and their risk through the inventory

process, acquisition, and general model governance activities; (ii) quantification of risk for all three model components (i.e., information input, processing, and reporting) through validation; (iii) activities on development, deployment, ongoing monitoring, and changes to the model; (iv) mitigation of model risk through effective challenge and critical analysis by objective, informed parties who can identify model risks, limitations, and assumptions and produce appropriate changes; and (v) acceptance of the remaining model risk by the relevant model owner.

Model risk is addressed within the scope of Operational Risk reporting to the Operational and Compliance Risk Committee on a quarterly basis and reported to the Board within the Integrated Risk Management report at least twice a year. Model risks that exceed Board risk appetite limits or notification thresholds are reported to the Board in line with Enterprise Risk Management policies, standards, and procedures.

Technology Risk Management

Strong Technology Risk Management is critical for Capital One to achieve its business objectives, reliably meet the expectations of customers, and deliver a Cybersecurity risk is a particularly critical subset of technology risk, as Capital One is entrusted with the safeguarding of its customers' sensitive information, including sensitive personal information. The second-line CTRO is responsible for overseeing the technology and cybersecurity risk. Within Capital One's taxonomy, these risks are a subset of operational risk. Given their importance, however, the CTRO is organizationally a peer to the CORO. The first line has also established a strong central cybersecurity function, led by the Chief Information Security Officer (the "CISO"). The CISO establishes and manages the enterprise-wide Information Security Program under the oversight of the CTRO. While no organization can eliminate cybersecurity and technology risk entirely, Capital One devotes significant resources to mitigate such risks.

Data Management Risk Management

Capital One also recognizes the importance of managing the risks associated with data management. These risks include data not being readily available, data usages not being properly understood, data having errors, or data being improperly shared, destroyed, or retained. Capital One's Information Data Management Policy defines data management risk and the roles and processes to mitigate the risks. The First Line Divisional Data Risk Officers primarily manage these risks at the divisional level and Enterprise Data Risk Management is the Second Line oversight function.

Integration of Discover into the Capital One RMF

Immediately upon closing, Capital One will begin to apply its RMF to Discover's businesses and risk management functions. In parallel, Capital One will start a process to integrate Discover's existing risk management functions directly into their counterparts or equivalents at Capital One. In those instances where Capital One does not currently have an equivalent risk management function (e.g., for the Discover Global Network, discussed below), Capital One will establish such a function with appropriate executive oversight and merge the

relevant Discover risk management function into it upon the consummation of the Proposed Transaction.

Capital One expects that this integration will occur in phases and result in one, cohesive and comprehensive Risk Management system for the combined entity operating under uniform Capital One policies, standards and expectations. During the integration period, Capital One will mitigate the risks related to the transition to a single risk management framework through the implementation of a comprehensive integration plan. The integration plan will seek to prioritize the highest risk areas first as well as provide a means for monitoring, reporting and escalating progress against the plan.

With respect to the Discover Global Network, Capital One's risk management strengths provide a strong foundation for integration. Capital One recognizes that conducting full risk oversight related to the Discover Global Network will require Capital One to expand its risk management capabilities. In particular, Capital One intends to establish, prior to integration, dedicated teams that will oversee the Discover Global Network's risk management upon consummation of the Proposed Transaction. These teams will include dedicated staff with relevant industry experience and expertise across operational risk management, technology risk management compliance and other Second Line teams.

As a part of the integration activities, Capital One will evaluate Discover's current risk management approach to the Discover Global Network, ensuring continuity of oversight during the transition while developing plans to elevate risk management practices where necessary. This evaluation will include an assessment of the talent and skill sets in all three Lines of Defense to oversee and manage these risks consistent with Capital One's Enterprise Risk Management Framework, across applicable risk management categories, and risk appetite. Additionally, Capital One will conduct detailed risk assessments of Discover Global Network, including critical processes, infrastructure, and products. These risk assessments will result in risk mitigation activities where appropriate, and will inform Capital One's enterprise-level assessments of material risk and risk appetite performance.

In light of Discover's present status as a Category IV bank and its public regulatory enforcement orders, Capital One believes this integration of Discover into Capital One's RMF will require sustained focus, investment and effort. In particular, Capital One believes it will need to materially strengthen and enhance Discover's existing risk management functions, and in particular compliance, to comply with both Capital One's internal standards and those of its regulators. Capital One anticipates that this improvement will include extensive work to address outstanding remediation under the two orders and possible future supervisory findings.

Capital One has designated a team of risk officers to prepare for integration and coordinate where appropriate with Discover officials. This team will be responsible for integration planning pre-close and integration execution upon close. As part of the pre-close integration planning, Capital One intends to engage in preliminary assessments of Discover's risk management programs, policies, standards, staffing, and areas of focus. Capital One further intends to use these assessments to develop preliminary plans for integration, including plans for initial program enhancements and remediation of the relevant Discover functions upon close.

Where permissible, Capital One will seek Discover's assistance to better understand Discover's existing compliance and risk management programs and activities.

For additional information on Capital One's integration planning, see Confidential Exhibit E.

5. Compliance

Capital One manages compliance risk through its Compliance Management Program ("CMP"), as established by its Compliance Management Policy ("Compliance Policy"). The CMP, as outlined in the Policy, provides an enterprise-wide approach to compliance risk management and oversight that creates and supports a culture of compliance throughout the Company. Capital One's CMP is designed to ensure that Capital One appropriately identifies, manages, and oversees all compliance risk – including consumer compliance, fair lending, and AML risk – through sound governance, rigorous controls and transaction testing, advice and effective challenge to the First Line and staff functions, and timely risk escalation. The program also establishes regular compliance reporting to senior business leaders, the executive committee, and the Board of Directors.

The Chief Compliance and Ethics Officer is responsible for establishing and overseeing the CMP and leads the Compliance & Ethics ("C&E") department. C&E is staffed by compliance leaders and professionals with expertise in regulatory risk management, testing, investigations, ethics, and data. The C&E organization fulfills IRM risk activities as a Second Line function that advises and effectively challenges the First Line and staff operations under Capital One's Enterprise Risk Management Framework.

The First Line and staff operations are accountable for complying with laws and regulations and incorporating compliance requirements and controls into their business policies, standards, processes, and procedures. They regularly monitor and report on the efficacy of their compliance controls; as a second line IRM function, C&E independently tests to validate the effectiveness of first line business controls. Additionally, C&E advises the first line on applicable regulatory requirements, compliance risks related to new and changed products, and the assessment and remediation of issues and events. C&E both advises and effectively challenges the first line in their development and enhancement of products, processes and procedures to ensure they maintain effective control oversight and support adherence to compliance requirements.

For additional information on Capital One's Compliance Management Policy, please see Confidential Exhibit G.

Culture of Compliance

Capital One's culture is built on two core values: Excellence and Do the Right Thing. To promote these values, Capital One's Code of Conduct ("Code") memorializes a commitment to comply with applicable laws, regulations and internal policies governing conduct and operations. Following these policies helps to ensure that honesty, fair dealing, and integrity are hallmarks of Capital One's business dealings. By adhering to the Code, associates live Capital One's values and ensure that Capital One is recognized for modeling the highest standards of

business conduct in everything it does. The Code is more than just a set of "do's and don'ts." It provides guidance, practical information, and resources that help enhance Capital One's relationships with its customers, each other, and all of the people that play a role in Capital One's success.

The Board of Directors reviews and approves the Code. The Ethics Office, which is managed by the Chief Compliance and Ethics Officer, has day-to-day responsibility for administering the Code and managing Capital One's Ethics program. In addition, the Ethics Office is responsible for managing the Ethics Line, which is a confidential reporting tool operated by an independent third party. Reports may be submitted to the Ethics Line online or through a call center that operates 24 hours a day, seven days a week. Ethics Line complaints may be submitted anonymously, and phone calls are not recorded.

All newly hired associates receive the Code with their employment offer and, within their first 30 days, must complete a 30-minute interactive computer-based training course where they agree to comply with the Code and demonstrate their understanding of its content. Thereafter, all associates are required to complete the Code training annually and agree to comply with the Code and all related policies, standards, and procedures.

Doing the right thing includes speaking up. Capital One expects all associates to immediately report any suspected or potential violations of law, the Code, the company's policies, or other actions inconsistent with Capital One's values. Associates may report concerns to their manager, the Associate Relations team in Human Resources, the Ethics Line, or to the Ethics Office. Raising concerns within Capital One does not prevent associates from reporting the same concerns to law enforcement or the relevant government entity if there is a suspected or potential violation of law. Further, Capital One prohibits retaliation against any individual for making good faith claims regarding possible violations of law, the Code or other Company policies. Capital One also prohibits retaliation against any individual for participating in or cooperating with any investigation.

In addition, as discussed in *Risk Management* above, Capital One expects the integration to require a substantial amount of investment in the Risk Management team and related infrastructure to ensure a successful transition. Capital One has historically invested in maintaining a strong CMP and continually enhances its practices. For examples of recent enhancements to the CMP, see Confidential Exhibit H.

Oversight, Escalation and Reporting

Compliance risk reporting is foundational in supporting Capital One's Board of Directors and senior management committee members in executing their compliance risk oversight responsibilities. The Compliance Policy and Compliance Risk Reporting Standard outline the process for compliance reporting. Through the CMP, C&E supports the enterprise's adherence to Capital One's compliance risk appetite by tracking and producing data that corresponds to Compliance Risk Appetite Metrics (as well as informational metrics) that are reported to senior management and the Risk Committee of the Board of Directors. In addition, the charter of the Audit Committee requires the Chief Compliance and Ethics Officer to discuss the annual assessment of the Corporation's enterprise-wide compliance program, including management's

corrective actions to address any deficiencies. The update is provided at the joint Risk and Audit Committee meeting held in July each year.

Quarterly, Compliance produces the Compliance Update within the Integrated Risk Management Report ("IRMR") for the Risk Committee of the Board of Directors and senior management through the Operational and Compliance Risk Committee. Further, Compliance produces an annual update within the IRMR for the Audit Committee of the Board of Directors, in accordance with its charter responsibilities. Compliance also provides divisional quarterly compliance reports to the Division Risk Oversight Committees ("ROCs"), consistent with the Senior Management Committee Standard. For functions that are not formally governed by a ROC, Compliance evaluates and reports any material issues to the Chief Compliance and Ethics Officer, CERO, and Board via the IRMR.

As required by regulation and/or at the discretion of the Chief Compliance and Ethics Officer, additional reports may be produced by Compliance to inform the Board, a Board Committee, and/or senior management on compliance specific topics (e.g., Regulation O, Annual Swap Dealer Report, policy renewals, etc.).

In addition, Compliance contributes risk analysis for other risk reporting provided to Capital One's Board of Directors, such as the Enterprise Risk Profile ("ERP") within the IRMR. The CERO submits the ERP to the Risk Committee of the Board of Directors and senior management Executive Risk Committees. Compliance also contributes risk appetite metrics and annual risk narratives via Enterprise Risk Management's Executive Committee Risk Scorecard. The risk scorecards are organized by Executive Committee members to evaluate risk-taking performance for their respective business areas.

Risk Assessments

Compliance performs and challenges First Line risk assessments at the divisional, business unit, and process and product level to provide a formal, independent perspective on compliance risk. Compliance also conducts Targeted Compliance Risk Assessments, which assess specific areas of risk, or areas required to be assessed by statute, regulatory guidance, or internal policies. Compliance performs the following risk assessments independently of those conducted by the respective business units: AML/Economic Sanctions, Fair Lending, Identity Theft Red Flags, and Anti-Bribery/Anti-Corruption.

Fair Lending

Capital One's enterprise-wide consumer Fair Lending Compliance Management program (the "Fair Lending program") works within the CMP framework, as provided in Capital One's Fair Lending Compliance Policy, and includes components specifically designed to manage fair lending risk.

The Fair Lending program has five primary components. First, it requires lending businesses to have an oversight committee dedicated to fair lending that includes business executives and Compliance and Legal experts; these committees meet regularly to review and discuss fair lending risks and issues. The second and third components are independent risk assessment processes beyond the standard risk assessments executed by the first line. The first is

a fair lending assessment of models, policies, segmentations, and any other criteria used by credit or deposit businesses to make marketing, underwriting, pricing, or other decisions about customer outcomes. The second is an annual report written by the Fair Lending Compliance team that assesses the fair lending risk in each business and for the enterprise.

Fourth, in addition to these independent risk assessments, the Fair Lending Data Analysis Standard provides guidelines for identifying areas of heightened fair lending risk for targeted analyses according to an annual schedule. Pursuant to this process, the Fair Lending Compliance team conducts statistical analyses in areas, for example, where Capital One associates exercise judgment or discretion in making lending decisions, in order to assess the extent of potential fair lending risk. These statistical analyses include the use of regression analysis when appropriate, as well as a manual review of matched pairs, to understand if similarly situated applicants received different decisions. Fifth, the fair lending program has fair lending training, with content specific to different job families, taken by all associates in lending divisions.

For additional information on Capital One's Fair Lending program, please see Confidential Exhibit I.

Complaint Management

Complaint management at Capital One is executed under the framework established by Compliance and outlined in the Enterprise Complaints Operating Standard ("ECO Standard"). The ECO Standard sets guiding principles for the management and governance of the operational, compliance, and reputational risk posed by complaints. Within the ECO Standard, a clear division of responsibilities and strong collaboration between First Line and Second Line is established in order to ensure consistent and timely complaint handling, as well as accurate and timely complaint reporting and analysis for senior management. Primary activities for the business consist of the maintenance of complaint intake channels, handling processes, analysis, reporting, monitoring, and training. Primary activities for Compliance include the testing of businesses for adherence to the ECO Standard, the review of specific complaints routed to Compliance from the business complaints teams for assessment of regulatory risk exposure, and the management of relationships with regulators.

III. Anti-Money Laundering Compliance Record

The BHC Act requires that, in considering an application under section 3 of the BHC Act, the Federal Reserve "shall take into consideration the effectiveness of the company or companies in combating money laundering activities."[32]

Capital One maintains a strong BSA/AML and Sanctions compliance program (the "AML Program"). The AML Program is based on five pillars: internal policies, procedures and controls; designation of an AML officer; employee training; independent testing; and customer due diligence. The AML Program is intended to ensure that Capital One complies with applicable laws, rules, regulations, and supervisory guidance related to anti-money laundering, counter-terrorist financing and economic sanctions risks and controls; ensure that Capital One is identifying and managing these risks and controls through sound governance and oversight, and

[32] 12 U.S.C. § 1842(c)(6).

operating in a manner consistent with its business strategy and risk appetite; and protect Capital One's business and reputation, as well as the broader financial system, from financial crime and/or activities prohibited by law or regulation.

The COFC and CONA Boards of Directors and senior management prioritize the important objectives associated with maintaining the integrity of the financial system as a whole, protecting national security, and making appropriate referrals to law enforcement. The AML Program is administered in a safe and sustainable manner, and is sufficiently staffed with appropriately trained and knowledgeable professionals across the BSA/AML and Sanctions ecosystem.

Capital One maintains a written BSA/AML/Sanctions policy (including a Customer Identification Program) approved by the COFC Board of Directors and a Board-appointed BSA Compliance and Sanctions Officer ("Chief AML Officer"), who possesses the necessary knowledge, authority and resources to effectively execute all assigned duties. The Chief AML Officer is supported by an experienced, knowledgeable and competent team of AML, Sanctions, Risk Management and Technology leaders and professionals. The AML Program's execution approach aligns with Capital One's enterprise-wide defined risk and control framework components, as defined by the COFC Enterprise Risk Management Policy, consistent with heightened standards, and leverages all three lines of defense.

In addition, Capital One continues to invest in further advancing its AML Program, with a focus on rigor, adaptability, and sustainability. The AML Program is also taking an innovative approach to meeting compliance obligations at scale through technology investments in machine learning for transaction monitoring, next-generation customer risk rating processes, and modern investigator platforms.

Capital One applies a continuous improvement approach, and designs and enhances controls to ensure adherence with both legal requirements and each applicable entity's defined business strategy and risk appetite; this continuous improvement approach applies to COFC's AML Program, as well. All Capital One associates and contractors are required to complete enterprise-wide AML/Sanctions training annually. Specific BSA/AML/Sanctions Compliance training courses tailored to roles, responsibilities and business segments are required for relevant associates and contractors. Training is also provided annually to the Board of Directors. In addition, relevant information, including Suspicious Activity Reporting (SAR) information, is regularly provided to senior management and the COFC Boards of Directors.

Between consummation of the Proposed Transaction and systems conversion, CONA will aim to execute on integration activities promptly. The BSA/AML/OFAC compliance risk of the combined entity will be a point of focus in this interim period. CONA will ensure prompt oversight through the establishment and execution of business monitoring and compliance oversight of the AML processes supporting the Discover portfolio, risk assessments and testing, ongoing AML compliance advice and training as appropriate, and management of issues and escalations consistent with Capital One risk management practices.

Based on all the information above and in the exhibits, it is evident that Capital One employs a comprehensive and effective BSA/AML Program, which supports approval of the Application.

IV. Competitive Effects

Section 3 of the BHC Act prohibits the Federal Reserve from approving a proposed merger or acquisition if it would substantially lessen competition or tend to create a monopoly unless the agency finds that any anticompetitive effects of the Proposed Transaction are clearly outweighed in the public interest by the probable effect of the proposal in meeting the convenience and needs of the communities to be served.[33] In evaluating the competitive effects of a proposed merger or acquisition between financial institutions, the Federal Reserve, in consultation with the Antitrust Division of the Department of Justice ("DOJ"), considers all facts in the record, including the number and strength of competitors that will remain in each relevant market, the relative shares of those competitors, market concentration levels and any increase in those levels as a result of the transaction.

As a preliminary screen to identify transactions that "clearly do not have significant adverse effects on competition," the banking agencies and DOJ calculate post-merger concentration levels as measured by the Herfindahl-Hirschman Index (the "HHI") and the post-merger shares of the combined firm.[34] Applying these screens, transactions that do not result in (1) both a post-merger HHI of over 1,800 and an HHI increase of more than 200 points; or (2) a post-merger share of 35% are unlikely to warrant further review.[35]

As discussed further in Exhibit 21 and Confidential Exhibit J, the Proposed Transaction will not substantially lessen competition in any market. Concentration and share levels for the Proposed Transaction are well below safe harbor thresholds in all markets in which the parties compete:

U.S. (2023)	Change in HHI	Post-Merger HHI	Combined Share
Deposits	3	405	2.8%
Checking Account Deposits	0	440	1.1%
Savings Account Deposits	4	593	3.5%
Credit Card Purchase Volume	74	1,226	13.6%
Credit Card Outstanding Balances	178	1,060	19.0%

With respect to banking, there is no overlap in any local banking market. The only relevant geographic market in which to analyze banking competition between the parties is nationwide. In this context, the parties are small players holding less than 3% of deposits

[33] *See* 12 U.S.C. § 1842(c)(1).
[34] Dept. of Just., 1995 Bank Merger Guidelines ("Bank Merger Guidelines"), (1995), https://www.justice.gov/sites/default/files/atr/legacy/2007/08/14/6472.pdf.
[35] *See* Board of Governors of the Fed. Res. Sys., Banking Information & Regulation, *FAQs* (Oct. 9, 2014), https://www.federalreserve.gov/bankinforeg/competitive-effects-mergers-acquisitions-faqs.htm.

whether measured as a whole, by checking account, or savings account deposits, and the Proposed Transaction will cause *de minimis* changes in concentration levels for these products. The combined Capital One-Discover will continue to face robust competition for deposits from, in some cases, substantially larger banking institutions such as JPMorgan Chase, BOA, Wells Fargo, Citigroup, and U.S. Bancorp, as well as digital-first financial institutions like Chime Financial, SoFi Technologies, Ally Financial, EverBank Financial, Synchrony Financial, and Varo Money, eliminating any possibility that the Proposed Transaction will substantially lessen competition in any banking market.

The Proposed Transaction will similarly not substantially lessen competition with respect to credit card issuance. Credit card issuing is a highly competitive and fragmented industry. Despite exponential purchasing growth, concentration levels have *declined* in the last decade, demonstrating the competitive and dynamic nature of the industry.[36] Credit card issuers can and do readily adjust, change, and add to their credit card portfolios to attract consumers, and consumers can and do readily add and switch among credit cards. At the same time, new payment and lending solutions, such as "Buy Now, Pay Later," have entered the payments and lending landscape, competing with credit card issuers for consumers' share of wallet, and acting as significant competitive constraints. The Proposed Transaction will not alter these competitive dynamics. The merged Capital One-Discover will lower its combined costs and continue to compete with the plethora of credit card issuers including JPMorgan Chase, Citibank, BOA, U.S. Bancorp, Wells Fargo, Amex, Barclays, and Synchrony Bank, and the Proposed Transaction will increase consumers' overall access to credit, given Capital One's more inclusive underwriting standards.

With respect to payments networks, the Proposed Transaction will *deconcentrate* the marketplace and greatly improve competition. Capital One does not own or operate any payments network. Vertically integrating with Discover's payments networks will add scale to these credit and debit networks—which respective market shares are in long-term decline—making the networks less costly to operate on a marginal basis and more attractive to consumers and merchants. The combination will also allow Capital One to lower its transaction-related costs and to reinvest those dollars in improved banking products and services, including investments into the payments networks to reduce fraud, improve dispute resolution processes, and lessen information sharing friction to the benefit of consumers and merchants. These network investments will allow Capital One to further scale the networks, improve the actual and perceived acceptance of the networks, and create a credible alternative to the Visa, Mastercard, and Amex payments networks, which dominate the industry today.

In view of the above and as further detailed in Exhibit 21 and Confidential Exhibit J, the competitive considerations of the Proposed Transaction are consistent with approval of the Application.

V. Financial Stability Risk Considerations

Pursuant to section 3(c)(7) of the BHC Act, the Federal Reserve must consider in every application under section 3 of the BHC Act whether the proposed acquisition would result in

[36] *See* Exhibit 21, n. 55.

greater or more concentrated risks to the stability of the U.S. banking or financial system.[37] As discussed below, the Proposed Transaction will not increase systemic risk to the U.S. banking or financial system. Instead, the Proposed Transaction would result in a stronger banking organization that is better positioned to compete both with the largest banking organizations and the larger regional banking organizations in the United States.

The Federal Reserve has, through many approvals of bank holding company applications, delineated five metrics through which it has assessed the financial stability factors ("Financial Stability Factors").[38] These metrics include:

- the size of the resulting banking organization;
- the availability of substitute providers for any critical products and services offered by the resulting firm;
- the interconnectedness of the resulting firm with the banking or financial system;
- the extent of the cross-border activities of the resulting firm; and
- the extent to which the resulting firm contributes to the complexity of the financial system.

Also interwoven into the Federal Reserve's analysis is the relative degree of difficulty of resolving the resulting firm if it were to experience financial distress. The Federal Reserve has noted that the opaqueness and complexity of an institution's internal organization are relevant to resolvability aspects of the banking organization.[39] A banking organization that can be resolved in an orderly manner is less likely to inflict material damage to the U.S. financial system or economy.

An analysis of these Financial Stability Factors as applied to the Proposed Transaction demonstrates that the Proposed Transaction would not result in any meaningful increase in any of the metrics used by the Federal Reserve to evaluate the systemic footprint of a post-acquisition organization.

These Financial Stability Factors are similar to the categories of systemic indicators used by the Federal Reserve to identify banking organizations that should be considered GSIBs and to calculate the capital surcharge applicable to a GSIB, as well as the general categories of indicators collected in the Federal Reserve's FR Y-15 reports (Banking Organization Systemic

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[37] 12 U.S.C. § 1842(c)(7).

[38] *See Capital One Financial Corporation*, FRB Order No. 2012-2 (Feb. 14, 2012) (the "Capital One Order"). *See also, e.g., First Citizens Bancshares, Inc.*, FRB Order No. 2021-12 (Dec. 17, 2021); *The PNC Financial Services Group, Inc.,* FRB Order No. 2021-04 (May 14, 2021)*; Huntington Bancshares Incorporated,* FRB Order No. 2021-07 (May 25, 2021); *BB&T Corporation,* FRB Order No. 2019-16 (Nov. 19, 2019)*; CIT Group, Inc.,* FRB Order No. 2015-20 (July 19, 2015); Letter to Jason J. Cabral, Esq. from Stephen A. Lybarger, CRA Decision #2017-186 (Oct. 16, 2017); *CIT Group, Inc.*, FRB Order No. 2015-20 (July 19, 2015); Letter to Joseph M. Otting from Stephen A. Lybarger (July 21, 2015) (OCC approval of CIT Bank's acquisition of OneWest Bank, N.A.); OCC Corporate Decision #2012-05 (April 2012); *The PNC Financial Services Group, Inc.*, 98 Fed. Res. Bull. 16 (2012).

[39] E.g., *BB&T Corporation*, FRB Order No. 2019-16 (Nov. 19, 2019).

Risk Report). As of December 31, 2023, COFC had a Method 1 GSIB score of 25.35. COFC's pro forma Method 1 GSIB score as of the same date – and reflecting its proposed combination with Discover – would be only 33.00, an increase of only 7.65 points.

Thus, following the Proposed Transaction, COFC would remain far below the threshold score (130) necessary to be considered a GSIB under 12 CFR § 217.402.

Please see Exhibits 22 and 23 for copies of the public portion of COFC's and Discover's FR Y-15 reports, as of December 31, 2023, respectively. Please also see Confidential Exhibit K for, as of December 31, 2023, a pro forma GSIB score for COFC and a pro forma FR Y-15, which reflects Discover's operations.

In addition, COFC is a Category III organization, while Discover is currently not. As a result of the Proposed Transaction, the assets and liabilities of these companies, including the assets and liabilities of Discover acquired in the Proposed Transaction, would become subject to the Supplementary Leverage Ratio and the Countercyclical Capital Buffer requirements of the banking agencies' regulatory capital rules, as well as the LCR and NSFR requirements that apply to COFC as a Category III firm.[40]

A more detailed analysis of the Proposed Transaction under each of the Financial Stability Factors is discussed below.

Size. The Financial Stability Factor relating to size and availability of substitute providers of critical products may be informed by other aspects of the BHC Act's requirements, namely compliance with: (1) antitrust standards, (2) the 10% national deposit cap for certain interstate acquisitions,[41] and (3) the 10% national liabilities cap.[42] The Proposed Transaction is consistent with the federal banking agencies' precedent reviewing the competitive effects of mergers, and the Proposed Transaction does not come close to approaching either the national deposit cap or national liabilities cap. Accordingly, as a threshold matter, the Proposed Transaction is not likely to pose a risk to the financial stability of the U.S. banking or financial system based on size metrics.

COFC accounts for only approximately 2.0% of total adjusted domestic deposits of all insured banks and thrifts in the United States, as of December 31, 2023.[43] The deposits of Discover to be assumed account for only 0.6% of total adjusted domestic deposits. The pro forma total deposits of COFC, as of December 31, 2023, would represent only 2.6% of adjusted domestic deposits. This is far less than the domestic deposit concentrations of the largest banks

[40] The Federal Reserve has previously noted that the expansion of more stringent prudential standards to the assets and liabilities acquired as part of a Proposed Transaction is a favorable consideration under the financial stability factor. *See* Morgan Stanley/E*Trade Order, FR Order 2020-05 at p. 23 (Sept. 30, 2020), https://www.federalreserve.gov/newsevents/pressreleases/files/orders20200930b1.pdf.
[41] *See* 12 U.S.C. § 1842(d).
[42] *See* 12 U.S.C. § 1852.
[43] Calculation represents Total Liabilities Before Exclusions less Total Allowable Exclusions plus Interest Accrued and Unpaid on Deposits aggregated for all FDIC-insured banks and thrifts and reported on their Consolidated Report of Condition and Income for the quarter ended December 31, 2023. As of December 31, 2023, banks and thrifts held $17.7 trillion in adjusted domestic deposits.

in the United States, for example, as of December 31, 2023: JPMC – 11.6%; BOA – 10.1%; Wells Fargo – 8.1%; and Citigroup – 4.4%.

Capital One's pro forma total consolidated assets would be less than the total asset size of the seven largest U.S. banking organizations as of December 31, 2023.[44] The pro forma total assets of COFC on consummation of the Proposed Transaction would be approximately $646 billion as of December 31, 2023, and represent only approximately 2.7% of the total assets of the U.S. banking system[45] and a significantly smaller share of the total assets of the U.S. financial system. As noted, on a pro forma basis, COFC would only hold approximately 2.3% of Total Liabilities on a national basis, as of December 31, 2023.[46] This percentage is far less than the nationwide liabilities concentrations of the four largest banking organizations, as of December 31, 2023: BOA – 7.7%; JPMC – 6.9%; Wells Fargo – 5.0%; and Citigroup – 5.4%.

In addition, when the pro forma asset size of COFC is measured using the total exposures of COFC and Discover, as defined for purposes of the size indicators section of the Federal Reserve FR Y-15 report, it becomes even clearer that the Proposed Transaction would not result in systemic risk under the size factor. Indeed, this approach demonstrates even more accurately than total assets the extent to which the combined company poses less systemic risk than those banking organizations that have been classified as U.S. GSIBs. In evaluating a bank holding company's total exposures, the relevant measures include its total derivatives, securities financing transactions, other on-balance sheet exposures and other off-balance sheet exposures. Based on the Form FR Y-15 report of COFC and the Form FR Y-15 report of Discover ("Discover FR Y-15"), as of December 31, 2023, on a pro forma basis, COFC would have total exposures of $752.6 billion, which is approximately one-third of the average total exposures of $2.2 trillion for the U.S. GSIBs as of that same date.[47]

For all these reasons, the Proposed Transaction should not raise systemic concerns under the size factor.

Substitutability. The substitutability factor recognizes that a banking organization is more systemically important if it provides important products and services that customers would have difficulty replacing if the banking organization were to fail. In the United States, COFC and Discover offer primarily retail and commercial deposit products, credit cards, payment services, consumer and commercial loan products and treasury management services.

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[44] Based on December 31, 2023 FRY-9C reports of bank holding companies.

[45] The amount of total assets of the U.S. financial system is conservatively approximated by using total assets of FDIC-insured banks and thrifts, as of December 31, 2023, which was $23.7 trillion.

[46] This percentage is estimated using the method of calculation in the Federal Reserve's Regulation XX, 12 CFR part 251, and the amount of Total Liabilities in effect through June 30, 2024, stated by the Federal Reserve. *See* 88 Fed. Reg. 38054 (Jun. 12, 2023), *Announcement of Financial Sector Liabilities*, Federal Reserve System Docket No. OP-1808 (June 12, 2023), https://www.federalregister.gov/documents/2023/06/12/2023-12389/announcement-of-financial-sector-liabilities.

[47] The pro forma total exposures of the combined company were calculated based on the total exposures of such activities reported on the COFC and Discover FR Y-15 reports (as of December 31, 2023). The total exposures, as the U.S. GSIBs, were: JPMC – $4.6 trillion, BOA – $3.8 trillion, Citigroup – $3.0 trillion, Wells Fargo – $2.3 trillion, The Goldman Sachs Group, Inc. ("Goldman Sachs") – $2.0 trillion, Morgan Stanley – $1.5 trillion, Bank of New York Mellon – $438.9 billion and State Street Corporation ("State Street") – $318.0 billion, as of that same date.

Additionally, although the Discover Global Network provides payment services, substitutability is not a concern given the substantial size of other payment providers such as Visa, Mastercard, and Amex.

None of the products or services of Capital One or Discover can be regarded as highly specialized or "critical" financial products or services that are available from only a small number of providers. The fact that the Proposed Transaction would have little effect on financial stability is reinforced by an evaluation of the substitutability indicators of the FR Y-15 report. In evaluating a bank holding company's substitutability, the relevant measures include a banking organization's total payments activity, amount of assets under custody and underwriting activity. Based on the COFC FR Y-15 report and the Discover FR Y-15 Report (each as of December 31, 2023), COFC had total payments activity of $1.3 trillion and, on a pro forma basis, this would increase to $1.8 trillion as a result of the Proposed Transaction. Furthermore, Capital One's total assets under custody and underwriting activity would remain nearly unchanged at $4.9 billion. Each of the resultant pro forma values are only a fraction of the average activity totals reported by the U.S. GSIBs.[48]

For all these reasons, the Proposed Transaction would not raise financial stability risk concerns under the substitutability factor.

Interconnectedness. In evaluating systemic risk, the Federal Reserve evaluates the interconnectedness of a banking organization because the failure of a bank to meet payment obligations to other banks can accelerate the spread of financial contagion when the banking organization is highly interconnected with other financial firms. As underscored by the discussion above, the Proposed Transaction would not materially increase the interconnectedness of the U.S. banking or financial system.

Neither Capital One nor Discover currently engages in business activities or participates in markets to a degree that would pose significant risk to other institutions in the event of financial distress at Capital One in the future. Moreover, the Proposed Transaction would not cause Capital One to add any critical services or to increase its interconnectedness to other firms or markets such that they would pose a significant risk to the financial system in the event of financial distress. Instead the Proposed Transaction will enable Capital One to provide payment services and grow its retail banking services. Therefore, the Proposed Transaction would not increase the interconnectedness of the combined organization in any meaningful manner.

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[48] These pro forma activity amounts of the combined company were calculated by adding such activity amounts reported on their respective FR Y-15 reports (as of December 31, 2023). In contrast, the respective total payments activity, total assets under custody and total underwriting activity reported by the U.S. GSIBs on their December 31, 2023 FR Y-15 reports were as follows: JPMC – $556.1 trillion (payments), $33.3 trillion (assets under custody) and $446.9 billion (underwriting); BOA – $170.4 trillion (payments), $4.1 trillion (assets under custody) and $546.9 billion; Wells Fargo – $65.3 trillion (payments), $2.6 trillion (assets under custody) and $265.6 billion (underwriting); Citigroup – $200.6 trillion (payments), $22.9 trillion (assets under custody) and $426.4 billion (underwriting); Goldman Sachs – $17.7 trillion (payments), $1.7 trillion (assets under custody) and $253.6 billion (underwriting); Morgan Stanley – $15.0 trillion (payments), $3.9 trillion (assets under custody) and $266.8 billion (underwriting); Bank of New York Mellon – $243.1 trillion (payments), $36.4 trillion (assets under custody) and $9.3 billion (underwriting); and State Street – $92.6 trillion (payments), $30.6 trillion (assets under custody) and $0.0 billion (underwriting).

When the interconnectedness of the combined company is measured using the interconnectedness indicators of the FR Y-15 report, the Proposed Transaction would not result in a material increase in systemic risk under such indicators. In evaluating a bank holding company's interconnectedness, the relevant measures include the banking organization's total claims on the financial system, its total liabilities to the financial system and the total value of debt and equity securities it issues. Based on COFC's and Discover's respective FR Y-15 reports (each as of December 31, 2023), COFC's total intra-financial system assets would increase only slightly (i.e., less than 5%) from $73.3 billion to $76.6 billion and its intra-financial system liabilities would increase from $3.3 billion to $6.8 billion on a pro forma basis. These resultant pro forma amounts for intra-financial system assets and intra-financial system liabilities are only 35% and 3%, respectively, of the averages for such indicators reported by the U.S. GSIBs. Based on COFC's and Discover's respective FR Y-15 reports (each as of December 31, 2023), COFC's securities outstanding would increase on a pro forma basis from $167.8 billion to $260.5 billion. Although this is a sizable increase in percentage terms (i.e., 55%), the resultant pro forma amount of $260.5 billion securities outstanding is less than half of the average of securities outstanding of the U.S. GSIBs.[49]

For all these reasons, the Proposed Transaction would not raise financial stability risk concerns based on the interconnectedness factor.

Cross-Border Activity. In evaluating financial stability risk, the Federal Reserve evaluates a banking organization's cross-border activity because a banking organization with significant international activities can transmit financial problems from one country to another during a financial crisis. Banks with significant cross-border activities also may be more difficult to resolve because they require coordination with foreign authorities and access to foreign assets.

Capital One will not materially increase its limited cross-border activities as a result of the Proposed Transaction. As of December 31, 2023, Capital One's cross-border activities include cross-jurisdictional claims of $8.1 billion and cross-jurisdictional liabilities of $0.6 billion. Such activities consist of credit card lending in the U.K. and Canada, local currency liabilities associated with the U.K. and Canada credit card businesses, and *de minimis* cross-border commercial lending activities. As an initial matter, COFC and CONA are not acquiring any material entities outside the U.S. as part of the Proposed Transaction. Moreover, the cross-border activities of Discover that Capital One would acquire as part of the Proposed Transaction would be limited primarily to payment transaction processing and settlement services.

[49] These pro forma activity amounts for the combined company were calculated by adding such activity volumes reported by COFC and Discover, individually, on the FR Y-15 report (each as of December 31, 2023). The respective total intra-financial system assets, intra-financial system liabilities and securities outstanding reported by the U.S. GSIBs on their FR Y-15 reports for that same date were as follows: JPMC – $371.5 billion, $506.9 billion and $1.1 trillion; BOA – $251.1 billion, $151.5 billion and $756.0 billion; Wells Fargo – $179.1 billion, $125.8 billion and $545.4 billion; Citigroup – $233.8 billion, $338.2 billion and $666.3 billion; Goldman Sachs – $310.8 billion, $83.1 billion and $542.4 billion; Morgan Stanley – $233.0 billion, $77.8 billion, and $486.2 billion; Bank of New York Mellon – $79.8 billion, $279.5 billion and $76.9 billion; and State Street – $81.0 billion, $231.8 billion and $48.1 billion.

When the cross-border activity of the combined company is measured using the cross-border indicators of the FR Y-15 report, it is evident that the Proposed Transaction would not result in material systemic risk under such indicators. In evaluating a bank holding company's cross-border activity, the relevant measures are a banking organization's total cross-jurisdictional claims and its total cross-jurisdictional liabilities. Based on COFC's and Discover's relevant Form FR Y-15 reports (as of December 31, 2023), the COFC's cross-jurisdictional claims on a pro forma basis of $8.1 billion would increase only slightly (i.e., 1%) to $8.2 billion and similarly its cross-jurisdictional liabilities would also increase only slightly (i.e., less than 6%) from $0.60 billion to $0.63 billion. These resultant pro forma amounts for the combined company are *de minimis* when compared with the amounts of the U.S. GSIBs.[50]

Therefore, the Proposed Transaction would not result in any meaningful increase in Capital One's cross-border operations or activities and would not create difficulties in coordinating any resolution of the combined company or otherwise increase the risk to U.S. financial stability.

Complexity. The complexity of a banking organization is relevant to the Federal Reserve's financial stability risk analysis because highly complex operations have a broader impact on the financial system and generally are more difficult to resolve if they fail. The Proposed Transaction would not contribute to the overall complexity of the U.S. banking or financial system.

As noted, the Proposed Transaction does not involve the purchase or assumption of any complex assets or liabilities. Accordingly, the Proposed Transaction would not cause the resulting organization to have a complex organizational structure, add complex interrelationships or add any unique characteristics that would complicate resolution of the firm, or otherwise pose a significant risk to the financial system, in the event of financial distress. Capital One and Discover have successfully designed and implemented frameworks to address applicable regulatory requirements for resolution planning, and Capital One will apply its framework following consummation of the Proposed Transaction.

In addition, when the complexity of the combined company is measured using the relevant indicators of COFC's and Discover's respective Form FR Y-15 reports, it is also evident that the Proposed Transaction would not result in a material increase in systemic risk under this factor. In evaluating a bank holding company's complexity, the relevant measures are: a banking organization's total notional amount of over-the-counter ("OTC") derivatives; total adjusted trading, available-for-sale securities and equity securities with readily determinable fair values not held for trading (collectively, "Trading and AFS Securities"); and total illiquid and hard-to-value assets, known as "Level 3 Assets." Based on COFC's and Discover's respective FR Y-15 reports (each as of December 31, 2023), COFC would have a pro forma total notional

[50] These pro forma activity amounts for the combined company were calculated by adding such activity volumes reported on COFC's and Discover's most recently published FR Y-15 reports (as of December 31, 2023). The much larger cross-jurisdiction claims and cross-jurisdiction liabilities reported by the U.S. GSIBs on their respective FR Y-15 reports for that same date were as follows: JPMC – $946.8 billion and $863.7 billion; BOA – $536.6 billion and $374.8 billion; Wells Fargo – $175.5 billion and $69.4 billion; Citigroup – $1.1 trillion and $1.2 trillion; Goldman Sachs – $684.1 billion and $577.9 billion; Morgan Stanley – $394.2 billion and $339.4 billion; Bank of New York Mellon – $101.8 billion and $158.6 billion; and State Street – $101.2 billion and $160.6 billion.

amount of OTC derivatives of $287.7 billion, total Trading and AFS Securities of $9.7 billion and total Level 3 Assets of $1.2 billion. These amounts are all *de minimis* when compared with the average of such indicator totals, as reported by the U.S. GSIBs.[51]

Also, Capital One does not believe that the Proposed Transaction will make COFC or CONA more difficult to resolve if they fail. CONA is subject to the OCC's recovery plan requirements which establish minimum standards for recovery planning by national banks, federal savings associations, and insured federal branches of foreign banks. Capital One will integrate Discover into CONA's recovery planning framework. As previously noted, although CONA will have a larger asset base post-Closing, it does not anticipate material changes to its resolution strategies. The acquisition of the Discover Global Network by COFC is under review to determine what changes will be made to COFC's resolution plan; however, those changes will not result in a material change to the complexity of Capital One.

For all these reasons, the Proposed Transaction would not significantly increase financial stability risk under the complexity factor.

Conclusion on Financial Stability Risk. In view of all the foregoing, the Proposed Transaction will not result in greater or more concentrated risks to the stability of the U.S. banking or financial system, and, therefore, the financial stability risk considerations are consistent with approval of the Proposed Transaction.

As noted, the Proposed Transaction will enable the combined company to achieve greater diversification of business lines, customers and geographies, enhanced earnings prospects and operational efficiencies. These important benefits will enable the combined Capital One to compete more effectively against the larger regional banks, as well as the exponentially larger banking organizations that have steadily and disproportionately increased their banking and financial service market share concentrations during the last decade. Following closing, COFC and CONA will continue to operate within the robust Governance Framework described above.

In addition, as previously discussed, COFC is a Category III organization, while Discover is currently not. As a result of the Proposed Transaction, the assets and liabilities of these companies, including the assets and liabilities of Discover acquired in the Proposed Transaction, would become subject to the Supplementary Leverage Ratio and the Countercyclical Capital Buffer requirements of the banking agencies' regulatory capital rules, as well as the LCR and NSFR requirements that apply to COFC as a Category III firm.

Additional information demonstrating that the Proposed Transaction would not result in any meaningful increase in risks to the stability of the U.S. banking or financial system is provided in Confidential Exhibit L.

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[51] The volumes of these respective activities (total notional amounts of OTC derivatives, amounts of Trading and AFS Securities, and Level 3 Assets amounts) reported by the significantly larger banking organizations on their FR Y-15 reports for that same date were as follows: JPMC – $49.2 trillion, $252.4 billion and $23.7 billion; BOA – $32.8 trillion, $192.4 billion and $9.3 billion; Wells Fargo – $12.6 trillion, $69.1 billion and $9.6 billion; Citigroup – $39.0 trillion, $98.3 billion and $12.7 billion; Goldman Sachs – $38.5 trillion, $189.9 billion and $25.9 billion; Morgan Stanley – $36.6 trillion, $163.6 billion and $10.4 billion; Bank of New York Mellon – $1.1 trillion, $30.3 billion and $0.0 billion; and State Street – $2.5 trillion; $13.1 billion and $4.0 million.

VI. Convenience and Needs of the Communities

In acting on this Application, section 3 of the BHC Act requires the Federal Reserve to consider the effects of the Proposed Transaction on the convenience and needs of the communities to be served.[52] Capital One will build on each company's strong commercial, consumer and retail foundations to create an enhanced, more competitive financial institution. Both CONA and Discover Bank have proud histories of commitments to their communities. CONA has a long-standing track record of "Outstanding" Community Reinvestment Act performance since 2007, and has ranked first or second in community development ("CD") lending among all banks since 2015, with over $59 billion in CRA-qualified loans over that period. CONA appreciates the importance of Chicagoland and Delaware, and remains committed to maintaining a strong presence in those markets, as well as maintaining service excellence across the United States. The combined entity will benefit from the significant investments that Capital One has made over the last decade to modernize its technology and expand its suite of products and services offered to its customers. Capital One has a suite of intuitive digital tools that provide a personalized customer experience, including:

- Second Look: Proactively notifies customers of double charges, generous tips and other suspicious activity
- Eno: A natural language two-way SMS assistant can monitor charges, send fraud alerts and get answers to customer questions
- Creditwise: In addition to credit monitoring, Creditwise empowers customers to understand, build and use their credit responsibly with a digital score improvement tool and daily score refreshes.

Capital One is one of the nation's largest business card franchises, offering an array of business card options that meet the needs of small and mid-market business customers of various credit levels and spending habits, as well as preferences in rewards such as cash back and travel. Additionally, business customers benefit from a suite of services such as automated payments, fraud protection, employee cards, multi-user capabilities, reporting, accounting integrations, and virtual card offerings.

Capital One offers simple checking products, with no monthly fees or minimum balance requirements, and was the first major bank to completely eliminate overdraft fees while still allowing customers to retain the ability to utilize this service. Capital One's flagship 360 Checking product is Bank On certified. Capital One has a full service digital bank offering customers over 40 fully digitized features and services. Unique features include the ability to add cash to checking accounts at any CVS, Walgreens, or Duane Reade by Walgreens location; real-time alerts about checking account activity from Capital One and Eno (Capital One's virtual assistant); multiple overdraft options (e.g., auto-decline, free transfers, no fee overdraft). The Proposed Transaction will allow Capital One to continue to innovate and improve its offerings,

[52] 12 U.S.C. § 1842(c)(5).

and to significantly expand the availability of its flagship Bank On certified, no fee, minimum balance and overdraft fee checking product to a broader range of consumers.

Capital One operates 259 (as of June 2024, reflecting previously determined actions unrelated to the Proposed Transaction) bank branches across three distinct regions: (i) New York/New Jersey, (ii) Maryland/DC/Virginia, and (iii) Louisiana/Texas. Additionally, Capital One has 55 Capital One Cafés (as of June 2024, reflecting previously determined actions unrelated to the Proposed Transaction), located across 21 of the top 25 Metropolitan Statistical Areas ("MSAs"), delivering a completely unique experience. Capital One operates Cafés in several underserved communities, including Washington, DC's historic Anacostia neighborhood, Chicago's South Side in Hyde Park, Downtown Detroit and Downtown Los Angeles. In addition, Capital One plans to open a Capital One Café next year in the South Bronx. The Cafés are open to anyone – not just Capital One customers – for food and beverage offerings, free Wi-Fi, and non-profit meeting spaces. The Cafés do not offer teller cash services, but do have deposit-gathering ATMs. Capital One is also currently piloting and intends to expand its deployment of cashier's check issuance kiosks and cardless ATM access. Café Ambassadors provide financial literacy and wellness education, assist customers with account servicing, account opening, and problem resolution. Capital One credit and debit cardholders receive access to private working spaces.

Capital One has a number of businesses and associated features today that do not directly overlap with Discover's active businesses, including Auto Finance, Auto Navigator, Small Business Card, Small Business Banking, Commercial Banking and more.

- **Auto Finance:** Auto Finance provides loans to consumers across the credit spectrum for the purpose of purchasing or refinancing new and used automobiles. Auto Finance originates loans primarily through two channels: direct and dealer (also known as indirect). Through its extensive dealer relationships, Auto Finance purchases retail contracts, which are secured by automobiles. Auto Finance's indirect channel products include financing for the purchase of new and used vehicles; the direct channel's sole product is the refinancing of existing motor vehicle loans directly to consumers.

- **Auto Navigator:** Auto Navigator is a proprietary technology built by Capital One that enables consumers to research potential vehicles to purchase, view dealer inventory across the United States and receive vehicle pricing information. Consumers can use Auto Navigator to receive pre-qualified offers on financing. Capital One views Auto Navigator as a unique offering in the marketplace and, therefore, a value driver of this specific business line.

- **Small Business Card:** Capital One is one of the nation's largest business card franchises, offering an array of business card options that meet the needs of small and mid-market business customers of various credit levels and spending habits, as well as preferences in rewards such as cash back and travel. Additionally, business customers benefit from a suite of services, such as automated payments, fraud protection, employee cards, multi-user capabilities, reporting, accounting integrations, and virtual card offerings.

- **Small Business Banking:** The Small Business Banking business provides digital and traditional banking services including loans, both term and revolving, to small business owners, generally in the Company's regional markets. The business resides within the Consumer Bank line of business.

- **Commercial Banking:** The Commercial Banking business provides lending, capital markets and transaction services to corporations. To meet the product demands of clients, Commercial Banking is divided into two primary lines of business: Commercial Real Estate and Corporate Banking. Six horizontal business functions support these primary lines of business: (1) treasury management, (2) capital markets, (3) underwriting and portfolio management, (4) commercial operations, (5) commercial risk and (6) commercial business office. Commercial Banking serves clients at both regional and national scale depending on the line of business.

These businesses are a strategic priority and Capital One believes that there will be opportunities to offer these compelling products and services to Discover's customers through Capital One. There will be no significant changes to Capital One products, which, aside from the Discover Global Network, will remain the primary products of the combined organization. For products or services that are not offered by Capital One, following the Proposed Transaction, Capital One will continue to service those products for legacy customers and assess whether there are additions to the Capital One suite of products that would align to the organization's overall strategy and risk profile.

For example, CONA does not offer private student loans, home equity loans, personal loans or money market or IRA accounts. On November 29, 2023, Discover announced that its Board of Directors had authorized management to explore the sale of the private student loan portfolio and transfer servicing of these loans to a third-party servicer. Discover stopped accepting new applications for private student loans on February 1, 2024. Discover is targeting to complete the sale of its student loan business in the second half of 2024. If this sale is not completed in advance of the Proposed Transaction, Capital One intends to pursue a sale of this business and fully exit student lending activities after the consummation of the Proposed Transaction. While CONA does not offer home equity loans, personal loans, money market or IRA accounts, it plans to continue to service any such loans or accounts on its balance sheet following the Proposed Transaction and assess whether such businesses should be offered for new customers.

In addition to the different product lines, Capital One and Discover offer different features in connection with their various banking products. Following the Proposed Transaction, Capital One will evaluate all of Discover's products and services for opportunities to optimize its product offerings to offer a best-in-class suite of financial products. Due to the minimal changes to the product set and the continued servicing of existing business lines, customers should experience minimal disruption as a result of the Proposed Transaction.

As discussed in detail in the *Commitment to the CRA* section below, the combined CONA is committed to continuing its strong record of CRA performance and helping to serve the needs of its communities nationwide and within its CRA assessment areas ("AAs"). As part of the Proposed Transaction, Capital One is proactively meeting with community groups and

considering how best to continue to meet the needs of the communities it serves. Following these discussions, Capital One plans to develop a community benefit plan reflecting the feedback from the communities. Based on all the foregoing, and the discussion below of the parties' CRA record, it is evident that the convenience and needs of the communities and other constituents of Capital One, including CONA, and Discover, including Discover Bank, will be favorably served by the Proposed Transaction.

VII. Commitment to the CRA

The CRA requires the Federal Reserve to assess a depository institution's record of performance in helping to meet the credit needs of its entire community, including LMI neighborhoods in evaluating the Proposed Transaction. The Federal Reserve also considers the CRA performance records of the banks involved in a proposal as part of the convenience and needs factor under Section 3 of the BHC Act. Both CONA and Discover Bank have a strong commitment to serving the needs of their communities as demonstrated by each bank's strong CRA compliance record and performance in their most recent CRA performance evaluations as well as each organization's ongoing community engagement activities. The complementary nature of each bank's business and CRA program will result in an even stronger program with expanded opportunities moving forward. The combination of CONA and Discover Bank brings together robust programs and unique best practices for serving the needs of LMI and underserved communities and small businesses. The following pages will highlight the programs, products and strengths that a combined CONA and Discover Bank will bring together to provide an even higher level of support for LMI consumers and neighborhoods and small businesses.

CONA is particularly proud of a number of elements of its CRA program and governance, including its:

- Comprehensive CRA program that is fully supported by its Board of Directors and senior executives. Senior managers who are responsible for lines of business that impact CRA performance are charged with CRA-related accountabilities. The CRA strategy and program management team works closely with applicable lines of business to provide centralized oversight and subject matter expertise, and to promote strong CRA performance. Further, Capital One's CRA Officer reports annually to the Board of Directors.

- Team of more than 150 full-time equivalent employees who serve functions related to CRA strategy and program management, CD finance, community outreach, and corporate philanthropy.

- Deep relationships with existing community partners, and continued development of new relationships to support investments, lending, and service activities.

- Community Advisory Council ("CAC"), a diverse group of 27 of the nation's leading experts on consumer protection, consumer banking, fair lending, affordable housing, small business, and financial well-being. The CAC was initiated in 2013. Members' recommendations are informed by their own work directly serving LMI populations as well as policy research that delivers insights on proven and emerging strategies for

helping un- and under-banked and subprime consumers improve their financial well-being. The CAC has helped Capital One better understand the financial needs of underserved consumers. Additionally, the CAC has become a forum for Capital One leaders to solicit input from CAC members about business strategy and product development. One prominent example of this is the role that the CAC played in Capital One's groundbreaking decision to eliminate overdraft fees.

- Strong collaboration and accountability across business lines on CRA investments, lending, and services.

- Long-standing track record of "Outstanding" CRA performance, as discussed in greater detail below. Capital One has ranked first or second in CD lending among all banks since 2015, with over $59 billion in CRA-qualified loans over that period. CONA is in the fourth year of its five-year, $200 million Impact Initiative, supporting non-profit organizations seeking innovative solutions to address affordable housing, workforce development, small business creation, financial well-being and digital access.

Capital One intends to continue this level of support and oversight following the consummation of the Proposed Transaction. In addition, Capital One intends to review the level of resources dedicated to community development to ensure that it is well-positioned to continue its strong commitment to this area.

A. CONA CRA Performance Record

CONA received an overall rating of "Outstanding" on its most recent CRA performance evaluation by the OCC, dated as of August 24, 2020 (the "CONA CRA Evaluation"). The evaluation period for the CONA CRA Evaluation was January 1, 2017 to December 31, 2019.

During that period, COFC also controlled Capital One Bank (USA), National Association ("COBNA"), a national bank with its main office in Glen Allen, Virginia. During that period, CONA operated as an interstate bank that offered a broad spectrum of financial products and services to consumers, small businesses, and commercial clients through a variety of channels. COBNA engaged exclusively in credit card operations, offering credit cards for both consumers and small businesses, both inside the United States and, through an indirect subsidiary in the United Kingdom, and a branch of COBNA in Canada, outside the United States. CONA and COBNA were merged on October 1, 2022, with CONA as the surviving national bank.

Like CONA, COBNA also received an overall rating of "Outstanding" on its most recent CRA performance evaluation by the OCC, also dated as of August 24, 2020 (the "COBNA CRA Evaluation"). The CONA CRA Evaluation and the COBNA CRA Evaluation are summarized separately below.

1. CONA CRA Evaluation

During the evaluation period, CONA operated as an interstate bank offering a broad spectrum of financial products and services to consumers, small businesses, and commercial clients through a variety of channels. CONA's consumer banking products and services included

checking and savings accounts with no monthly fees or minimum balance requirements, auto loans, and consumer credit cards through retailers. CONA also offered small business and commercial loans, including multifamily residential loans,[53] commercial deposit accounts including checking, money market, and certificates, and treasury management services. The bank's primary business strategy was small business lending, which comprised 97% of the bank's lending during the evaluation period. Farm and agricultural lending were not a primary business strategy.

As of the conclusion of the evaluation period on December 31, 2019, CONA operated 462 retail banking branches with 135, or 29%, of those branches located in LMI geographies. Additionally, CONA operated 39 cafés with six, or 15%, of the cafés located in LMI geographies. CONA's retail banking branches, deposit-taking ATMs, and cafés were located in California, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Illinois, Louisiana, Maryland, Massachusetts, Minnesota, New Jersey, New York, Oregon, Pennsylvania, Texas, Virginia, and Washington.

As discussed above, CONA received an overall rating of "Outstanding" in the CONA CRA Evaluation. This was CONA's second consecutive "Outstanding" rating on its CRA performance evaluations. For the CONA CRA Evaluation, CONA received "Outstanding" ratings under each of the Lending and Investment Tests and a "High Satisfactory" rating under the Service Test.

CONA also received overall "Outstanding" ratings in each state or combined statistical area or multistate metropolitan statistical area that was reviewed including: (a) the New York-Newark, NY-NJ-CT-PA Combined Statistical Area (the "New York CSA"); (b) the Philadelphia-Camden-Wilmington, PA-NJ-DE-MD Multistate Metropolitan Statistical Area (the "Philadelphia MMSA"); (c) the Washington-Baltimore-Arlington, DC-MD-VA-PA Combined Statistical Area (the "Washington, DC CSA"); and (d) the individual States of California, Colorado, Delaware, Florida, Illinois, Louisiana, Massachusetts, Minnesota, Oregon, Texas, Virginia, and Washington. The OCC also stated in the CONA CRA Evaluation that examiners did not identify that CONA (or any affiliate of CONA whose loans had been considered as part of the institution's lending performance) had engaged in discriminatory or other illegal credit practices that require consideration in the evaluation.

The New York CSA and the Washington, DC CSA represented the bank's most significant markets in terms of lending, deposits (after allocating Internet deposits), and branch distribution and carried the greatest weight in the OCC's overall conclusions. The New York CSA Assessment Area (the "New York CSA AAs") accounted for 24.3% of the bank's home mortgage, small business, and small farm lending, 26.9% of total allocated deposits, and 38.5% of the branch network. The Washington, DC CSA Assessment Area (the "Washington, DC CSA AA") accounted for 10.2% of home mortgage, small business, and small farm lending, 39.9% of total allocated and unallocated deposits, and 23.8% of the branch network. In order of significance, the states of Texas, Louisiana, and California were the next largest markets, and

[53] The OCC noted that in November 2017, due to the highly competitive marketplace and challenging rate environment, CONA made the business decision to cease new originations of residential mortgage and home equity loan products within the consumer banking business. Accordingly, most of the bank's home mortgage originations in 2018 and 2019 were multifamily loans.

when combined with the New York CSA AA and Washington, DC CSA AA, contained 90.1% of the bank's total deposits, 99.7% of the branch network, and 72.9% of reportable loans during the evaluation period.

The major factors that supported the overall "Outstanding" rating included:

(a) **Lending Test** – CONA's "Outstanding" lending test rating was based on *an "Outstanding" lending rating in all the bank's rating areas.*[54]

(b) **Investment Test** – CONA's "Outstanding" rating under the investment test was based on *an "Outstanding" investment rating in all the bank's rating areas.*

(c) **Service Test** – CONA's "High Satisfactory" rating under the Service Test, reflected, among other things, that CONA received a "High Satisfactory" service test rating in the New York CSA AA and an "Outstanding" service test rating in the Washington, DC CSA AA, which represented CONA's most significant markets in terms of deposits and branch distribution and carried the greatest weight in the OCC's overall conclusions.

(d) **Flexible and Innovative Lending Products** – CONA offered flexible home mortgage and small business lending programs in order to serve AA credit needs. Flexible lending programs included: Community Home Buyers ("CHB"), Dream, Federal Housing Administration ("FHA"), Veterans Affairs ("VA"), and Small Business Administration ("SBA") loans. The CHB and Dream loans were portfolio products, which allowed for more flexible underwriting that considered the individual borrower's unique circumstances. The bank offered its Dream product in Louisiana and Texas, and its CHB product in the Northeast and Mid-Atlantic, to finance the purchase of homes by LMI borrowers and/or in LMI geographies. They featured low down payment requirements without private mortgage insurance, down payment assistance grants, consideration of nontraditional credit history, and homebuyer education. The loans were complex and labor-intensive.

CONA also offered loans to Community Development Financial Institutions ("CDFIs") and nonprofits. For example, CONA provided a loan of $750,000, along with $277,500 in grants, to support a local CDC dedicated to providing affordable housing and other neighborhood development programs to benefit LMI populations in East New York. CONA also provided a $500,000 working capital loan to a CDFI that provides affordable microloans, customized business consulting, and community connections for underserved entrepreneurs in the San Francisco Bay Area.

[54] The OCC noted that an adequate percentage of CONA's loans were made in its AAs.

(e) **Flexible and Innovative Investment Programs** – CONA created and used several innovative approaches in grant funding to respond to community needs, including:

- *CONA's Social Purpose Program* – CONA developed the Social Purpose Program as a mechanism that enhances the features of affordable housing developments. Under this program, CONA increased its investment in select non-profit-owned developments by providing grant funding to support social service programs for residents.

- *CONA's Blueprints to Buildings ("B2B")* – B2B was created to provide grants and pre-development funding to support new affordable housing. It was intended to address the primary obstacles to building more affordable housing, such as lengthy and often unfunded preparatory steps required to jumpstart affordable housing developments, and a lack of capital to move projects from conception to fruition. B2B provided multi-year grants to support project management expenses and low-cost, flexible predevelopment loans to pay for project expenses. In addition, participants were eligible to apply for an unsecured line of credit from CONA at a below-market rate to help move the project from conception to closing.

- *Construction Contractors College ("CCC")* – CONA partnered with a number of non-profit organizations to develop and expand CCC. CCC was a free, seven-month small business training and development program that equipped qualified business owners in the construction trades business with the knowledge, resources, and guidance they needed to successfully bid and win public and private construction contracts. In addition to workshops, each small business owner received one-on-one coaching and mentoring from CONA associates and professionals from partner organizations.

- *Homewards* – In 2018, CONA launched Homewards, a national pilot program that built the capacity of non-profit organizations to incorporate financial coaching into their housing counseling programs in order to improve the effectiveness of pre-purchase education. The program offered financial coaching training to non-profit partners to use with clients.

(f) **Bank-wide Community Development Services** – During the evaluation period, CONA associates provided CD services to many community organizations. This included serving as financial literacy instructors for Junior Achievement ("JA") programs providing a total of 32,838 hours of service across CONA's footprint. JA programs primarily focused on teaching young people about the importance of money management, workforce readiness, and entrepreneurial thinking. The majority of students were from LMI communities.

2. COBNA CRA Evaluation

During the evaluation period and until its merger into CONA, COBNA engaged exclusively in credit card operations. It offered credit cards for both U.S. consumers and small businesses and also issued credit cards outside of the United States through COEP, an indirect subsidiary of COBNA organized and located in the United Kingdom, and through a branch of COBNA in Canada. COBNA had only one office located in Glen Allen, Virginia. It was designated as a limited purpose bank for CRA evaluation purposes, based on its overall business strategy, primary focus, and product offerings.[55]

As discussed above, COBNA received an overall rating of "Outstanding" on its most recent CRA performance evaluation by the OCC, dated as of August 24, 2020. This was COBNA's second consecutive "Outstanding" rating on its CRA performance evaluations. The evaluation period for the COBNA CRA Evaluation was also January 1, 2017 to December 31, 2019.

COBNA was a limited-purpose bank for CRA purposes and was evaluated under the CD test. The major factors that supported the overall "Outstanding" rating included:

(a) COBNA demonstrated a high level of CD loans, CD services, and qualified investment activity, particularly investments that are not routinely provided by private investors.[56] Of the $9.9 billion in qualified CD loans, investments, and grants originated or outstanding at the end of the evaluation period, $1.5 billion benefited COBNA's AA. COBNA and affiliate employees provided 26,785 hours of qualifying CD services to over 43 organizations and programs in the AA and 6,558 hours of service to over 50 organizations outside the AA.

(b) COBNA demonstrated extensive use of innovative or complex-qualified investments, CD loans, or CD services. The OCC noted that COBNA's CD strategy was to target opportunities first within its AA, then in a broader statewide or regional area that included the AA, and finally nationally. The OCC also noted that COBNA had considerable expertise in low-income housing tax credit ("LIHTC") transactions and had a large portfolio of such investments. The bank evaluated all LIHTC opportunities in the AA, including those available in the secondary market, and invested in those projects that met its standards. Many LIHTC investments required close coordination among state and local government agencies, non-profit organizations, other investors, and COBNA. These investments illustrated COBNA's leadership in complex transactions.

COBNA also engaged extensively in New Markets Tax Credit ("NMTC") transactions to support the revitalization/stabilization of LMI geographies. These NMTC transactions are complex due to the involvement of multiple parties and multiple layers of intricate financing, as well as the many regulatory and reporting

[55] At the request of CONA's and COBNA's management, COBNA's small loans to businesses and farms were considered in CONA's evaluation.

[56] The OCC determined that COBNA has adequately addressed the needs of its AA. Accordingly, outside of AA qualified investments, CD loans, and services were considered in evaluating its performance.

requirements to maintain compliance for a seven-year period. COBNA provided $858 million in NMTC financing during the evaluation period, including $120 million that benefited the AA.

(c) COBNA exhibited excellent responsiveness to credit and CD needs in its AA.[57] CD loans and investments made during the current evaluation period created 70,377 units of affordable housing for LMI families, including 11,323 units within COBNA's AA.

The OCC's evaluation included a state rating of "Outstanding" for COBNA's home state of Virginia. The major factors that supported this rating included:

(a) COBNA demonstrated a high level of CD loans, CD services, and qualified investment activity in the state of Virginia, particularly investments that are not routinely provided by private investors.

(b) COBNA demonstrated extensive use of innovative or complex-qualified investments, CD loans, or CD services in the State of Virginia.

(c) COBNA exhibited excellent responsiveness to credit and CD needs in the State of Virginia.

B. Discover Bank's CRA Performance Record

Discover Bank received a "Satisfactory" rating on its most recent CRA performance evaluation by the FDIC, dated March 7, 2022 (the "Discover Bank CRA Evaluation"). The evaluation period for the Discover Bank CRA Evaluation was January 1, 2020 to December 31, 2021. During the evaluation period, Discover Bank operated under two FDIC-approved CRA strategic plans, the 2018-2020 CRA Strategic Plan (effective January 1, 2018 through December 31, 2020) and the 2021-2025 CRA Strategic Plan (effective January 1, 2021 through December 31, 2025).

The FDIC found that during the evaluation period, Discover Bank demonstrated leadership and excellent responsiveness to the credit and CD needs of its AA, as well as the greater statewide or regional area that includes the bank's AA ("Discover Bank's Broader Area"). The bank provided a high level of CD investments, loans, grants, and services that displayed extensive use of innovativeness and complexity with effective response to credit and CD needs. Bank management had been innovative in designing and implementing the CRA

[57] Pursuant to 12 CFR § 25.28(c), in determining a national bank's CRA rating, the OCC considers evidence of discriminatory or other illegal credit practices in any geography by the bank, or in any AA by an affiliate whose loans have been considered as part of the bank's lending performance. The OCC found evidence of a violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1), related to the bank's sales practices for small business credit cards from January 2015 through December 2016. The bank provided remediation to 2,135 negatively impacted customers. Additionally, the bank provided remediation to 6,728 customers for whom the bank was unable to confirm any impact. Remediation totaled $1.10 million. The OCC determined that the bank's management had taken appropriate corrective actions to strengthen controls over the bank's sales practices and implemented strict oversight to prevent future violations. As a result, the CRA performance rating was not lowered as a result of these findings.

program, which included providing loans and investments through partnerships with various for-profit and non-profit organizations and financial institutions. The bank also provided responsive grants and significant technical expertise to address CD needs.

Importantly, Discover Bank met or exceeded its goals for "Outstanding" performance in both 2020 and 2021; however, there were ongoing deficiencies related to student loan servicing that resulted in the issuance of a new Consent Order by the Consumer Financial Protection Bureau ("CFPB"). The continuing student loan servicing deficiencies negatively impacted Discover Bank's CRA rating, lowering the rating from "Outstanding" to "Satisfactory." Discover Bank achieved "Outstanding" CRA ratings in its previous three CRA performance evaluations dated January 1, 2016, March 1, 2018, and June 1, 2020, respectively.

The goals for "Outstanding" that Discover Bank met or exceeded included:

(a) **Strategic Plan Goal 1: New CD Loans and Investments** – Discover Bank provided $274.1 million in new qualified CD loans and investments, including $134.5 million in 2020 and $139.6 million in 2021; this activity exceeded the respective annual goals for outstanding performance.

The FDIC noted that during the evaluation period, Discover Bank took a leadership role in preserving hundreds of affordable multi-family rental units and used innovative approaches to finance economic development projects and revitalization efforts throughout the assessment area and the broader area. Notable examples of new CD loans and qualified investments provided during the evaluation period included:

- **Discover Affordable Housing Investment Fund ("DAHIF")** – The DAHIF is a bank-created LIHTC program for financing the development and preservation of affordable rental housing. Discover Bank's CRA team works with for-profit and non-profit developers to identify projects in need of tax credit equity and seeks to provide terms and pricing that meet long-term financing needs of the property, while balancing the benefits of the LIHTC program. Discover Bank also provides funding to help developers offset costs for project development, resident programs, and educational opportunities.

- **DSHA Mortgage-Backed Security ("MBS") Purchase** – Discover Bank and Delaware State Housing Authority ("DSHA") developed the "forward" MBS purchase commitment agreement whereby Discover Bank provides DSHA with the liquidity and funding to (a) reduce interest rates and (b) provide down payment and settlement assistance funds to LMI individuals seeking to purchase or refinance a home loan. Under this agreement, Discover Bank makes a pre-defined commitment to purchase DSHA's MBSs at a fixed price above market pricing, a premium of 100 basis points, and LMI borrowers benefit directly from the premium pricing. DSHA is Delaware's housing finance agency, and its mission is to provide affordable housing opportunities and supportive services to LMI individuals.

- **Discover Economic Development Investment Fund** – In 2018, Discover Bank created the Discover Economic Development Investment Fund (the "Development Fund"). The Development Fund is a bank-owned NMTC fund. The Development Fund is a federal program incentivizing economic development in LMI communities through a federal tax credit. Discover Bank's CRA team works with for-profit and non-profit partners to identify projects in need of tax credit equity within Discover Bank's assessment area and broader area. The FDIC found that Development Fund's projects (a) helped revitalize local communities, spur economic development and job growth, and (b) provided vital services to LMI individuals and geographies. In addition to funding through the Development Fund, Discover Bank's CRA team worked with various non-profit organizations to inform them about the NMTC program and the benefits it could provide.

- **National Development Council ("NDC") SBA 7(a) Program** – In 2014, Discover Bank partnered with the NDC's Grow America Fund and leveraged the City of Wilmington's Urban Development Action Grant Corporation's portfolio of loans to launch a Grow Wilmington SBA 7(a) Loan Fund (the "SBA Loan Fund"). The SBA Loan Fund uses this economic development tool for the City of Wilmington to attract new small businesses and maintain existing small businesses. The SBA 7(a) program offers below-market fixed interest rates and longer amortizations through the leveraging of the federal guarantee that comes with a SBA 7(a) guaranteed portion of a loan. In 2014, Discover Bank provided a $3.0 million warehouse loan to help launch the program and in 2019, Discover Bank provided $8.3 million. In 2021, Discover Bank continued to increase the SBA 7(a) loan fund by $10.6 million to provide small businesses with a total of $14.1 million in funding capacity. To date, the SBA 7(a) loan fund has assisted 17 small businesses and helped to create 334 jobs statewide. Furthermore, the CRA team secured an additional $1.0 million commitment from an economic development corporation, which increases the overall fund size.

- **National Development Council ("NDC") Delaware Technology Park FinTech Building** – NDC is a CDFI that provides capital to support (a) the development and preservation of affordable housing, (b) the creation of jobs through training and small business lending, and (c) the advancement of communities through investment in social infrastructure in economically disadvantaged urban and rural neighborhoods. In 2020, Discover Bank provided the capital resources at a below-market interest rate needed for the NDC Community Impact Loan Fund ("CILF") to provide the funding for the construction and permanent financing of the FinTech Building. The building is to be a center of excellence for the digital sciences, FinTech, and data management. Discover Bank invested time identifying and recruiting partners focused on these areas, and organizations developing products and services for LMI communities and small businesses to occupy the space. Discover Bank identified a nonprofit, which seeks to unite business leaders, policy makers, and innovators to design and implement solutions that improve

financial health for all people, including LMI individuals. Discover Bank also engaged a nonprofit, supported by the Independent Community Bankers Association, with a mission to help accelerate the trajectory of FinTech companies and promote corporate innovation. Given the economic development impact the projects are expected to have in Delaware, Discover Bank agreed to purchase 100% participation in the NDC CILF CDFI's direct loan and NMTC leveraged loans, totaling $34.4 million. The NMTC allocation will facilitate up to 5,000 square feet of space in the FinTech Building dedicated to the delivery of technology solutions to meet the financial service needs of LMI consumers and small businesses for five years at no cost to the tenants.

(b) **Strategic Plan Goal 2: Ratio of CD Loans and Qualified Investments to Average Assets** – Discover Bank achieved at least a 0.60% ratio of CD loans and qualified investments to average assets in 2020 and 2021; this activity met the respective annual goals for outstanding performance.

(c) **Strategic Plan Goal 3: CD Grants** – Discover Bank provided 130 CD grants and in-kind contributions totaling $8.4 million, including $4.1 million in 2020 and $4.3 million in 2021; this activity met the respective annual goals for outstanding performance.

Discover Bank also provided grants and in-kind contributions to various organizations, financial institutions, and governments to help meet the credit needs of LMI persons and small businesses within the AA and Discover Bank's Broader Area. Qualified grants focused on issues relating to affordable housing, small business and economic development, financial literacy, and Covid-19 response and recovery. Notable examples of qualified grants provided during the evaluation period include:

- Discover Bank provided an organization serving LMI individuals with a $100,000 grant for the renovation of a vacant home in the Quaker Hill Community. The property will provide long-term housing assistance to people who meet the Department of Housing and Urban Development's definition of "chronically homeless." These individuals have at least one member of the household with a disability that affects their housing stability. Residents will face no minimum income requirement, pay no more than 30% of their income for housing, and receive supportive services.

- Discover Bank provided the Delaware Community Reinvestment Action Council a grant of $250,000 to support technology improvements at Stepping Stones Community Federal Credit Union ("SSCFCU"). The credit union serves low-income communities in Wilmington, DE and provides services at no cost. The grant will enable the credit union to offer a debit card and a social banking app to its members. Furthermore, Discover Bank facilitated a relationship between SSCFCU and a minority- and women-owned FinTech

company, Wellthi Technologies, Inc., to provide technology for the debit card product.

- Discover Bank provided the Community Legal Aid Society with a $25,000 grant to increase the capacity to provide eviction defense counsel for low-income renters. These free services include legal defense and connecting clients to resources available from the DSHA (for example, the DEHAP to pay delinquent rent). Additionally, the organization counseled those facing eviction due to the Covid-19 pandemic.

- Discover Bank afforded LMI households access to technology and remote services through partnerships with NERDiT NOW and public libraries. In 2020, Discover Bank provided the NERDiT Foundation with a $75,000 grant to purchase and deploy computers for nonprofits that had to transition staff to a work-from-home environment at the start of the Covid-19 pandemic. In 2021, Discover Bank provided the Seaford Library, in partnership with the Laurel and Frankford Libraries in Sussex County, with a $25,000 grant for technology upgrades and support for residents of LMI communities.

- Discover Bank provided several grants to support individuals and families impacted by the Covid-19 pandemic.

- Discover Bank provided two organizations with crowd-funding technology platforms to solicit donations for nonprofits and small businesses.

- Discover Bank provided Children & Families First with a $25,000 grant to pilot the Community of Hope Program. The program aims to stabilize families, with an overarching goal to reduce child abuse, neglect, and referral into the child welfare system. Employing another place-based strategy, Discover Bank provided REACH Riverside with a $25,000 grant in support of the Poverty to Prosperity Initiative. REACH's areas of focus for the Riverside neighborhood include redevelopment, education, and community health. The program supports REACH housing residents in Wilmington, DE by offering tools to increase economic independence, reducing neighborhood unemployment and poverty, and providing opportunities for families to move to new housing in the community. Additionally, the initiative will increase retention of Riverside residents in the new development, improve community health, and create a mixed-income community.

- During the evaluation period, Discover Bank provided approximately $345,000 in corporate grants to organizations and programs serving LMI people and communities.

During the evaluation period, Discover Bank also provided approximately $265,000 of in-kind contributions to area nonprofits providing services to LMI individuals, including the following:

- In 2020, Discover Bank provided schools, homeless shelters, and libraries with donations of unused marketing space, printing services, Google Chromebooks, baby supplies, and kitchen items.

- In 2021, Discover Bank assisted with the Covid-19 response by donating cleaning and disinfecting supplies to Delaware nonprofits serving LMI individuals.

- Following downsizing the call center in New Castle, Delaware in 2021, Discover Bank donated office furniture and equipment to local non-profit organizations.

(d) **Strategic Plan Goal 4: CD Services** – Discover Bank created a point system to track CD services provided by personnel within the AA and Discover Bank's broader area. Discover Bank achieved 292 points, including 145 points in 2020 and 147 points in 2021, which exceeded the respective annual goal of 140 for outstanding performance.

The primary purpose of services performed must meet the definition of CD and use the financial expertise or technical assistance of the employee who provided the service. Categories of service included: (i) technical assistance and intensive or long-term service; (ii) board membership; (iii) committee membership; and (iv) CD services.

(e) **Strategic Plan Goal 5: Consumer Loans in Moderate-Income Census Tracts in the Assessment Area** – Discover Bank extended $5.8 million in consumer credit to individuals who resided in moderate-income census tracts within Discover Bank's AA, including nearly $2.8 million in 2020 and $3.0 million in 2021. Discover Bank's performance in 2020 substantially met the goal for outstanding performance and exceeded the goal for outstanding performance in 2021.

The CRA requires that the FDIC consider an institution's compliance with laws and regulations prohibiting discrimination on a prohibited basis and other illegal credit practices when evaluating CRA performance and assigning a CRA rating. The CFPB executed a Consent Order against Discover Bank in 2015 due to alleged deficiencies regarding Discover Bank's student loan servicing practices. Due to alleged ongoing deficiencies in Discover Bank's student loan servicing practices, the CFPB executed a new Consent Order in December 2020.

The FDIC considered the ongoing deficiencies within Discover Bank's student loan servicing operation when assigning the overall CRA rating. Accordingly, although Discover Bank met or exceeded its goals for "Outstanding" performance in 2020 and 2021, the agency lowered the assigned rating to "Satisfactory" in recognition of the ongoing student loan servicing deficiencies.

C. CONA/COBNA's and Discover Bank's CRA Activity Since Their Last CRA Evaluations

Commitment to the communities where CONA employees live and work has always been embedded in the culture of CONA. Since the CONA CRA Evaluation, CONA has remained actively engaged with the communities within its AAs. CONA's commitment to the communities within its AAs is evidenced in the lines of businesses' performance and their efforts to further strengthen their CRA impact in the communities it serves.

1. CONA/COBNA's CRA Activity Since Their Last CRA Evaluations

As discussed above, the evaluation periods for the CONA CRA Evaluation and for the COBNA CRA Evaluation each concluded on December 31, 2019. Since the end of its evaluation period, CONA has demonstrated very strong CRA performance and significant positive impacts on its communities. Similarly, COBNA also demonstrated very strong CRA performance and significant positive impacts on its communities in the period from January 1, 2020 until it merged into CONA on October 1, 2022.

Small Business Lending

CONA understands the important role that small businesses play in the U.S. economy as well as to individual communities. As a result, CONA strives to ensure that the bank is a provider of small business banking products and services across all the markets and communities it serves. CONA also offers small farm loans, although this is not a major product of the bank.

As discussed in the *Convenience and Needs of the Communities* section above, CONA offers term loans, lines of credit, and credit cards to small businesses. In addition to traditional financing, CONA offers loans guaranteed by the SBA. The bank provides financing through the SBA 504, SBA 7(a), and SBA Express programs, which collectively offer long terms, fixed rates, and lower equity requirements.

CONA's suite of credit card products accommodates small business owners across the credit spectrum, from those with fair credit to those with excellent credit. Several products have no annual fee. In addition, there are various options relating to cash rewards and travel miles.

During the Covid-19 pandemic, CONA prioritized resources in small business lending to participate in the SBA's Paycheck Protection Program ("PPP"), designed to help businesses keep their workforces employed. CONA mobilized associates across the company to create a digital PPP process for handling customer applications. This was an exceptionally complex and demanding, multi-week, 24/7 effort undertaken by almost 3,000 bank associates, many of whom were not part of the small business banking team. CONA originated 21,489 PPP loans totaling $1.1 billion in the bank's AAs. The bank's efforts targeted those businesses most in need, as companies with 20 or fewer employees comprised 93% of CONA's PPP loans. Similarly, 86% of the PPP loans were for $100,000 or less. In fact, CONA ranked #1 in PPP customer

satisfaction in two (Northeast and South) of the four regions in the 2020 JD Power Small Business Banking Satisfaction Study.[58]

CONA also took action to help existing small business customers during the pandemic, including:

- Deferring payments on 1,852 loans for a total of 5,957 payments, totaling $21.2 million. In addition, over 700 of CONA's small business loans received six-month loan forgiveness from the SBA (through the SBA Cares Act), totaling more than $22 million.

- For credit card customers, providing 64,000 payment deferrals for a total of $81.9 million. In addition, CONA reduced the APR to 9.99% on 662 credit card accounts for nine months, for customers who were 60+ days past due and impacted by the pandemic.

Below is a table outlining CONA/COBNA's small business and small farm lending within their respective AAs in 2020, 2021, 2022 and 2023, by number and dollar amount. Of the 752,476 loans originated during the four years, 28% were to businesses in LMI census tracts. In addition, 98% of the loans were for $100,000 or less, a strong indicator of Capital One's willingness and ability to lend to the smallest businesses.

CONA/COBNA Combined (Dollar Amounts in Thousands)				
	2020		2021	
	$	#	$	#
Total Loans	2,300,018	126,907	2,723,087	193,964
Loans in LMI Census Tracts	494,179	34,601	616,169	54,097
Loans of $100,000 or Less	1,303,055	123,614	1,727,540	190,463
PPP Loans	767,821	13,549	371,946	7,940
In LMI Tracts	164,772	2,950	70,749	1,799
$100,000 or Less	300,492	11,698	167,328	7,096

CONA/COBNA Combined* (Dollar Amounts in Thousands)				
	2022		2023	
	$	#	$	#
Total Loans	3,925,066	239,715	3,255,822	191,890
Loans in LMI Census Tracts	968,628	66,308	804,418	54,739
Loans of $100,000 or Less	2,554,664	234,871	1,906,549	186,926
PPP Loans				
In LMI Tracts				
$100,000 or Less				

[58] *See* J.D. Power, Press Release, *Banks' Response to Paycheck Protection Program Helps Drive Small Business Customer Satisfaction to Record High during Pandemic, J.D. Power Finds* (Oct. 29, 2020), https://www.jdpower.com/business/press-releases/2020-us-small-business-banking-satisfaction-study.

* COBNA merged with and into CONA on October 1, 2022. Accordingly, after that date the data reflects CONA alone.

Residential Mortgage Lending

As discussed above, in November 2017, due to the highly competitive marketplace and challenging rate environment, CONA made the business decision to cease new originations of residential mortgage and home equity loan products within the consumer banking business and, since that time, almost all of CONA's HMDA-reportable originations have been multifamily loans.

The table below summarizes CONA's residential mortgage lending in its AA since December 31, 2019. The loans originated during 2020, 2021, and 2022 were reported in CONA's HMDA data. In 2023, CONA did not submit a HMDA loan application register since it did not meet the HMDA reporting threshold for 2023.

CONA				
	2020		**2021**	
	Total #	**Total $ (in thousands)**	**Total #**	**Total $ (in thousands)**
Total Loans	353	6,416,155	258	5,327,195
Loans in LMI Census Tracts	170	2,759,520	149	2,207,484

CONA				
	2022		**2023**	
	Total #	**Total $ (in thousands)**	**Total #**	**Total $ (in thousands)**
Total Loans	202	4,356,203	N/A	N/A
Loans in LMI Census Tracts	94	1,339,995	N/A	N/A

* COBNA merged with and into CONA on October 1, 2022. Accordingly, after that date the data reflects CONA alone.

Community Development Activities

CONA is dedicated to providing support to economically disadvantaged communities within its footprint through making qualified CD loans and investments. In fact, CONA has been a national leader in CD lending for many years. For five consecutive years (2016 through 2020), the Bank had a higher dollar volume of CD loans than any other reporting lender in the country. In 2021 and 2022, CONA was second only to the largest bank in the country based on assets. This is significant considering CONA's size and capacity in relation to other, much larger peer banks. (Peer CD lending data for 2023 is not yet available.)

Since the CONA CRA Evaluation and the COBNA CRA Evaluation, CONA and COBNA combined have made 2,052 CD loans totaling over $30 billion when PPP loans are excluded. CONA and COBNA combined also made 471 CRA-qualified investments (excluding grants), totaling $4.1 billion. See the table below for a summary of the total dollar amounts of CONA and COBNA's CRA qualifying CD loans, investments and grants in 2020, 2021, 2022 and 2023. These sources of CD funding amount to $34.7 billion, approximately two-thirds of which was provided in CONA's AAs. The loans, investments, and grants made outside CONA's AAs were allocated either to COBNA or, following the CONA-COBNA merger, to broader statewide or regional areas supporting CONA rating areas.

CONA/COBNA Combined ($ amounts)		
	2020	**2021**
CD Lending (Excludes PPP Loans)	9,010,602,250	9,251,152,146
CD Investments	822,868,982	1,059,514,891
CD Grants	46,940,760	42,209,763

CONA/COBNA Combined* ($ amounts)		
	2022	**2023**
CD Lending (Excludes PPP Loans)	7,274,390,732	4,869,920,884
CD Investments	899,069,597	1,293,229,608
CD Grants	37,192,412	43,431,510

* COBNA merged with and into CONA on October 1, 2022. Accordingly, after that date the data reflects CONA alone.

During the 2020-2023 time period, CONA and COBNA provided large volumes of CD loans and investments that were highly responsive to the needs of their communities. Most of these transactions were complex, and many reflected leadership and/or innovation on the bank's part. Examples of these transactions follow. Some of the geographies (e.g., Michigan) are rating areas added since the CONA CRA Evaluation of August 24, 2020.

Examples of CONA's leadership in CD loans and investments from 2020-2023 include the following:

- Provided more than $58 million in financing, including a loan of $32.9 million and a LIHTC equity investment of $25.2 million, to help finance the new construction of a 105-unit senior affordable housing development in the Bronx. A majority of units (104 out of 105) will be restricted to LMI seniors earning up to 50% and 60% of AMI (18 and 86 units, respectively) and supported by project-based Section 8 vouchers; there will be one manager's unit. Thirty-two units will be set aside for formerly homeless seniors and supported by New York City project-based rental assistance. In addition to providing financing for the property's construction, CONA also contributed a $150,000 grant to fund resident services. The nonprofit developer, which has a longstanding history of serving LMI seniors, will provide services to residents including, but not limited to, case management, services coordination, crisis

intervention, counseling, and nutritional services. In addition to funding from CONA, this complex project involved significant public financing, including over $20 million from city and state-wide entities, such as New York City's Department of Housing Preservation and Development and New York State's Homeless Housing and Assistance Program. This development provides much-needed affordable housing coupled with supportive services for LMI seniors, including the formerly homeless, in a market with a very high cost of living.

- In 2021, CONA provided two loans totaling $17 million to the New York chapter of a national nonprofit organization that offers social services to LMI individuals. For example, it provides assistance for the homeless, families recovering from domestic violence, veterans, the elderly, at-risk youth, and those with intellectual and/or developmental disabilities. One of the loans, a $7 million line of credit, provided working capital and bridged the receipt of government receivables benefiting LMI populations in the AA. The other loan, for $10 million, was PPP financing to help stabilize the organization during the Covid-19 pandemic. In 2023, CONA increased the line of credit from $7 million to $10 million. In addition, in 2022 and 2023, the bank provided $20,000 in grants to support a financial education program and the organization's general operations. CONA's efforts are part of a long-standing partnership between the bank and the organization.

- Provided a loan of $10 million and invested $10.6 million in LIHTC equity to finance the rehabilitation of a 201-unit affordable housing development in Montgomery County, Pennsylvania. All 199 units for rent are reserved for LMI seniors (62+) and benefit from development-based Section 8 contracts. (There are also two manager units.) The development targets very low-income and LMI seniors, with 10 units restricted to 20% AMI; 90 units restricted to 50% AMI; and 99 units restricted to 60% AMI. The nonprofit developer provides supportive services that enable residents to age in-place, such as counseling, education, and in-home services; and to maintain health through screenings, fitness programs, and assistance in accessing health services. Residents also benefit from close proximity to public transportation and neighborhood amenities such as shopping centers. The development involved numerous sources of financing, including private activity bonds from the Pennsylvania Housing Finance Agency and solar tax credits to fund enhancements that will create energy efficiencies and reduce residents' utility costs. This complex development addresses rising housing-cost burdens facing seniors in a market where the demand for affordable senior housing is expected to grow over the next five years.

- Provided a loan of $12 million and LIHTC equity investments totaling $46.8 million to help finance the rehabilitation of a 300-unit senior affordable housing development in Northeast Washington, DC. All units are restricted to LMI households earning up to 30%, 60% and 80% of AMI (88, 155 and 57 units, respectively). Over one-third of the units (103 out of 300) will be supported by project-based rental subsidies. A nonprofit organization will provide resident services for all tenants, focusing on childhood and youth development, health and wellness, economic mobility and stability, and aging in community. When faced with a substantial funding shortfall during construction, CONA stepped in to provide additional financing that balanced

the budget, demonstrating the bank's leadership and commitment to the development's success. This development preserves 300 units of affordable housing for tenants who would otherwise be at risk of displacement, given that the original LIHTC compliance period and housing subsidy contract term expired and the property is considered prime real estate in a high-cost market with significant market-rate development activity. A large percentage of renter households spend more than 30% of their incomes on housing expenses (i.e., 41.9%) in Washington, DC, further demonstrating the critical need for affordable housing preservation in this area.

- Provided NMTC financing in the amount of $11.8 million for the construction of a hospice facility in Baltimore to replace an existing hospice facility that operated out of several structures that were over 130 years old. The facility primarily serves LMI patients. Other financing was provided by a minority-controlled depository institution that was the first financial institution to receive both CDE and CDFI certifications. The new facility better serves the unique needs of seriously ill residents of Baltimore City, which has a large LMI population. It is located in a community that was developed by a local nonprofit agency that currently serves over 500 adults aged 62 and older and addresses poverty, homelessness, hunger, and affordable housing. This addition to the community provides a continuum of care for the aging population in one location, and meets the growing need for hospice care in Baltimore as identified by the Maryland Health Care Commission.

- Provided loans totaling $6.5 million to three small businesses through the SBA 7(a) Loan Program. This program is designed to help small businesses that are creditworthy but cannot qualify for a conventional loan. These three businesses, all located in Phoenix, are a landscaping service, a manufacturer of animal collars and hospital identification bracelets, and a machine shop. This financing addresses economic development needs by supporting jobs and helping bring revenue to the community.

- Provided more than $80 million, including a $42.3 million loan and $38.2 million in LIHTC equity, for the construction of an 81-unit, mixed use, affordable and special needs housing development in San Jose. The development will include studio, one-, two-, and three-bedroom units at up to 30%, 50%, and 60% of AMI. Of the 81 units, 40 will be reserved for transitional-aged youth, ages 14-29 (20 for formerly chronically homeless and 20 for currently homeless or at risk of homelessness). Sixty-one of the units will be subsidized. The local housing authority will provide project-based Section 8 vouchers for 21 of the units reserved for families up to 50% of AMI and 20 of the units for Transitional Aged Youth. The remaining 20 Transitional Aged Youth units will be subsidized through Santa Clara County's Rapid Rehousing program. The ground floor of the development will house a youth community center operated by the county, offering a computer room and free clothes, backpacks and hygiene products, medical services, mental health support and counseling, and parenting, educational, and employment resources and legal services. The residential portion will feature a full-time Service Coordinator and intensive case management supportive services. Residents will have access to educational programming, peer support activities, mental health care, substance use services,

benefits counseling and advocacy, recreational and social activities, education classes, employment services, and referrals to third-party service providers. Additionally, the construction is expected to receive a LEED Silver rating, and is GreenPoint Platinum Rated, built to sustainable and efficient environmental standards. This complex transaction included significant public finance support totaling more than $35.7 million, including a $15.7 million City of San Jose loan, a $20 million County of Santa Clara loan, and another $12.6 million in soft funding from the county for the youth community center. This development provides quality affordable housing for a particularly vulnerable population, as estimates suggest that nearly 30% of the nation's entire homeless youth population is located in California.

- In 2020, CONA provided a $500,000 working capital line of credit to a local CDFI whose mission is to provide flexible, affordable, and responsible financing and technical assistance for community stabilization and development initiatives that benefit LMI communities in metropolitan Chicago. The organization was created to ensure that Chicagoland CD organizations (including small and emerging organizations) would have a lender to turn to for difficult-to-underwrite developments and enterprises. The CDFI carries out its mission through three key programs that provide (1) small for-profit and nonprofit developers with the support and capital needed to acquire, rehabilitate and own 1-4 unit buildings to help stabilize low-wealth communities impacted by foreclosures; (2) technical assistance and loans for commercial development in LMI communities; and (3) fixed-rate loans for organizations engaged in community-based social service, housing, or economic development. In addition, CONA provided $45,000 in grants to support the organization's general operations, technical assistance for small businesses, and assistance for households seeking to purchase or maintain affordable housing in LMI neighborhoods. In 2023, CONA renewed and increased the credit line to $1.5 million. The bank's financing illustrates its willingness to originate small loans for CD purposes and addresses the need to support CDFIs with funding for general and specific CD purposes.

- Provided two loans totaling $17.4 million and two LIHTC equity investments totaling $20.9 million to help finance the new construction of a 110-unit mixed-income housing development in downtown Lake Charles, Louisiana. A majority of units (89 out of 110) will be restricted to LMI households earning up to 20%, 30%, 50%, 60%, and 80% of AMI (4, 10, 33, 34 and 8 units, respectively); there will be 21 market-rate units, which will be marketed to households earning up to 75% of AMI. Ten units will be subsidized, including six units supported by project-based voucher HUD Section 8 contracts and four units supported by HUD Section 811 Rental Assistance contracts; six of the 10 subsidized units will be set aside as permanent supportive housing units. A nonprofit organization will provide services to residents including, but not limited to, daycare and afterschool programs; financial and budgeting seminars; job training and continued education; preventive healthcare programs; and coordination with local veterans service providers. In addition to funding from CONA, this highly complex financing structure involved numerous public sources including the federal Community Development Block Grant (CDBG) Disaster Recovery Program, the state of Louisiana's energy tax credit program, and the City of

Lake Charles. The property also received funds from a CDFI loan fund. This development will be constructed to meet disaster-resiliency standards to withstand severe weather such as hurricanes. It will provide much-needed affordable housing for LMI households, including very low-income households earning up to 20% and 30% of AMI, in a region that has experienced several natural disasters in recent years, persistently high poverty rates, and an acute shortage of quality affordable housing.

- In 2022, CONA provided NMTC financing in the amount of $15.6 million for the expansion of a university medical center's emergency department in Cincinnati. The hospital's mission is to provide care for the aged, indigent, and orphaned, and it serves as a first-line resource for the community. The financing will facilitate the addition of 46,000 square feet of new emergency department space, the renovation of the existing 30,000 square-foot space, and the creation of an ICU and an observation unit. Prior to the expansion, the emergency department had been operating at an unsafe patient capacity on at least two days of each week, for the last 10 years. The physical expansion will improve patient care and accommodate patient surges. The project is expected to retain 131 existing full-time employees, create an additional 42 full-time roles, and create 150 full-time construction jobs. Jobs created and maintained will have above-average wages and benefits for hourly employees. Due to the pandemic, the medical center experienced an increase in operating expenses to protect staff and a decrease in revenues due to elective procedures being temporarily shut down. This caused a strain on its capitalization strategy for the development, making NMTC allocations critical in moving the development forward without deferring elements of expansion or impacting patient programs. This complex financing addressed the need for expanded healthcare for LMI families, the creation and retention of living-wage jobs, and pandemic-related assistance for a critical community facility. In 2023, CONA provided another $10 million in NMTC financing to expand the medical center's intensive care unit. This second transaction demonstrates CONA's ongoing commitment to addressing community needs.

- Provided a construction loan in the amount of $12.1 million and an investment of $14.9 million in LIHTC equity for the new construction of a 56-unit affordable housing development for LMI households earning 30-60% of AMI. Of the 55 rental units (there is also a manager's unit), 20 give preference to Tribal Member households and have rent subsidies such that rent does not exceed 30% of household income. Ten units have three bedrooms, making this development suitable for larger families. The co-developer, a Portland nonprofit organization that serves Native Americans, provides on-site resident services to include life and wellness, career, and technical assistance services, such as financial wellness classes, business development coaching and classes, home ownership and workforce development training, after-school and summer programs, and community engagement for all residents. This transaction was exceptionally complex with many layers of financing from state, local and municipal sources. These sources included, for example, an Indian Housing Block Grant (IHBG), a grant from the Oregon Housing and Community Services Department's Multifamily Energy Program for developments that provide weatherization and energy conservation services, and a Portland Metro Transit-Oriented Development grant to stimulate private development of high-

density, affordable, and mixed-use developments near public transit. The development is located approximately 500 feet from the Tri-Met bus line. In addition, the transaction was innovative as it was only the second in the country to combine IHBG and LIHTC funding in the same development. This transaction meets many identified community needs including affordable housing targeted to the Native American population, use of green-building techniques, transit-oriented developments, and social services that include self- sufficiency training for LMI people.

- Provided $18.7 million in NMTC financing for the construction of a new facility to support victims of domestic abuse in Dallas. CONA also provided $60,000 in grants to support the center's general operating expenses. The center is operated by an organization that offers the most comprehensive domestic violence recovery program in Dallas, including an emergency shelter; transitional housing; on-site schooling, daycare, and afterschool programming; mental health counseling; and legal support. This full continuum of care for women and children who are escaping domestic violence is provided at no cost to its clients. The new center increased the organization's overall capacity by 40% and legal service provision by 100%, assists children traumatized by domestic violence, and provides education opportunities for advocates and therapists. The new center was estimated to create 40 or more new jobs and will retain 30 or more current jobs. This financing addresses the critical community credit need of providing crisis intervention and long-term solutions for women and children who are survivors of domestic violence. It helps to prevent homelessness by offering an alternative to those needing to escape abusive surroundings.

- Provided a loan of $41.6 million to a public school district in Mississippi to finance capital improvements at various schools in the district. Almost all (99.9%) of the students in the district are from LMI families. This financing was especially important due to the district's declining enrollment and, consequently, declining support from the state. The decreases in enrollment resulted from declining population in the area (due at least partly to lower birth rates) and competition from charter schools. This transaction illustrates CONA's willingness to help address critical needs in areas beyond its physical footprint.

For additional examples of CONA's CD lending and investing activity for the period from 2020-2023, please see Exhibit 24.

Capital One Philanthropy

Capital One believes it has a unique responsibility to contribute to the economic well-being of the communities in which it does business. It invests in its communities by providing resources that support economic opportunity for residents and local businesses. By focusing on philanthropic grants, specialized CD services and associate volunteerism on education, financial literacy, affordable housing and small business/workforce development, Capital One helps make communities dynamic places where families can live, work, grow and realize their dreams.

During the period 2020 through 2023, Capital One distributed 8,404 grants to non-profit organizations totaling $370 million. Approximately half of these funds have been CRA-qualified, serving primarily LMI populations. Capital One also shared the professional expertise of its associates with these same community partners. CONA associates delivered more than 208,500 hours of volunteer service in 2020-2023 to further community impact. Approximately 61% of these hours were CRA-qualified (i.e., CD services). Investing time, money and intellectual capital into each community partnership demonstrates Capital One's commitment to sustainable change.

The Covid-19 pandemic had a very significant impact on Capital One's ability to deliver in-person services. However, the bank worked with its partners to establish virtual capabilities so that it could continue delivering valuable CD services to partners and their clients during the pandemic.

Many of CONA's volunteer activities involve pro bono services contributed by CONA associates. This type of volunteerism is particularly valuable to CD organizations and small businesses because it gives them access to specialized talent, high-impact skills, and industry insight and innovations. CONA provides services from a variety of practice areas, including Brand, Communications, Cybersecurity, Data, Design, Finance, Human Resources, Legal, Product, and Technology.

Capital One is honored to have been recognized for the 11th consecutive year as one of America's most community-minded companies in the Points of Light Civic 50.[59] The following are a few examples of the company's philanthropic programs, focus areas and grants:

- CONA associates provided 401 total hours of CD service to a New York nonprofit organization whose mission is to close the opportunity divide by ensuring that LMI young adults gain the skills, experiences, and support that will empower them to reach their potential in higher education and their careers. Classroom training in technical courses and soft-skills training, such as time management and networking, equip students with the attitudes, behaviors, and versatility needed to excel in the 21st century economy. Students then enter an internship with a corporate partner in order to put their classroom training into practice. The volunteer service hours, most of which were pro bono services provided by associates from the bank's human resources and technology areas, trained program participants on resume writing and interviewing skills. CONA also provided the organization with $65,000 in grants. The bank's efforts served the critical community needs of workforce development and increasing self-sufficiency for the LMI population.

- Provided a grant of $125,000 to support the programs of the Philadelphia chapter of an organization that works to increase economic opportunities for formerly incarcerated people in order to improve their lives and help them remain in their

[59] The Civic 50 is an annual initiative organized by Points of Light that recognizes the 50 most community-minded companies in the United States. The Civic 50 winners are public and private companies with U.S. operations and revenues of $1 billion or more and are selected based on four dimensions of their U.S. community engagement program—investment, integration, institutionalization, and impact. For more information, *see* https://ww2.pointsoflight.org/civic50/https://www.pointsoflight.org/the-civic-50/.

communities. The organization provides low-interest loans and financial coaching to formerly incarcerated people, helping them build credit and achieve their self-determined goals. CONA's funding helps address a critical need, as people who have been incarcerated often face permanent barriers to securing transportation, housing, employment, and capital for building a business. When individuals are released from jail or prison, they are further burdened by court-ordered debt. Most are ineligible for traditional bank financing or are subject to prohibitively high interest rates. These combined hurdles limit the economic opportunity of formerly incarcerated people and prevent them from reaching their potential. As a result, some return to criminal behavior, increasing the likelihood of reincarceration and damaging the stability of their families and communities.

- CONA technology associates provided 242 hours of pro bono service to benefit a Phoenix nonprofit financial counseling agency that helps people transform their financial situation with one-on-one guidance to pay off debts, regain financial independence, and save for the future. Most of the organization's clients are LMI. An industry pioneer and leader, it has supported consumers in financial distress since 1987. Bank associates helped develop technology applications for the organization.

- In 2023, CONA provided a $50,000 grant to a CDFI that makes small business loans ranging from $5,000 to $100,000 to financially marginalized entrepreneurs. The CDFI's loans offer affordable rates and include a restorative approach, which includes modifications on a case-by-case basis if the business runs into challenges. The organization also offers business consulting and training. CONA's 2023 funding supports small businesses in Oakland. Previously, during the period 2020 through 2022, the bank provided $60,000 in grants to support the CDFI's programs, including pandemic response, in San Francisco and Oakland.

- Provided a total of $115,000 in grants to a CDC with a mission to provide a comprehensive array of social welfare and CD services to assist LMI individuals and other persons in need, and to contribute to community revitalization and cultural preservation in the Little Tokyo neighborhood in Los Angeles. Grants totaling $80,000 provided funding for a resident services support program, which provides bilingual case management, employment preparedness, childcare referrals and financial wellness programs to empower people to achieve greater self-sufficiency. In addition to these services, the program assists clients with their deferred rent and connects them to landlords to establish payment plans. The provision of these services is intended to reduce the number of evictions and allow more families to maintain their housing. The remaining $35,000 of CONA's grant funds supported a small business program and pandemic emergency relief.

- Provided $300,000 in grants to a nonprofit health system that serves Louisiana. A majority of the grant funds support the organization's workforce development program to close the nursing shortage in Louisiana by creating more opportunities for aspiring nurses of all backgrounds. The organization partners with colleges, universities, and high schools around the state to identify nursing candidates. This innovative program, the only of its kind in the state, is a free, four-year dual

enrollment program that provides students from various parishes the opportunity to earn college requirements for Licensed Practical Nurse (LPN) programs. The program launched in 2023 with a cohort of 20 students. Trainees complete coursework and clinical requirements equivalent to other state-approved LPN programs. In addition to the intensive healthcare and medical coursework, trainees complete "impact training" provided by the health system, which includes workplace ethics training, communications, and problem-solving strategies. In addition to supporting the LPN program, CONA helped fund a program that trains both incumbent workers and job seekers from non-traditional or under-skilled entry level career pathways for roles in the healthcare industry. In addition, CONA associates provided financial education training for the organization.

- Provided $150,000 to a Detroit microloan fund to support underserved entrepreneurs who cannot qualify for a CDFI loan or mainstream financing sources. The mission of the fund is to provide access to capital to historically underserved populations and/or populations located in LMI neighborhoods in Detroit, Hamtramck, and Highland Park who have been excluded from traditional and alternative capital sources. The fund's mission includes small business education, building credit scores, and encouraging financial stability that will help aspiring entrepreneurs to transition to mainstream banking. The fund provides access to capital to small businesses in the form of loans ranging from $5,000 to $50,000. It also offers pre-loan technical assistance for aspiring entrepreneurs that includes, but is not limited to, business plan development, the pre-loan application process, understanding financial statements and the need for projections, and financial education to existing and emerging underserved entrepreneurs. CONA's funds have supported counseling, financial education and training services for small businesses.

- Provided a $200,000 grant to a Houston organization whose mission is to unlock opportunity by connecting families in underserved communities to affordable internet service and computers, and delivering digital skills training. The bank's grant supports a digital skills training program designed to engage LMI adults, including those 65 and older. CONA's efforts address the critical need to close the digital divide.

- From 2020 through 2023, CONA provided $2.9 million in grants and 580 pro bono service hours to improve college access for LMI students nationally. This multi-year effort started during the Covid-19 pandemic, which exacerbated the phenomenon of "summer melt," when high school graduates cancel their plans to attend college before classes begin. A major barrier to improving college access, particularly for LMI and first-generation students, involves a lack of information, in part due to overloaded school counselors who juggle caseloads of nearly 500 students per counselor, on average. Students' lack of awareness about financial aid options and the overall cost of college contributes to low completion rates of the Free Application for Federal Student Aid (FAFSA) form and billions of dollars in federal student aid left on the table each year. Capital One responded to this critical need by investing in a free virtual assistant powered by artificial intelligence that served approximately 773,000 LMI and first-generation students across the country from 2020 through

2022. Capital One associates also volunteered 580 pro bono hours to help optimize the virtual assistant's technology. Early results demonstrated the effectiveness of this intervention, including an engagement rate (i.e., the percentage of students who sent at least one message to the virtual assistant) of 62.7%, significantly higher than the average of 15% for similar interventions; and 18,000 hours saved that traditionally would have been spent consulting with a college advisor. Capital One, in partnership with several community organizations, has continued the positive momentum generated by the program's promising early results by expanding the virtual assistant and continuing to refine the technology to ensure equitable access to different groups of students, including English language learners and students of color. These efforts demonstrate CONA's innovation in addressing the problem of college access at scale; its responsiveness, in tailoring the technology to meet the needs of specific student populations, with a focus on LMI and first-generation students; and its thought leadership in the field of education and technology, in partnering with research institutions to publish white papers and share the program's learnings to further expand its impact and improve its effectiveness.

- During the Covid-19 pandemic, CONA provided grants totaling $1,029,521 to a nonprofit organization that feeds the hungry through a nationwide network of food banks, pantries, and meal programs. The bank's funding supported the organization's pandemic response efforts.

- And beyond CRA, but a vital example of Capital One's commitment to the community, in 2021, CONA donated a historic building on the Wilmington Riverfront valued at $4.7 million to Delaware State University, a Historically Black College or University, to establish a new Downtown campus. Through the DSU Foundation, and the Delaware State University's Office of Adult and Continuing Education, CONA is funding 30 scholarships for DSU students to participate in technology and credentialing certification programs designed to develop critical job skills across various industry platforms to increase employability opportunities for TTC customers. All students who complete the program are eligible for national certifications.

Lastly, CONA's physical network is complemented by its digital delivery systems, such as online and mobile banking. CONA's overall service delivery strategy has proven extremely effective in attracting, serving, and retaining customers in LMI geographies.

Since the last evaluation period, from 2020 through 2023, customers in LMI areas opened approximately 1,550,000 new checking accounts with no monthly fees, no minimum balance requirements, and over 1,200,000 new savings accounts in CONA's AAs. Additionally, customers in LMI areas opened more than 435,000 new checking accounts in 2023 in CONA's AAs, which was more than 200,000 (or 89%) above the number opened during 2019. Similarly, customers in LMI areas opened over 390,000 new savings accounts in 2023 in CONA's AAs, which was about 190,000 (or 93%) more than the number opened during 2019. This represents a significant increase in the number of accounts held by customers in LMI areas and demonstrates the effectiveness of CONA's overall retail strategy in serving LMI populations through a combination of branch, cafe and digital strategies with best-in-class products.

Furthermore, there were more than 1,960,000 open (i.e., retained) checking accounts, with no monthly fees, no minimum balance requirements and no overdraft fees, owned by customers in LMI areas in CONA's AAs on December 31, 2023, which was more than 910,000 (or 87%) above the number of retained checking accounts held by customers in LMI areas in CONA's AAs on December 31, 2019. Similarly, there were more than 1,660,000 retained savings accounts held by customers in LMI areas in CONA's AAs on December 31, 2023, which was more than 540,000 (or 49%) higher than the number of retained savings accounts held by customers in LMI areas in CONA's AAs on December 31, 2019. This represents a significant increase in the number of accounts held by customers in LMI areas and the successful retention of account holders in LMI areas reinforces the effectiveness of CONA's overall retail strategy in serving LMI populations through a combination of branch, cafe and digital strategies with best-in-class products.

CONA's consumer checking and savings accounts are designed with the customer's needs being foundational, having no monthly fees or minimum balance requirements, and are particularly attractive and beneficial to LMI populations. CONA became the first top-ten retail bank to eliminate all overdraft fees and non-sufficient fund ("NSF") fees for its consumer banking customers in 2022. As a result of this change, CONA's flagship 360 Checking account was awarded "Bank On" certification by the Cities for Financial Empowerment Fund, a national nonprofit organization that works to ensure that everyone has access to a safe, affordable transactional banking account. The certification standards include core and strongly recommended features that address cost, functionality, and consumer safety. They establish an ambitious, but achievable, baseline for safe, affordable, and appropriate accounts that meet the needs of consumers with low incomes, particularly those outside the financial mainstream.

For additional examples of CONA's grants and philanthropic activities, please see Exhibit 25.

2. Discover Bank's CRA Activity Since Their Last CRA Evaluations

Discover Bank is also proud of the key attributes of its CRA program and governance. The following illustrates Discover Bank's performance against goals for "Outstanding" in 2022 and 2023:

(a) **Strategic Plan Goal 1: New CD Loans and Investments** – To meet the "Outstanding" goal, Discover Bank needed to provide $278 million ($134 million for 2022 and $144 million for 2023) in new financing and commitments for qualified community development loans and investments. In total, Discover Bank provided over $330 million with over $134 million lent, invested, and committed in 2022 and over $196 million lent, invested, and committed in 2023.

- As noted above, Discover Bank created the DAHIF, a Discover Bank-owned LIHTC fund, with Nationwide Mutual Insurance Company ("Nationwide") as the manager and guarantor of the fund. Nationwide works with syndicator partners to originate, underwrite, and provide asset management for specific LIHTC-eligible properties in geographical areas defined by Discover Bank.

In 2022, Discover Bank committed $62 million in equity to 13 properties in 2022 and $112 million in equity to 16 properties in 2023.

- Discover Bank continued to help the Milford Housing Development Corporation ("MHDC"), the largest nonprofit developer in Discover Bank's AA, to acquire the funding needed for the redevelopment of 410 critical units of affordable housing located in the highly desirable beach resort area within Discover Bank's AA. The projects were awarded $8 million in American Rescue Plan Act ("ARPA") funding in 2023 and a $8 million congressional appropriation was approved with the 2024 federal budget, thus setting up the projects for commencement of rehabilitation in 2025.

- As noted above, Discover Bank created the Development Fund, a NMTC fund owned to invest in opportunities in geographical areas defined by Discover Bank. Discover Bank committed $13 million in equity to three projects in 2022 and $31 million in equity to 10 projects in 2023. Two noted projects Discover Bank invested in were the Justice Thurgood Marshall Center Amenity and the East Side Charter School STEM facility.

    - The Thurgood Marshall Amenity Center, a former segregated elementary school in Baltimore's Upton community, will be a 22,068 square foot facility consisting of 12 repurposed classrooms, which are expected to be subleased for use as a museum and art gallery, public event space, and office space. In addition, the Beloved Community Services Corporation ("BCSC") will join forces with the University of Maryland to utilize the facility as a source for critical services related to crime prevention for the residents of Upton and West Baltimore.

    - The Chemours Community Discovery STEM HUB will be a 40,000 square foot STEM facility for a charter school located in a low-income census tract in the City of Wilmington. The addition will be to the existing school East Side Charter facility that currently serves 474 students in kindergarten through 8th grade. The STEM facility will be available during non-school hours and will be managed by the Wilmington Public Library to offer educational, employment and cultural programs to community residents. Discover Bank contributed greatly to enabling the project to receive two allocations of NMTCs. In addition to the NMTC investment, Discover Bank provided a $3.6 million permanent loan facility and up to a $3.5 million bridge loan facility in 2023. This innovative approach demonstrates Discover Bank's ability to utilize multiple financing channels and relationships to support development.

- Discover Bank continues to support the DSHA MBS Purchase Program. In 2022 and 2023, Discover Bank funded (or committed to fund) $48.2 million and $35 million, respectively.

- Discover Bank established the Discover Financial Health Improvement Fund ("DFHIF") in 2023, which supports start-ups and early-stage companies that offer the type of products and services that are focused on underserved LMI individuals and small businesses. Discover Bank committed to investing $36 million in total equity capital to facilitate the funding of companies and to meet the fund's obligations over the expected 10-year life of DFHIS. The purpose of the DFHIF is to help entrepreneurs scale their technologies so that they can deliver appropriate financial/payment products and services that support LMI consumers and small businesses. Where appropriate, the fund's managers will emphasize supporting diverse founders (i.e., founders of color and female founders) and founders who have lived experience as LMI consumers.

(b) **Strategic Plan Goal 2: Ratio of Community Development Loans and Qualified Investments to Average Assets** – Discover Bank achieved the 0.60% ratio of new community development loans and qualified investments and prior book value of investments to average its assets in 2022 and 2023; this activity met the respective annual goals for Outstanding performance.

(c) **Strategic Plan Goal 3: Community Development Grants** – Discover Bank provided $3,960,000 in community development grants in 2022. In 2023, Discover Bank provided $4,020,000 in community development grants; this activity met the respective annual goals for Outstanding performance.

Discover Bank continued to provide grants and in-kind contributions to various organizations, financial institutions, and governments to help meet the credit needs of LMI persons and small businesses within the AA and Discover Bank's Broader Area. Areas of emphasis continued to include qualified grants for affordable housing, small business and economic development, financial literacy, and Covid-19 response and recovery. Notable examples of qualified grants provided since the last evaluation period include:

- Discover Bank provided SSCFCU $975,000 in funding needed to support three startup minority owned fintech companies to issue the credit union's first debit card, secured credit card, and an investing application. The Discover team worked with the early-stage companies to have the cards associated with the debit card and secured credit card issued on the Discover Global Network and provided technical assistance in helping to identify their issuing bank partners. The debit card product is built in connection with a mobile wallet and social networking platform that will encourage savings, investing and other wealth building opportunities including homeownership and entrepreneurship. Bank representatives also worked to identify a fintech company capable of delivering a fractional share investing platform that will allow members to buy and sell stocks of companies in amounts as low as $5 with an easy and simplified application. With these three products, SSCFCU will now have additional tools to allow its members to participate in mainstream financial services for free in a safe and sound environment.

- In response to the increased need for emergency shelter, Discover Bank provided a $75,000 grant to Springboard Collaborative to make improvements to the communal areas of their new pallet village, which provides 64 square foot micro homes for people experiencing homelessness. The village opened within Discover Bank's AA in 2023 and serves nearly 50 people. Discover Bank also supported a nearby transitional home that serves individuals and families with $15,000 annual operating grants and assisted West End Neighborhood House with a $100,000 grant to support the site acquisition of a property within Discover Banks AA that will serve as an expansion of a program that provides housing and supportive services to youth experiencing homelessness and youth exiting foster care.

- Discover Bank provided a $50,000 grant to support a collaboration between the Delaware Community Foundation, the University of Delaware's Partnership for Healthy Communities, and the Delaware Community Foundation, which provides funding and technical support to LMI communities to develop and implement approaches to address health and economic disparities.

- To support workforce development, Discover Bank provided a $50,000 to the NERDiT Foundation to support their apprentice and pre-apprentice programs in electronic device repair and recycling. NERDiT operates the only Responsible Recycling (R2) certified electronic recycling business in Delaware, providing an environmentally friendly place for the community to recycle old or broken technology, while providing the skills necessary for people who are either unemployed or underemployed to get training and establish a career in the technology repair business.

- Discover Bank made a $25,000 grant to Survivor Ventures, which addresses the employment needs of survivors of human trafficking–an emerging issue in Delaware. The program empowers trafficking survivors by reimbursing small businesses for participants' wages during the first year of employment, which supports small businesses while lowering barriers for survivors re-entering the workforce. The program also provides entrepreneurship training to empower survivors to develop their own small businesses to augment their income.

- A $60,000 grant to The Pete Du Pont Freedom Foundation supports the Equitable Entrepreneurial Ecosystem (E3) initiative that delivers in-depth, personalized training and technical assistance to Black and Latinx small business owners within Discover Bank's AA.

- To support financial education for the community and children in the classroom, Discover Bank provided a grant of $57,000 to support the Delaware Council on Economic Education for two initiatives. The first, Delaware.Money, aggregates financial education resources of nonprofits that provide services to LMI adults. The second initiative focused on training K-12 educators to deliver personal finance and economic education instruction.

- Discover Bank provided a $50,000 grant to Roofs from the Heart to repair and replace roofs for LMI homeowners throughout Delaware. The program works in concert with MHDC's home repair program to leverage funding from multiple sources to ensure that properties can receive repairs inside and out, since roofs are often one of the costliest repair items.

- Discover Bank provided a $15,000 grant to the Delaware Recreation Education Athletics and Mentoring ("DREAM") Association to support the Stocks on the Block program. The program seeks to educate LMI children and their parents on the importance of wealth creation through investing in a safe and sound manner.

- Discover Bank provided grants of $250,000 each to Kent and New Castle Counties in Delaware to establish the Kent County Growth Fund and the Grow NCC Fund as part of a SBA 7a lending program.

(d) **Strategic Plan Goal 4: Community Development Services** – As discussed above, Discover Bank has created a point system to track community development services provided by personnel within the AA and Discover Bank's regional area. Discover Bank achieved 305 points, including 152 points in 2022 and 153 points in 2023, which exceeded the respective annual goals of 142 points in 2022 and 144 points in 2023. Notable examples of qualified services provided during the evaluation period included:

- Discover Bank supported the Delaware Community Reinvestment Action Council ("DCRAC") in their efforts to reduce the racial wealth gap in the City of Wilmington through homeownership. Specifically, the bank connected DCRAC with the Metropolitan Wilmington Urban League to form a partnership for identifying families interested in homeownership and providing them with U.S. Housing and Urban Development (HUD)-certified housing counseling services.

- Discover Bank partnered with Stepping Stones Community Federal Credit Union and two small minority-owned development companies, WilmInvest and PittPass Holdings, to secure funding to purchase and rehabilitate homes for homeownership. Discover Bank representatives took a leadership role in helping WilmInvest and PittPass Holdings obtain a loan from NeighborGood Partners CDFI to purchase a portfolio of properties that can be converted into homeownership and led the successful application process for a Federal Home Loan Bank Affordable Housing Program grant of $750,000 to renovate the first five homes. With the FHLB grant and DCRAC downpayment and settlement cost assistance, the mortgages are estimated to be $90,000, allowing the program to serve very low-income families. Discover Bank representatives also helped to identify program partners including the Wilmington Housing Authority, the Community Education Building, YWCA of Delaware, and the United Way to provide financial coaching, case

management services, pre- and post-homeownership counseling, and identification of potential homebuyers.

- Discover Bank took a leadership role in providing capital to small businesses, nonprofits, and underserved consumers through engagement with CDFIs. Bank representatives also serve on the boards of Locus (formerly Virginia Community Capital), NeighborGood Partners, Stepping Stones Community Federal Credit Union, and True Access Capital.

- Discover Bank representatives worked with Capital Good Fund, Nemours Children's Hospital and United Way's $tand by Me program to offer financial coaching and low interest loans to the LMI parents of patients that need to purchase handicapped accessible vehicles or make home repairs to facilitate the discharge of their children from the hospital to home.

- Bank representatives supported small business serving entities in a variety of ways. As a new member of the Kent and Sussex County Equitable Entrepreneurial Ecosystem (E3) committees, a Bank representative works with the Pete Du Pont Freedom Foundation to help underserved small businesses grow, sustain, and accelerate their businesses. The representative reviews applications for the program and makes individual recommendations for each applicant about additional programs, partners, or markets to consider pursuing and assists the Foundation's leadership by reviewing the cohort's progress throughout the year. Representatives also served on the Small Business Development Center's Advisory Committee, the board of True Access Capital, a CDFI that provides technical assistance and lending to small businesses with a focus on minority and women owned businesses, the board of the Emerging Enterprise Center that provides technical assistance and a coworking space to small businesses, and supported the launch of the Kent County Growth Fund and Grow NCC Fund.

(e) **Strategic Plan Goal 5: Consumer Loans in Moderate-Income Census Tracts in the Assessment Area** – Discover Bank extended $11.4 million in consumer credit to individuals who resided in moderate-income census tracts within Discover Bank's AA, including $4.35 million in 2022 and $7.06 million in 2023, which exceeded Discover Bank's goals for Outstanding performance in both years.

These attributes have contributed to Discover Bank's CRA performance since Discover Bank's last CRA Evaluation. As discussed above, the evaluation period for the Discover Bank CRA Evaluation concluded on December 31, 2021. Since the end of its evaluation period, Discover Bank, for 2022, operated under its FDIC-approved 2021-2025 CRA Strategic Plan (effective January 1, 2021 through December 31, 2025) and, for 2023, under its modified FDIC-approved 2023-2027 CRA Strategic Plan (effective January 1, 2023 through September 31, 2027). Discover Bank has continued to demonstrate very strong CRA performance and significantly positive impacts on its communities.

D. Pro Forma CRA Program at CONA

CONA will continue to be committed to advancing its strong record of CRA performance while helping to serve the needs of its communities after consummation of the Proposed Transaction. The Proposed Transaction will provide CONA with an opportunity to bring the best CRA practices and products of both entities to the combined bank's customers.

On consummation of the Proposed Transaction, the combined banking organization will continue to operate under CONA's policies and procedures. CONA expects to maintain or exceed the level of Discover Bank's CRA activities in the Discover Bank AA and broader area and will collaborate with Discover Bank to evaluate CRA activities, programs, products, and business strategies ensuring CONA's continued strong performance under the CRA. Care will be taken to meet with the existing Discover Bank CRA staff to understand their current compliance practices, policies and procedures, in addition to understanding how to best integrate the Discover Bank CRA and outreach teams and data into the CONA CRA program and governance structure. CONA will work with Discover Bank to understand its product set in more detail, and how the products and programs are meeting the needs of the community. As new opportunities are identified to address community needs, CONA and Discover will apply their resources and expertise to work with community organizations to address those needs. The combined entities will leverage respective learning and capabilities on strategies to best serve LMI populations and communities.

CONA will engage with Discover Bank staff in meeting with community and advocacy groups to understand the impacts and needs of LMI and underserved communities and will prioritize the findings to serve communities throughout their respective AAs, including LMI and other underserved communities. The combined bank will have a community outreach team that has a comprehensive skillset and broad CRA expertise. Lastly, the CONA CD lending and investment teams will work with Discover Bank staff to understand each other's products and programs to best meet the needs of the community.

In summary, the merging of CONA and Discover Bank bring together two strong banking entities with a longstanding commitment to CRA. The combination of the best practices and complementary areas of expertise of these two financial institutions will result in an enhanced and more impactful contribution to the communities in which they operate.

Conclusion

The Proposed Transaction will join two banks with highly compatible business models. The resulting institution will have a comprehensive risk management system and compliance culture better able to serve consumers, businesses and other customers across the nation. All of the statutory factors that the Federal Reserve must consider in acting on the Application are consistent with approval. Capital One has ample financial and managerial resources to successfully consummate the Proposed Transaction. COFC, Merger Sub, CONA, Discover and Discover Bank are well capitalized, and COFC and CONA will remain so upon consummation of the Proposed Transaction.

Capital One, including CONA, has designated the ILT and established the IMO with cross-divisional representatives and workstreams to ensure a successful integration of Discover Bank into CONA. CONA has a robust risk management program, including for BSA/AML/Sanctions Compliance and Consumer Compliance. Capital One will use its expanded risk management program for the combined bank to ensure continued safe and sound operations.

The Proposed Transaction will not substantially lessen competition in any banking market. The parties do not overlap in any local banking market and will have a *de minimis* impact with respect to nationwide deposits. Both COFC and Discover are credit card issuers, but any such market is not concentrated and intensely competitive, and the Proposed Transaction will not affect the competitive dynamics of card issuing. The Proposed Transaction will enable COFC to invest in and grow its banking products, to innovate and bring to market new products and services, and make Discover's payments networks more attractive through, *inter alia*, improved compliance and risk management. By vertically integrating a more scaled credit card portfolio with Discover's payments networks, the Proposed Transaction will further strengthen these networks. The Proposed Transaction and this Application thus present the most viable chance to deconcentrate and increase competition among payments networks in the United States.

In addition, the Proposed Transaction will not result in any material increased risk to the U.S. banking or financial system. Instead, the Proposed Transaction will have a systemically stabilizing impact by creating a combined company that has increased earnings capability and financial strength. These benefits will enable the combined organization to compete more effectively against the largest U.S. banking organizations that operate nationally and are aggressively seeking to increase their deposit market shares, particularly in the major metropolitan areas of the United States, as well as the larger regional banks that also operate on a national level and have seen substantial growth over the last decade. Capital One's financial strength will also support its continued high level of investment in technologies and innovation to effectively address the evolving needs of customers and communities for innovative banking services and cybersecurity protections.

CONA's commitment to continuing its Outstanding CRA performance record will benefit the customers and communities served by the combined bank. Customers of CONA and Discover Bank will also benefit from the resulting broader banking products and service offerings of the combined organization. In addition, customers and communities will benefit from the culture and dedication of Capital One that is focused on providing superior customer service to consumers and businesses alike and economic support to all segments of its communities, including LMI and other underserved populations. In addition, the continuation of Capital One's shared prioritization of diversity and inclusion of customers, communities and employees will benefit all of Capital One's constituents.

For all the reasons discussed in this Application, including the exhibits, COFC and Merger Sub respectfully submit that the Application should be approved.

RESPONSES TO THE FORM FR Y-3 INFORMATION REQUEST ITEMS

Proposed Transaction

1. Describe the transaction's purpose. Identify any changes to the business plan of the Bank/Bank Holding Company to be acquired or the Resultant Institution. Identify any new business lines.

The purpose of the Proposed Transaction is to combine two highly compatible banking organizations with complementary business models, strong financials and capital ratios, and dedication to the communities they serve. Capital One will acquire and operate the Discover Global Network to process transactions for the branded credit and debit cards and provide payment transaction processing and settlement services.

Please see the discussion in the *Preliminary Statement – Convenience and Needs of the Communities and Preliminary Statement – Executive Summary* for additional information.

2. Provide the following with respect to the Bank/Bank Holding Company to be acquired:

a. Total number of shares of each class of stock outstanding;

As of February 15, 2024, there were (i) 250,557,658 shares of Discover Common Stock issued and outstanding; (ii) 320,984,826 shares of Discover Common Stock held in treasury; (iii) 1,345,280 shares of Discover Common Stock reserved for issuance upon the settlement of outstanding Discover RSU Awards (other than Discover RSU Awards outstanding under the Discover Directors' Compensation Plan); (iv) 255,748 Discover RSU Awards outstanding under the Discover Directors' Compensation Plan; (v) 334,218 shares of Discover Common Stock reserved for issuance upon the settlement of outstanding Discover PSU Awards (assuming performance goals are satisfied at the target level) or 501,327 shares of Discover Common Stock reserved for issuance upon the settlement of outstanding Discover PSU Awards (assuming performance goals are satisfied at the maximum level); (vi) 1,559,512 shares of Discover Common Stock reserved for issuance under the Discover ESPP; and (vii) (A) 5,700 shares of Discover Series C Preferred Stock issued and outstanding and (B) 5,000 shares of Discover Series D Preferred Stock issued and outstanding.

b. Number of shares of each class now owned or under option by the applicant, by subsidiaries of the applicant, by principals of the applicant,[60] by trustees for the benefit of the applicant, its subsidiaries, shareholders, and employees as a class, or by an escrow arrangement instituted by the applicant;

[60] **The term principal as used herein means any individual, corporation, or other entity that (1) owns, or controls, directly or indirectly, individually or as a member of a group acting in concert, 10 percent or more of any class of voting securities or other voting equity interest of the entity; (2) is a director, trustee, partner, or executive officer; or (3) with or without ownership interest, participates, or has the authority to participate in major policy-making functions, whether or not the individual has an official title or is serving without compensation. If the applicant believes that any such individual should not be regarded as a principal, the applicant should so indicate and give reasons for such opinion.**

To the best of COFC's knowledge, none of COFC or CONA, or any of their subsidiaries or principals (including directors or senior executive officers), or any trustee for the benefit of any of the foregoing or employees of COFC or its subsidiaries (as a class), own or hold an option to acquire any shares of Discover or Discover Bank.

c. Number of shares of each class to be acquired by cash purchase; the amount to be paid, per share and in total; and the source of funds to be applied to the purchase;

None. As discussed in the *Preliminary Statement – Structure and Terms of the Proposed Transaction*, the Proposed Transaction is an all-stock transaction.

d. **Number of shares of each class to be acquired by exchange of stock, the exchange ratio, and the number and description of each class of the applicant's shares to be exchanged; and**

Each outstanding share of Discover Common Stock will be converted into the right to receive the Exchange Ratio. Each share of Discover preferred stock will be automatically converted into the right to receive one (1) share of the applicable series of new COFC preferred stock and each outstanding Discover depositary share will be automatically converted into a new COFC depositary share. Each Discover RSU award that is outstanding immediately prior to the effective time will be converted into a COFC RSU award, with the number of shares underlying such award adjusted based on the Exchange Ratio. Each such COFC RSU award will otherwise continue to be subject to the same terms and conditions (including vesting terms) as applied to the corresponding Discover RSU award. Each Discover PSU award that is outstanding immediately prior to the effective time will be converted into a COFC cash-based award in respect of an amount in cash equal to the product of (i) the total number of shares subject to the Discover PSU award, with the number of shares of Discover Common Stock determined based on the greater of target and actual performance through the last quarter ending simultaneously with or prior to the effective time for Discover PSU awards for which as of the effective time more than one year of the performance period has elapsed, and target performance for Discover PSU awards for which as of the effective time one year or less of the performance period has elapsed, multiplied by the product of the Exchange Ratio and the average of the closing sale prices of COFC Common Stock for the five full trading days ending on the day preceding the closing date. Each converted COFC cash-based award will otherwise continue to be subject to the same terms and conditions (including service-based vesting terms) as applied to the corresponding Discover PSU award.

A summary of the classes of stock to be exchanged pursuant to the Proposed Transaction is provided in the *Preliminary Statement – Structure and Terms of the Proposed Transaction*.

e. A copy of the purchase, operating, shareholder, trust or other agreements associated with the Proposed Transaction. Also, provide the expiration dates of any contractual arrangement between the parties involved in this application and a brief description of any unusual contractual terms, especially those terms not disclosed elsewhere in the application. Note any other circumstances that might affect timing of the proposal.

A summary of the principal terms of the Proposed Transaction is provided in the *Preliminary Statement – Structure and Terms of the Proposed Transaction* section above. An execution version of the Agreement is provided in Exhibit 1.

Resolutions approving the Proposed Transaction by COFC's Board of Directors and resolutions of the Board of Directors of CONA approving the Bank Merger and the filing of the related regulatory filings, as well as the related consent of COFC as the sole stockholder of CONA approving the Bank Merger, are provided in Exhibit 8, Exhibit 9 and Exhibit 10, respectively. Stockholder consent of COFC, as the sole stockholder of Merger Sub, and resolutions of Merger Sub's Board of Directors approving the First Step Merger are provided in Exhibit 11 and Exhibit 12, respectively.

Joint resolutions of the Boards of Directors of Discover and Discover Bank approving the Proposed Transaction, including the Bank Merger, and the filing of the Bank Merger application, as well as the related consent of Discover as the sole stockholder of Discover Bank, are provided in Exhibit 13 and Exhibit 14, respectively.

Capital One and Discover would like to consummate the Proposed Transaction as soon as practicable, in order to preserve the benefits of the Proposed Transaction and minimize the loss of employees and customers that results from a protracted period between announcing and closing a transaction.

3. If the Proposed Transaction is an acquisition of assets and assumption of liabilities, indicate the total price and the source of funds that the applicant intends to use for the proposed purchase, and discuss the effect of the transaction on the operations of the applicant.

Not applicable. The Proposed Transaction is not an acquisition of assets and assumption of liabilities.

4. If the Proposed Transaction involves the acquisition of an unaffiliated banking operation or otherwise represents a change in ownership of established banking operations, describe briefly the due diligence review conducted on the target operations by Applicant. Indicate the scope of and resources committed to the review, explain any significant adverse findings, and describe the corrective action(s) to be taken to address those weaknesses.

A summary of Capital One's due diligence review is provided in Confidential Exhibit A and the *Preliminary Statement – Financial and Managerial Resources* and *Future Prospects/Managerial Resources/Integration Planning and Experience* sections above.

5. Provide a list of all regulatory approvals and filings required for the Proposed Transaction and the status of each filing.

Please see the *Preliminary Statement – Required Approvals* section above for responsive information.

6. Provide a copy of any findings, orders, approvals, denials or other documentation regarding the Proposed Transaction issued by any regulatory authority.

Not applicable. There is no such documentation regarding the Proposed Transaction issued by any regulatory authority.

7. For applications filed pursuant to section 3(a)(1) of the BHC Act, if the Proposed Transaction would result in an organization other than a shell one-bank holding company, submit a pro forma organization chart showing the applicant's percentage of ownership of all banks and companies, both domestic and foreign, in which it directly or indirectly will own or control more than 5 percent of the outstanding voting shares.

Not applicable. The Application is filed pursuant to sections 3(a)(3) and 3(a)(5) of the BHC Act.

Financial and Managerial Information

8.

a. For an applicant that is not or would not be subject to consolidated capital standards following consummation of the Proposed Transaction,[61] provide parent company balance sheet as of the end of the most recent quarter, showing separately each principal group of assets, liabilities, and capital accounts; debit and credit adjustments (explained by detailed footnotes) reflecting the Proposed Transaction; and the resulting pro forma balance sheet. The pro forma balance sheet should reflect the adjustments required under business combination and fair value accounting standards.

Not applicable. COFC is subject to consolidated capital standards, which will continue to be the case after consummation of the Proposed Transaction.

b. For an applicant that is or would be subject to consolidated capital standards following consummation of the Proposed Transaction,[62] provide parent company and consolidated balance sheets as of the end of the most recent quarter, showing separately each principal group of assets, liabilities, and capital accounts; debit and credit adjustments (explained by detailed footnotes) reflecting the Proposed Transaction; and the resulting pro forma balance sheets; and the financial information provided should be prepared in accordance with GAAP, and be in sufficient detail to reflect any:

- **Common equity and preferred stock;**

[61] **This type of applicant includes a company or similar organization that on a pro forma basis would be subject to the Board's Small Bank Holding Company Policy Statement.**
[62] **This type of applicant includes a company or similar organization that on a pro forma basis would not be subject to the Board's Small Bank Holding Company Policy Statement.**

- **Other qualifying capital;**[63]
- **Long- and short-term debt;**
- **Goodwill and all other types of intangible assets; and**
- **Material changes between the date of the balance sheet and the date of the application (explained by footnotes).**

Please see Confidential Exhibit C, which includes the requested balance sheet information, as of December 31, 2023.

c. Provide a broad discussion on the valuation of the target entity and any anticipated goodwill and other intangible assets. Also discuss the application of fair value and any election to apply push-down accounting adjustments, as appropriate.

Please see Confidential Exhibit C, which includes the requested information in the Notes or Assumptions to the financial charts provided.

9. For an applicant that is or would be subject to consolidated capital requirements under Regulation Q (12 CFR part 21) following consummation of the Proposed Transaction, provide a breakdown of the organization's existing and pro forma risk-weighted assets as of the end of the most recent quarter, showing each principal group of on and off-balance sheet assets and the relevant risk-weight. Also, identify the existing and pro forma components of common equity tier 1, additional tier 1 and tier 2 capital pursuant to the capital adequacy regulations as of the end of the most recent quarter, and provide calculations of applicant's existing and pro forma common equity tier 1 capital, tier 1 capital, total capital, and leverage ratios pursuant to the capital adequacy regulations. If applicable, also provide the applicant's existing and pro forma supplementary leverage ratio pursuant to the capital adequacy regulations.

Please see Confidential Exhibit C, which includes the requested capital-related information for the Proposed Transaction.

10. Provide for the applicant and any other Bank(s)/Bank Holding Company(ies) that would result from the proposal:

a. A description of any plans (in connection with the Proposed Transaction, or otherwise) to issue, incur, or assume additional common equity, preferred stock, other qualifying capital, and/or debt. Specify the amount, purpose, name and location of the issuer and/or lender; provide a copy of any loan agreement, loan commitment letter from the lender, or other underlying agreement which provides the interest rate, maturity, collateral, and proposed amortization

[63] **Other qualifying capital includes, but is not limited to, trust preferred securities.**

schedule; and discuss what resources would be used to service any debt or capital instruments arising from the Proposed Transaction.

Each outstanding share of Discover common stock will be converted into the right to receive 1.0192 shares of COFC Common Stock. In addition, each outstanding share of Discover preferred stock will be converted into the right to receive one share of a newly created series of COFC preferred stock having materially the same terms as the applicable series of Discover preferred stock. COFC intends to file a registration statement on Form S-4 with the SEC to register the shares of COFC's common stock that will be issued to Discover stockholders in connection with the Proposed Transaction. The registration statement will include a joint proxy statement of COFC and Discover that will also constitute a prospectus of COFC.

b. If the Proposed Transaction results in a change in ownership of the company (e.g., due to an exchange of stock), provide a current and pro forma shareholders list.

COFC

COFC is a public company whose common stock trades on the New York Stock Exchange under the symbol "COF." COFC has a broad shareholder base. Pursuant to COFC's Form 10-K, filed February 23, 2024, as of January 31, 2024, 380,212,220 shares of COFC Common Stock were issued and outstanding. As of the date of this Application, there were no persons or entities known by COFC to beneficially own 10% or more of the outstanding shares (a "10% Shareholder") of any class of COFC Common Stock and the only persons or entities known by COFC to beneficially own 5% or more of the outstanding shares (a "5% Shareholder") of any class of COFC Common Stock are (a) Vanguard Group Inc. ("Vanguard"), (b) Capital Research and Management Company (aka World Investors) ("World Investors"), (c) Dodge & Cox Inc. ("Dodge & Cox") and (d) BlackRock, Inc. ("BlackRock"). Shown below are the number of shares of COFC Common Stock (and percentage of COFC Common Stock outstanding) held by such holders (based on the most recent Schedule 13G filed by such holders with the SEC:

Beneficial Owner[64]	Number of Shares of COFC Common Stock Held	Percent of Outstanding COFC Common Stock Held
Vanguard	30,666,688[65]	8.1%
World Investors	27,262,580[66]	7.2%
Dodge & Cox	25,220,598[67]	6.6%
BlackRock	24,742,445[68]	6.5%

[64] "Beneficial ownership" for purposes of the table is determined according to the meaning of applicable securities regulations and based on a review of reports filed with the SEC pursuant to section 13(d) of the Securities Exchange Act of 1934 (the "Exchange Act").
[65] As of December 29, 2023, as filed on Schedule 13G.
[66] As of December 31, 2023, as filed on Schedule 13F.
[67] As of December 31, 2023, as filed on Schedule 13G.
[68] As of December 31, 2023, as filed on Schedule 13G.

Discover

Discover is a public company whose common stock trades on the New York Stock Exchange under the symbol "DFS." Like COFC, Discover also has a broad shareholder base. Pursuant to Discover's Form 10-K, filed February 23, 2024, as of February 16, 2024, 250,555,294 shares of Discover common stock were issued and outstanding. As of the date of this Application, the only 10% Shareholder of any class of Discover common stock is Vanguard and the only 5% Shareholders of any class of Discover common stock are (a) World Investors, and (b) BlackRock. Shown below are the number of shares of Discover common stock (and percentage of Discover common stock outstanding) held by such holders (based on the most recent Schedule 13G filed by such holders with the SEC:

Beneficial Owner[69]	**Number of Shares of DFS Common Stock Held**	**Percent of Outstanding DFS Common Stock Held**
Vanguard	32,331,025[70]	12.9%
World Investors	22,295,421[71]	8.9%
BlackRock	18,704,918[72]	7.5%

Pro Forma COFC

As discussed above, COFC does not know of any entity or individual that beneficially owns 5% or more of the outstanding shares of any class of COFC Common Stock currently, except Vanguard, World Investors, Dodge & Cox, and BlackRock. As a result of the Proposed Transaction, (a) the only 10% Shareholder of COFC on a *pro forma* basis would be Vanguard and (b) the only 5% Shareholders of COFC on a pro forma basis would be World Investors and BlackRock. None of these parties trigger any presumptions of control outlined in subpart D of the Federal Reserve's Regulation Y.

Beneficial Owner[73]	**Number of Shares of COFC Common Stock Held – *Pro Forma***	**Percent of Outstanding COFC Common Stock Held – *Pro Forma***[74]

[69] "Beneficial ownership" for purposes of the table is determined according to the meaning of applicable securities regulations and based on a review of reports filed with the SEC pursuant to section 13(d) of the Securities Exchange Act of 1934 (the "Exchange Act").
[70] As of December 29, 2023, as filed on Schedule 13G.
[71] As of December 29, 2023, as filed on Schedule 13G.
[72] As of December 31, 2023, as filed on Schedule 13G
[73] "Beneficial ownership" for purposes of the table is determined according to the meaning of applicable securities regulations and based on a review of reports filed with the SEC pursuant to section 13(d) of the Exchange Act.
[74] The pro forma organization will have approximately 635,578,176 shares of COFC Common Stock outstanding. This number was calculated as follows: 250,555,294 shares of Discover common stock outstanding as of February 15, 2024, multiplied by the exchange ratio of 1.0192 = 255,365,955 new shares of COFC Common Stock; 255,365,955 new shares of COFC Common Stock plus 380,212,220 shares of COFC Common Stock = 635,578,176 shares.

Vanguard	63,618,468[75]	10.0%
World Investors	49,986,073[76]	7.9%
BlackRock	43,806,497[77]	6.9%

To the best of Discover's knowledge, Dodge & Cox does not own any shares of Discover common stock and would hold only 4.0% of the outstanding common shares of COFC on a *pro forma* basis.[78]

c. Cash flow projections under the following limited circumstances:

(i) **For an applicant that is or would be subject to consolidated capital standards following consummation of the Proposed Transaction and that would incur or assume any debt in the proposal such that parent company long-term debt would exceed 30 percent of parent company equity capital, provide cash flow projections for the parent company for each of the next three years, along with supporting schedules for each material cash receipt and disbursement. If an applicant projects that dividends or other payments from subsidiary banks will be used to service parent company debt and/or other obligations, provide projections of subsidiary bank(s) assets, earnings, and dividends, as well as common equity tier 1, additional tier 1, total capital, and leverage ratios (including the supplementary leverage ratio, if applicable) pursuant to the capital adequacy regulations. If the combined assets of the subsidiary banks exceed the asset threshold of the Board's Small Bank Holding Company Policy Statement, subsidiary bank data may be shown on an aggregate basis;**

Please see Confidential Exhibit C for information about COFC's long-term debt and cash flow projections.

(ii) **For an applicant that is not or would not be subject to consolidated capital standards following consummation of the Proposed Transaction and that would incur or assume any debt or other obligations in the proposal such that parent company debt[79] would exceed 30 percent of parent company equity capital, provide cash flow projections for the parent company for each of the next twelve years, along with supporting**

[75] Calculated as follows: 32,331,025 shares of Discover common stock as of December 31, 2023, multiplied by the exchange ratio of 1.0192 = 32,951,780 new shares of COFC Common Stock; 32,951,780 new shares of COFC Common Stock plus 30,666,688 shares of COFC Common Stock = 63,618,468 shares.
[76] Calculated as follows: 22,295,421 shares of Discover common stock as of December 31, 2023, multiplied by the exchange ratio of 1.0192 = 22,723,493 new shares of COFC Common Stock; 22,723,493 new shares of COFC Common Stock plus 27,262,580 shares of COFC Common Stock = 49,986,073 shares.
[77] Calculated as follows: 18,704,918 shares of Discover common stock as of December 31, 2023, multiplied by the exchange ratio of 1.0192 = 19,064,052 new shares of COFC Common Stock; 19,064,052 new shares of COFC Common Stock plus 24,742,445 shares of COFC Common Stock = 43,806,497 shares.
[78] Calculated as follows: 25,220,598 shares of COFC Common Stock divided by 635,578,176 shares = 4.0%.
[79] **Including any debt issued/incurred by nonbanking subsidiaries, such as trust preferred securities.**

schedules for each material cash receipt and disbursement. These projections must clearly demonstrate the ability of the parent company to reduce the debt to equity ratio to 30 percent or less within twelve years of consummation and must take into account the schedule of principal reduction required by the parent company's creditor(s). Include projections of subsidiary bank(s) assets, earnings, dividends, and other payments to affiliates, as well as common equity tier 1 capital, tier 1 capital, total capital and leverage ratios. Explain the methods and assumptions utilized in the projections, and support all assumptions which deviate from historical performance.

Not applicable. COFC is subject to consolidated capital standards, which will continue to be the case after consummation of the Proposed Transaction.

d. If the subject transaction will be funded in whole, or in part, through the issuance of additional stock instruments, describe the current status of the stock raising efforts. Provide copies of the prospectus, private placement memorandum, and other documents associated with the capital raise. In addition, provide copies of any stock commitments, subscription agreements, or escrow account statements evidencing capital raised. Before submitting a final application, please contact the appropriate Federal Reserve Bank to discuss the timing considerations of the capital raising efforts with regard to submission of the application.

Please see the response to item 10.a. above summarizing the issuance of COFC Common Stock in connection with the Proposed Transaction. The joint proxy statement of COFC and Discover, which will also constitute a prospectus of COFC, will include a shareholder proposal requesting approval of the share issuance pursuant to applicable New York Stock Exchange rules and regulations, which the COFC Board of Directors will unanimously recommend a vote "FOR." The approval of the share issuance from the stockholders of Capital One is a condition to the completion of the Merger.

11. For applications filed pursuant to section 3(a)(1) of the BHC Act, provide for the applicant and the Bank a list of principals (including changes or additions to this list to reflect consummation of the transaction), providing information with respect to each as follows:

a. Name and address (City and State/Country). If the principal's country of citizenship is different from his or her country of residence, then state the country of citizenship;

b. Title or positions with the applicant and the Bank;

c. Number and percentage of each class of shares of the applicant and the Bank owned, controlled, or held with power to vote by this individual;[80]

d. Principal occupation if other than with the applicant or the Bank;

e. Percentage of direct or indirect ownership, if such ownership represents 10 percent or more of any class of shares, or positions held in any other depository institution or depository institution holding company.[81] Give the name and location of such other depository institution or depository institution holding company. (Information that has been collected or updated within the past 12 months may be submitted, unless the applicant has reason to believe that such information is incorrect.);

f. Interagency Biographical and Financial Reports (IBFRs) are required for certain individuals. Consult with the appropriate Reserve Bank for guidance on who should provide an IBFR. See SR 15-8 Name Check Process for Domestic and International Applications for more details; and

g. If the principal is a corporation or partnership, provide financial statements (balance sheets and income statements) for the two most recent fiscal years and the most recent quarter end. Discuss any negative trends in the financial statements.

Not applicable. The Application is being filed under sections 3(a)(3) and 3(a)(5) of the BHC Act.

12. For applications filed pursuant to sections 3(a)(3) or 3(a)(5) of the BHC Act, list any changes in management or other principal relationships for the applicant and any other Bank(s)/Bank Holding Company(ies) that would result from the proposal. For any existing or proposed principal of the applicant or the Bank/Bank Holding Company that is also a principal of any other depository institution or depository institution holding company, provide the following information:

a. Name, address, and title or position with Applicant, Bank/Bank Holding Company, and any other depository institution or depository institution holding company (give the name and location of the other depository institution or depository institution holding company);

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[80] **Include shares owned, controlled or held with power to vote by principal's spouse, dependents and other immediate family members. Give record ownership and, to the extent information is available, beneficial ownership of shares held by trustees, nominees, or in street names.**

[81] **For purposes of this application, a "depository institution" is defined as a commercial bank (including a private bank), a savings bank, a trust company, a savings and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union.**

b. Number and percentage of each class of shares of the applicant and the Bank/Bank Holding Company owned, controlled, or held with power to vote by this individual;[82]

c. Principal occupation if other than with the applicant or the Bank/Bank Holding Company; and

d. Percentage of direct or indirect ownership held in the other depository institution or depository institution holding company if such ownership represents 10 percent of more of any class of shares (Information that has been collected or updated within the past 12 months may be submitted, unless the applicant has reason to believe that such information is incorrect.); and

e. For any new (to applicant) principal shareholders, directors, or senior executive officer, provide an IBFR including completion of all required financial information.

Please see the *Preliminary Statement – Financial and Managerial Resources and Future Prospects* section above for information on the directors and senior executive officers of COFC, Merger Sub and CONA. Information relating to the Discover directors who will become new directors of COFC will follow at a later date.

No principal of COFC, CONA, Discover or Discover Bank is a principal of any other unaffiliated insured depository institution or insured depository institution holding company.

13. If the consolidated assets of the resulting organization are less than the asset threshold of the Board's Small Bank Holding Company Policy Statement for each principal of the applicant who either would retain personal indebtedness or act as guarantor for any debt that was incurred in the acquisition of shares of the applicant or the Bank/Bank Holding Company, provide the following:

a. Name of borrower and title, position, or other designation that makes the borrower a principal of the applicant;

b. Amount of personal indebtedness to be retained;

c. A description of the terms of the borrowing, the name and location of the lender, and a copy of any related loan agreement or loan commitment letter from the lender;

d. Statement of net worth as of a date within three months of the applicant's final filing of the application. The statement of net worth should be in sufficient detail to indicate each principal group of assets and liabilities of the reporting principal, and the basis for the valuation of assets (provide supporting documentation, as appropriate). In addition to debts and liabilities, the reporting principal should state on a separate schedule, any endorsed,

[82] **As defined in footnote number [65].**

guaranteed, or otherwise indirect or contingent liability for the obligation of others; and

e. Statement of most current year's income. In addition to indicating each principal source of annual income, the reporting principal should list annual fixed obligations arising from amortization and other debt servicing. (If the most current year's statement is not representative of the future, the reporting principal should submit a pro forma income statement and discuss the significant changes and the basis for those changes.)

Not applicable. The total banking assets of the resulting organization will exceed the asset threshold of the Board's Small Bank Holding Company Policy Statement.

14. Describe any litigation or investigation by local, state, or federal authorities involving the applicant or any of its subsidiaries or the target or any of its subsidiaries that is currently pending or was resolved within the last two years.

Except as provided in Confidential Exhibits M and N, none of COFC or Discover, nor any of their respective subsidiaries, have been subject to any litigation or investigation by local, state or federal authorities (whether ongoing, pending or resolved) within the last two years.[83]

Competition

If the subject transaction is a bank holding company formation involving only one bank or an application filed pursuant to section 3(a)(3) or 3(a)(5) of the BHC Act to acquire a *de novo* bank, a response to items 14 and 15 is not required. Otherwise, the applicant should contact the appropriate Reserve Bank to determine whether a response to items 14 and 15 will be necessary. If a response is required, the applicant should obtain a preliminary definition of the relevant banking markets from the appropriate Reserve Bank. If the applicant disagrees with the Reserve Bank's preliminary definition of the banking market(s), it may in addition to supplying the information requested on the basis of the Reserve Bank's definition of the banking market(s), include its own definition of the banking market(s), with supportive data, and answer the questions based on its definition. If later analysis leads Federal Reserve staff to alter the preliminary definition provided, The applicant will be so informed.

15. Discuss the effects of the Proposed Transaction on competition considering the structural criteria specified in the Board's Rules Regarding Delegation of Authority (section 265.11c(11)(v)). The applicant may be required to provide additional information if Federal Reserve staff determines that the proposal exceeds existing competitive guidelines. Also, if divestiture of all or any portion of any bank or

[83] In addition to litigation and investigations by governmental authorities, Capital One and Discover and their respective affiliates are involved in a number of judicial proceedings relating to matters arising from conducting normal business activities. For information on material proceedings, please see COFC's 2023 Annual Financial Statement, Note 18, "Commitments, Contingencies, Guarantees and Others" available at https://investor.capitalone.com/static-files/994c8bec-608e-49d1-8ae2-a039bc43ba54 and Discover 2023 Annual Financial Statement, Note, "Litigation and Regulatory Matters," available at https://d18rn0p25nwr6d.cloudfront.net/CIK-0001393612/f3103b18-c2f1-4357-aa14-331e3771515c.pdf.

nonbanking company constitutes part of this proposal, discuss in detail the specifics and timing of such divestiture.

Please refer to the *Preliminary Statement – Competitive Effects*, Exhibit 21 and Confidential Exhibit J.

16. If the proposal involves the acquisition of nonbank operations under sections 4(c)(8) and 4(j) of the Bank Holding Company Act, a Form FR Y-4 should be submitted in connection with FR Y-3 filing. At a minimum, the information related to the nonbank operations should include the following:

a. A description of the proposed activity(ies);

b. The name and location of the applicant's and the Bank's direct or indirect subsidiaries that engage in the proposed activity(ies);

c. Identification of the geographic and product markets in which competition would be affected by the proposal;

d. A description of the effect of the proposal on competition in the relevant markets; and

e. A list of major competitors in each affected market.

In addition, the applicant should identify any other nonbank operations to be acquired, with brief descriptions of the activities provided.

The Proposed Transaction involves the acquisition of nonbanking subsidiaries of Discover that engage in operations under section 4(c)(8) of the BHC Act. The Form FR Y-4 notification is being submitted to the Federal Reserve concurrent with this Application with respect to these nonbanking subsidiaries of Discover, which sets forth their activities, including the vast majority which are conducted pursuant to section 4(c)(8) of the BHC Act.

The following Discover subsidiaries are being acquired by Capital One as part of the Proposed Transaction and are not subject to approval under the Form FR Y-4. As noted below, all of the below activities are permissible for a bank holding company.

Acquired Subsidiary	Activities	Relevant BHC Authority
Discover Ventures Inc.	Holds and manages direct and indirect minority interest investments.	12 CFR 225.22(d)(5) (passive equity investments)
Discover Services Corporation	Holds the operations of the Discover employee business card used for employee travel and other business expenses.	12 CFR 225.22(b) (servicing for affiliates)
DFS International, Inc.	Provides payment of compensation and benefits to expatriate employees who are working outside the country of their legal citizenship or residence.	12 CFR 225.22(b) (servicing for affiliates)

Acquired Subsidiary	Activities	Relevant BHC Authority
DFS Corporate Services LLC	Provides corporate control and support services to conduct the operations of Discover's businesses and legal entity. Services include business technology, human resources, corporate risk management, internal audit, and other shared services for all of the Company's businesses, including Discover Bank's core business lines. DFS Corporate Services LLC solely faces affiliates and all revenue is generated via intercompany agreements.	12 CFR 225.22(b) (servicing for affiliates)
Diners Club Services Taiwan Ltd.	Supports the Taiwan operations of Discover Global Network. Services provided include support to partners on the Discover Global Network for acceptance.	12 CFR 225.22(b) (servicing for affiliates)
Discover Financial Services (Hong Kong) Limited	Serves as an investment holding company. It supports the growth of Discover Global Network in the APAC region and provides support to network partners of Discover Global Network.	12 CFR 225.22(b) (servicing for affiliates)
Discover Information Technology (Shanghai) Limited	Holds the operations of the Shanghai office of Discover Financial Services (Hong Kong) Limited, which provides services to Discover Bank.	12 CFR 225.22(b) (servicing for affiliates)
Discover Home Loans, Inc.	Provided mortgage lending services. In 2015, Discover Home Loans, Inc. stopped offering mortgage origination products.	12 CFR 225.22(b) (servicing for affiliates)
Discover Global Employment Company Private Limited	Assist in the support and expansion of franchise business, network arrangements and product/program launches for partners and fellow subsidiaries. The principal activity of the Dubai, Japan and Sweden branches is the provision of regional office functions for partners and fellow subsidiaries. All costs incurred in the provision of services or the provision of regional office functions are recovered from certain fellow subsidiaries. This entity provides services to affiliates only, and does not provide services to third parties.	12 CFR 225.22(b) (servicing for affiliates)

17. In an application in which any principal of the applicant or the Bank/Bank Holding Company is also a principal of any other insured depository institution or depository institution holding company, give the name and location of each office of such other institution that is located within the relevant banking market of the Bank/Bank Holding Company, and give the approximate road miles by the most accessible and traveled route between those offices and each of the offices of Bank/Bank Holding Company.

Not applicable. Please see the response to item 12. above.

Convenience and Needs

18. Describe how the proposal would assist in meeting the convenience and needs of the community(ies) to be served, including but not limited to the following:

a. Summarize efforts undertaken or contemplated by the applicant to ascertain and address the needs of the community(ies) to be served, including community outreach activities, as a result of the proposal.

b. For the combining institutions, list any significant anticipated changes in services or products offered by the depository subsidiary(ies) of the applicant or target that would result from the consummation of the transaction.

c. To the extent that any products or services of the depository subsidiary(ies) of the applicant or target would be offered in replacement of any products or services to be discontinued, indicate what these are and how they would assist in meeting the convenience and needs of the communities affected by the transaction.

d. Discuss any enhancements in products or services expected to result from the transaction.

Please see the *Preliminary Statement – Convenience and Needs of the Communities* and *Commitment to the CRA* sections above for information on how the Proposed Transaction will meet the convenience and needs of the communities to be served by the combined company and bank.

19. Describe how the applicant and resultant institution, including its depository subsidiary(ies) would assist in meeting the existing and anticipated needs of its community(ies) under the applicable criteria of the Community Reinvestment Act (CRA) and its implementing regulations, including the needs of low and moderate income geographies and individuals. This discussion should include, but not necessarily be limited to, a description of the following:

a. The significant current and anticipated programs, products, and activities, including lending, investments, and services, as appropriate, of the depository subsidiary (ies) of the applicant and the resultant institution.

Please see the *Preliminary Statement – Convenience and Needs of the Communities* and *Commitment to the CRA* sections above for information on the CRA performance records, including their products and programs that are designed to meet the needs of LMI communities and individuals, and other responsive information.

b. The anticipated CRA assessment areas of the depository subsidiary(ies) of the combined institution. If assessment areas of the depository subsidiary(ies) of the resultant institution would not include any portion of the current assessment area of that subsidiary, describe the excluded areas.

The Proposed Transaction would result in CONA establishing a new AA in Delaware, which will include all census tracts in Sussex County and seven contiguous census tracts in Kent County.

c. The plans for administering the CRA program for the depository subsidiary(ies) of the resultant institution following the transaction.

Please see the *Preliminary Statement – Commitment to the CRA* section above for a discussion of the plans for administering the CRA Program after the Proposed Transaction.

d. The plans for administering the CRA program for the depository subsidiary (ies) of the resultant institution following the transaction. For a subsidiary of the applicant or target that has received a CRA composite rating of "needs to improve" or "substantial noncompliance" institution-wide or, where applicable, in a state or multi-state Metropolitan Statistical Area (MSA), or has received an evaluation of less than satisfactory performance in an MSA or in the non-MSA portion of a state in which the applicant is expanding as a result of the transaction, describe the specific actions, if any, that have been taken to address the deficiencies in the institution's CRA performance record since the rating.

Not applicable.

20. List all offices of the depository subsidiary (ies) of the applicant or target that (a) will be established or retained as branches, including the main office, of the target's depository subsidiary (ies), (b) are approved but unopened branch(es) of the target's depository subsidiary (ies), including the date the current federal and state agencies granted approval(s), and (c) are existing branches that will be closed or consolidated as a result of the proposal (to the extent the information is available) and indicate the effect on the branch customers served. For each branch, list the popular name, street address, city, county, state, and zip code specifying any that are in low and moderate-income geographies.[84]

CONA and Discover Bank believe that customers will be well served by the combined bank's resulting branch network following consummation of the Proposed Transaction. As noted above, Discover Bank has only one branch, located at 502 E Market Street, Greenwood, DE, 19950.

There are no approved, but unopened, branches of Discover Bank. CONA will not relocate its main office in connection with the Proposed Transaction. CONA and Discover Bank do not anticipate that there will be any branch closures or consolidations in connection with the Proposed Transaction.

[84] **Please designate branch consolidations as those terms are used in the Joint Policy Statement on Branch Closings, [64 FR 34844 (June 29, 1999)].**

Interstate Banking

21. If the transaction involves the acquisition of a bank located in a State other than the home State of the applicant, please provide the following information, as applicable:

a. Identify any host state(s) involved with this transaction that require the target to be in operation for a minimum number of years and discuss compliance with this age requirement.

b. Discuss compliance with nationwide and statewide deposit concentration limits to the transaction.

c. Discuss compliance with state-imposed deposit caps.

d. Discuss compliance with community reinvestment laws.

e. Discuss any other restrictions that the host state(s) seek to apply (including state antitrust restrictions).

Please see the *Preliminary Statement – Interstate Banking Requirements* section above for an analysis of the Proposed Transaction's compliance with section 3(d) of the BHC Act.

Financial Stability

If either the acquirer or the target's total assets exceeds $10 billion as of the most recent quarter for which data is available, address the following questions:

22. If either the acquirer or the target conducts any cross-border activities, please describe the nature of these activities and the amounts of cross-border assets and liabilities as of the most recent quarter for which data is available.

23. For each financial service below, if the dollar volume related to the service provided either by the acquirer or the target exceeds $1 billion, please report the annual volume over the past 12 months (otherwise, do not report).

Financial Service	Acquirer	Target
Short-term funding (e.g., in repos, fed funds)		
Underwriting services (e.g., equity, corporate bonds, commercial paper, ABS)		
Trading activities (e.g., equity, corporate bonds, derivatives)		
Payments, clearing, settlement, and custody services		
Prime brokerage		
Securities lending		
Corporate trust		

Financial Service	Acquirer	Target
Correspondent banking		
Wealth management		
Insurance (including reinsurance)		

Please see the *Preliminary Statement – Financial Stability Risk Considerations* section above for a discussion of why the Proposed Transaction would not result in greater or more concentrated risks to the stability of the U.S. banking or financial system. In addition, please see Exhibits 22 and 23 and Confidential Exhibit L for additional responsive information to this item.

EXHIBIT 6

AGREEMENT AND PLAN OF MERGER

by and among

DISCOVER FINANCIAL SERVICES,

CAPITAL ONE FINANCIAL CORPORATION

AND

VEGA MERGER SUB, INC.

Dated as of February 19, 2024

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AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER, dated as of February 19, 2024 (this "Agreement"), by and among Capital One Financial Corporation, a Delaware corporation ("Capital One"), Discover Financial Services, a Delaware corporation ("Discover"), and Vega Merger Sub, Inc., a Delaware corporation and a direct, wholly-owned subsidiary of Capital One ("Merger Sub").

W I T N E S S E T H:

WHEREAS, the Boards of Directors of Capital One, Discover and Merger Sub have determined that it is in the best interests of their respective companies and their stockholders to consummate the strategic business combination transaction provided for herein, pursuant to which (a) Merger Sub will, subject to the terms and conditions set forth herein, merge with and into Discover (the "Merger"), so that Discover is the surviving corporation in the Merger (hereinafter sometimes referred to in such capacity as the "Surviving Company"), and (b) immediately following the Merger and as part of a single, integrated transaction, Capital One shall cause the Surviving Company to be merged with and into Capital One (the "Second Step Merger", and together with the Merger, the "Mergers"), so that Capital One is the surviving corporation in the Second Step Merger (hereinafter sometimes referred to in such capacity as the "Surviving Entity");

WHEREAS, in furtherance thereof, the respective Boards of Directors of Capital One, Discover and Merger Sub have approved the Mergers and this Agreement;

WHEREAS, for federal income tax purposes, it is intended that the Mergers, taken together, shall qualify as a "reorganization" within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (the "Code"), and this Agreement is intended to be and is adopted as a plan of reorganization for purposes of Sections 354 and 361 of the Code; and

WHEREAS, the parties desire to make certain representations, warranties and agreements in connection with the Merger and also to prescribe certain conditions to the Merger.

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements contained herein, and intending to be legally bound hereby, the parties agree as follows:

ARTICLE I

THE MERGER

1.1 The Merger. Subject to the terms and conditions of this Agreement, in accordance with the Delaware General Corporation Law (the "DGCL"), at the Effective Time, Merger Sub shall merge with and into Discover pursuant to this Agreement. Discover shall be the Surviving Company in the Merger, and shall continue its corporate existence under the laws

of the State of Delaware. Upon consummation of the Merger, the separate corporate existence of Merger Sub shall terminate.

1.2 Closing. Subject to the terms and conditions of this Agreement, the closing of the Merger (the "Closing") will take place by electronic exchange of documents at 10:00 a.m., New York City time, on a date which shall be no later than three (3) business days after the satisfaction or waiver (subject to applicable law) of all of the conditions set forth in Article VII hereof (other than those conditions that by their nature can only be satisfied at the Closing, but subject to the satisfaction or waiver thereof), unless another date, time or place is agreed to in writing by Discover and Capital One. The date on which the Closing occurs is referred to as the "Closing Date."

1.3 Effective Time. On or (if agreed by Discover and Capital One) prior to the Closing Date, Capital One and Discover shall cause to be filed a certificate of merger with respect to the Merger (the "Certificate of Merger") with the Secretary of State of the State of Delaware (the "Delaware Secretary"). The Merger shall become effective at such time as specified in the Certificate of Merger in accordance with the relevant provisions of the DGCL, or at such other time as shall be provided by applicable law (such time hereinafter referred to as the "Effective Time").

1.4 Effects of the Merger. At and after the Effective Time, the Merger shall have the effects set forth in the applicable provisions of the DGCL.

1.5 Conversion of Discover Common Stock. At the Effective Time, by virtue of the Merger and without any action on the part of Capital One, Discover, Merger Sub or any holder of securities thereof:

(a) Subject to Section 2.2(e), each share of the common stock, par value $0.01 per share, of Discover issued and outstanding immediately prior to the Effective Time (the "Discover Common Stock"), except for shares of Discover Common Stock owned by Discover or Capital One (in each case other than shares of Discover Common Stock (i) held in trust accounts, managed accounts, mutual funds and the like, or otherwise held in a fiduciary or agency capacity that are beneficially owned by third parties or (ii) held, directly or indirectly, by Discover or Capital One in respect of debts previously contracted), shall be converted into the right to receive 1.0192 shares (the "Exchange Ratio" and such shares the "Merger Consideration") of the common stock, par value $0.01, of Capital One (the "Capital One Common Stock").

(b) All the shares of Discover Common Stock converted into the right to receive the Merger Consideration pursuant to this Article I shall no longer be outstanding and shall automatically be cancelled and shall cease to exist as of the Effective Time, and each certificate (each, an "Old Certificate," it being understood that any reference herein to "Old Certificate" shall be deemed to include reference to book-entry account statements relating to the ownership of shares of Discover Common Stock) previously representing any such shares of Discover Common Stock shall thereafter represent only the right to receive (i) a New Certificate representing the number of whole shares of Capital One Common Stock which such shares of Discover Common Stock have been converted into the right to receive pursuant to this Section

1.5, (ii) cash in lieu of fractional shares which the shares of Discover Common Stock represented by such Old Certificate have been converted into the right to receive pursuant to this Section 1.5 and Section 2.2(e), without any interest thereon and (iii) any dividends or distributions which the holder thereof has the right to receive pursuant to Section 2.2, in each case, without any interest thereon. If, prior to the Effective Time, the outstanding shares of Capital One Common Stock or Discover Common Stock shall have been increased, decreased, changed into or exchanged for a different number or kind of shares or securities as a result of a reorganization, recapitalization, reclassification, stock dividend, stock split or reverse stock split, or there shall be any extraordinary dividend or distribution, an appropriate and proportionate adjustment shall be made to the Exchange Ratio to give Capital One and the holders of Discover Common Stock the same economic effect as contemplated by this Agreement prior to such event; provided, that nothing contained in this sentence shall be construed to permit Discover or Capital One to take any action with respect to its securities or otherwise that is prohibited by the terms of this Agreement.

(c) Notwithstanding anything in this Agreement to the contrary, at the Effective Time, all shares of Discover Common Stock that are owned by Discover, Capital One or Merger Sub (in each case other than shares of Discover Common Stock (i) held in trust accounts, managed accounts, mutual funds and the like, or otherwise held in a fiduciary or agency capacity that are beneficially owned by third parties or (ii) held, directly or indirectly, by Discover or Capital One in respect of debts previously contracted) shall be cancelled and shall cease to exist and no Capital One Common Stock or other consideration shall be delivered in exchange therefor.

1.6 Capital One Stock. At and after the Effective Time, each share of Capital One Common Stock and each share of Capital One Preferred Stock issued and outstanding immediately prior to the Effective Time shall remain an issued and outstanding share of common stock or preferred stock, as applicable, of Capital One and shall not be affected by the Merger.

1.7 Merger Sub Common Stock. At the Effective Time, by virtue of the Merger and without any action on the part of Capital One, Discover, Merger Sub or any holder of securities thereof, each share of the common stock, par value $0.01 per share, of Merger Sub (the "Merger Sub Common Stock") issued and outstanding immediately prior to the Effective Time shall be converted into one share of common stock of the Surviving Company.

1.8 Discover Preferred Stock. At the Effective Time, each share of Fixed-to-Floating Rate Non-Cumulative Perpetual Preferred Stock, Series C, par value $0.01 per share, of Discover ("Discover Series C Preferred Stock") and each share of 6.125% Fixed-Rate Reset Non-Cumulative Perpetual Preferred Stock, Series D, par value $0.01 per share, of Discover ("Discover Series D Preferred Stock" and collectively with the Discover Series C Preferred Stock, the "Discover Preferred Stock"), in each case issued and outstanding immediately prior to the Effective Time shall remain outstanding.

1.9 Treatment of Discover Equity Awards; Discover ESPP.

(a) At the Effective Time, each restricted stock unit award in respect of shares of Discover Common Stock (a "Discover RSU Award") that is outstanding immediately prior to

the Effective Time shall, automatically and without any required action on the part of the holder thereof, be converted into a restricted stock unit award (a "Capital One RSU Award") in respect of that number of shares of Capital One Common Stock (rounded to the nearest whole share) equal to the product of (i) the total number of shares of Discover Common Stock subject to the Discover RSU Award immediately prior to the Effective Time multiplied by (ii) the Exchange Ratio (as it may be adjusted if necessary pursuant to the last sentence of Section 1.5(b)). Each such Capital One RSU Award shall be settleable in shares of Capital One Common Stock. Except as expressly provided in this Section 1.9(a), each such Capital One RSU Award shall be subject to the same terms and conditions (including vesting terms) as applied to the corresponding Discover RSU Award immediately prior to the Effective Time.

(b) At the Effective Time, each performance stock unit award in respect of shares of Discover Common Stock (a "Discover PSU Award") that is outstanding immediately prior to the Effective Time shall, automatically and without any required action on the part of the holder thereof, be converted into a cash-based award (a "Capital One Cash Based Award") in respect of an amount in cash equal to the product of (i) the total number of shares of Discover Common Stock subject to the Discover PSU Award immediately prior to the Effective Time, with the number of shares of Discover Common Stock determined based on (A) the greater of target and actual performance through the last quarter ending simultaneously with or prior to the Effective Time for the Discover PSU Awards for which as of the Effective Time more than one year of the performance period has elapsed, with such performance level to be determined consistent with past practice by the compensation committee of the Discover Board of Directors (the "Discover Compensation Committee") based on information available through the last quarter ending simultaneously with or prior to the Effective Time, and (B) target performance for the Discover PSU Awards for which as of the Effective Time one year or less of the performance period has elapsed, multiplied by (ii) the product of (1) the Exchange Ratio (as it may be adjusted if necessary pursuant to the last sentence of Section 1.5(b)), multiplied by (2) the average of the closing sale prices of Capital One Common Stock on the NYSE as reported by *The Wall Street Journal* for the consecutive period of five (5) full trading days ending on the day preceding the Closing Date. Each such Capital One Cash-Based Award shall be settleable in cash. Except as specifically provided in this Section 1.9(b), each such Capital One Cash-Based Award shall be subject to the same terms and conditions (including service-based vesting terms) as applied to the corresponding Discover PSU Award immediately prior to the Effective Time.

(c) Prior to the Effective Time, Discover, the Board of Directors of Discover and the Discover Compensation Committee, as applicable, will take action with respect to the Discover Employee Stock Purchase Plan (the "Discover ESPP") to provide that the final exercise date (including for purposes of determining the Purchase Price (as defined in the Discover ESPP)) for the Purchase Period (as defined in the Discover ESPP) that otherwise would be in effect on the Closing Date will be no later than five (5) Business Days prior to the Effective Time. Discover will terminate the Discover ESPP as of no later than immediately prior to the Effective Time, pursuant to resolutions adopted by the Board of Directors of Discover or the Discover Compensation Committee, as applicable, copies of which shall be provided to Capital One prior to the Closing and shall be subject to Capital One's reasonable review and comment.

(d) At or prior to the Effective Time, Discover, the Board of Directors of Discover and the Discover Compensation Committee, as applicable, shall adopt any resolutions

and take any actions that are necessary or appropriate to effectuate the provisions of this Section 1.9.

(e) Capital One shall take all corporate actions that are necessary for the assumption of the Discover RSU Awards pursuant to Section 1.9(a), including the reservation, issuance and listing of Capital One Common Stock as necessary to effect the transactions contemplated by this Section 1.9. As soon as practicable following the Effective Time, Capital One shall file with the SEC a post-effective amendment to the Form S-4 or a registration statement on Form S-8 (or any successor form) with respect to the shares of Capital One Common Stock underlying such Discover RSU Awards, and shall use reasonable best efforts to maintain the effectiveness of such registration statement for so long as such assumed Discover RSU Awards remain outstanding.

1.10 Certificate of Incorporation of Surviving Company. At the Effective Time, the certificate of incorporation of Discover, as in effect immediately prior to the Effective Time, shall be the certificate of incorporation of the Surviving Company until thereafter amended in accordance with applicable law.

1.11 Bylaws of Surviving Company. At the Effective Time, the bylaws of Merger Sub, as in effect immediately prior to the Effective Time, shall be the bylaws of the Surviving Company until thereafter amended in accordance with applicable law.

1.12 Tax Consequences. It is intended that the Mergers, taken together, shall qualify as a "reorganization" within the meaning of Section 368(a) of the Code, and that this Agreement is intended to be and is adopted as a plan of reorganization for the purposes of Sections 354 and 361 of the Code.

1.13 Officers and Directors of Surviving Company. The officers and directors of Merger Sub as of immediately prior to the Effective Time shall be the officers and directors of the Surviving Company.

1.14 Second Step Merger.

(a) The Second Step Merger. Immediately following the Effective Time, in accordance with the DGCL, Capital One shall cause the Surviving Company to be merged with and into Capital One in the Second Step Merger, with Capital One surviving the Second Step Merger as the Surviving Entity and continuing its existence under the laws of the State of Delaware, and the separate corporate existence of the Surviving Company ceasing as of the Second Effective Time. In furtherance of the foregoing, Capital One shall cause to be filed with the Delaware Secretary, in accordance with the DGCL, a certificate of merger with respect to the Second Step Merger (the "Second Step Certificate of Merger" and together with the Certificate of Merger, the "Certificates of Merger"). The Second Step Merger shall become effective at such time specified in the Second Step Certificate of Merger in accordance with the relevant provisions of the DGCL (such time hereinafter referred to as the "Second Effective Time").

(b) Surviving Company Common Stock. At the Second Effective Time, by virtue of the Second Step Merger and without any action on the part of Capital One, the Surviving Company or any holder of securities thereof, each share of common stock of the

Surviving Company shall be cancelled and shall cease to exist, and no consideration shall be delivered in exchange therefor.

(c) Surviving Company Preferred Stock. At the Second Effective Time, by virtue of the Second Step Merger and without any action on the part of Capital One, the Surviving Company, Merger Sub or any holder of securities thereof:

(i) Each share of Discover Series C Preferred Stock issued and outstanding immediately prior to the Second Effective Time shall automatically be converted into the right to receive a share of a newly created series of preferred stock of Capital One having terms that are not materially less favorable than the Discover Series C Preferred Stock (all shares of such newly created series, collectively, the "Capital One Series O Preferred Stock") and, upon such conversion, the Discover Series C Preferred Stock shall no longer be outstanding and shall automatically be cancelled and shall cease to exist as of the Second Effective Time.

(ii) Each share of Discover Series D Preferred Stock issued and outstanding immediately prior to the Second Effective Time shall automatically be converted into the right to receive a share of a newly created series of preferred stock of Capital One having terms that are not materially less favorable than the Discover Series D Preferred Stock (all shares of such newly created series, collectively, the "Capital One Series P Preferred Stock," and collectively with the Capital One Series O Preferred Stock, the "New Capital One Preferred Stock") and, upon such conversion, the Discover Series D Preferred Stock shall no longer be outstanding and shall automatically be cancelled and shall cease to exist as of the Second Effective Time.

(d) Capital One Stock. At and after the Second Effective Time, each share of Capital One Common Stock and Capital One Preferred Stock issued and outstanding immediately prior to the Second Effective Time shall remain an issued and outstanding share of Capital One Common Stock and Capital One Preferred Stock and shall not be affected by the Second Step Merger; it being understood that upon the Second Effective Time, the Capital One Common Stock, including the shares issued to former holders of Discover Common Stock, shall be the common stock of the Surviving Entity.

(e) Certificate of Incorporation of Surviving Entity. At the Second Effective Time, the certificate of incorporation of Capital One, as in effect immediately prior to the Second Effective Time, shall be the certificate of incorporation of the Surviving Entity until thereafter amended in accordance with applicable law.

(f) Bylaws of Surviving Entity. At the Second Effective Time, the bylaws of Capital One, as in effect immediately prior to the Second Effective Time, shall be the bylaws of the Surviving Entity until thereafter amended in accordance with applicable law.

(g) Officers and Directors of Surviving Entity. At the Second Effective Time, the officers and directors of Capital One as of immediately prior to the Second Effective Time shall be the officers and directors of the Surviving Entity, subject to Section 6.12.

1.15 Bank Merger. Immediately following the Second Step Merger, Discover Bank, a Delaware-chartered bank and wholly-owned Subsidiary of Discover ("Discover Bank"), will merge with and into Capital One, National Association, a national banking association and wholly-owned Subsidiary of Capital One ("Capital One Bank") (the "Bank Merger"). Capital One Bank shall be the surviving entity in the Bank Merger and, following the Bank Merger, the separate corporate existence of Discover Bank shall cease. Promptly after the date of this Agreement, Capital One Bank and Discover Bank will enter into an agreement and plan of merger in substantially the form set forth in Exhibit A (the "Bank Merger Agreement"). Each of Capital One and Discover shall adopt and approve the Bank Merger Agreement and the Bank Merger as the sole stockholder of Capital One Bank and Discover Bank, respectively, and Capital One and Discover shall, and shall cause Capital One Bank and Discover Bank, respectively, to, execute certificates or articles of merger and such other documents and certificates as are necessary to make the Bank Merger effective ("Bank Merger Certificates") immediately following the Second Effective Time. The Bank Merger shall become effective at such time and date as specified in the Bank Merger Agreement in accordance with applicable law, or at such other time as shall be provided by applicable law.

ARTICLE II

EXCHANGE OF SHARES

2.1 Capital One to Make Consideration Available. At or prior to the Effective Time, Capital One shall deposit, or shall cause to be deposited, with a bank or trust company designated by Capital One and reasonably acceptable to Discover (the "Exchange Agent"), for exchange in accordance with this Article II for the benefit of the holders of Old Certificates (which for purposes of this Article II shall be deemed to include certificates or book-entry account statements representing shares of Discover Preferred Stock), certificates or, at Capital One's option, evidence in book-entry form, representing shares of Capital One Common Stock or New Capital One Preferred Stock to be issued pursuant to Section 1.5 and Section 1.8, respectively (collectively, referred to herein as "New Certificates"), and cash in lieu of any fractional shares to be paid pursuant to Section 2.2(e) (such cash and New Certificates, together with any dividends or distributions with respect to shares of Capital One Common Stock or New Capital One Preferred Stock payable in accordance with Section 2.2(b), being hereinafter referred to as the "Exchange Fund").

2.2 Exchange of Shares.

(a) As promptly as practicable after the Effective Time, but in no event later than five (5) days thereafter, Capital One shall cause the Exchange Agent to mail to each holder of record of one or more Old Certificates representing shares of Discover Common Stock or Discover Preferred Stock immediately prior to the Effective Time that have been converted at the Effective Time or the Second Effective Time, as applicable, into the right to receive Capital One Common Stock or New Capital One Preferred Stock, as applicable, pursuant to Article I, a letter of transmittal (which shall specify that delivery shall be effected, and risk of loss and title to the Old Certificates shall pass, only upon proper delivery of the Old Certificates to the Exchange Agent) and instructions for use in effecting the surrender of the Old Certificates in exchange for New Certificates representing the number of whole shares of Capital One Common Stock and

any cash in lieu of fractional shares or shares of New Capital One Preferred Stock, as applicable, which the shares of Discover Common Stock or Discover Preferred Stock represented by such Old Certificate or Old Certificates shall have been converted into the right to receive pursuant to this Agreement as well as any dividends or distributions to be paid pursuant to Section 2.2(b). Upon proper surrender of an Old Certificate or Old Certificates for exchange and cancellation to the Exchange Agent, together with such properly completed letter of transmittal, duly executed, the holder of such Old Certificate or Old Certificates shall be entitled to receive in exchange therefor, as applicable, (i) (A) a New Certificate representing that number of whole shares of Capital One Common Stock to which such holder of Discover Common Stock shall have become entitled pursuant to the provisions of Article I and (B) a check representing the amount of (x) any cash in lieu of fractional shares which such holder has the right to receive in respect of the Old Certificate or Old Certificates surrendered pursuant to the provisions of this Article II and (y) any dividends or distributions which the holder thereof has the right to receive pursuant to Section 2.2(b) or (ii) (A) a New Certificate representing that number of shares of New Capital One Preferred Stock to which such holder of Discover Preferred Stock shall have become entitled pursuant to the provisions of Article I, and (B) a check representing the amount of any dividends or distributions which the holder thereof has the right to receive pursuant to Section 2.2(b), and the Old Certificate or Old Certificates so surrendered shall forthwith be cancelled. No interest will be paid or accrued on any cash in lieu of fractional shares or dividends or distributions payable to holders of Old Certificates. Until surrendered as contemplated by this Section 2.2, each Old Certificate shall be deemed at any time after the Effective Time or the Second Effective Time, as applicable, to represent only the right to receive, upon surrender, the number of whole shares of Capital One Common Stock or shares of New Capital One Preferred Stock which the shares of Discover Common Stock or Discover Preferred Stock, as applicable, represented by such Old Certificate have been converted into the right to receive and any cash in lieu of fractional shares or in respect of dividends or distributions as contemplated by this Section 2.2.

(b) No dividends or other distributions declared with respect to Capital One Common Stock or New Capital One Preferred Stock shall be paid to the holder of any unsurrendered Old Certificate until the holder thereof shall surrender such Old Certificate in accordance with this Article II. After the surrender of an Old Certificate in accordance with this Article II, the record holder thereof shall be entitled to receive any such dividends or other distributions, without any interest thereon, which theretofore had become payable with respect to the whole shares of Capital One Common Stock or shares of New Capital One Preferred Stock that the shares of Discover Common Stock or Discover Preferred Stock, as applicable, represented by such Old Certificate have been converted into the right to receive.

(c) If any New Certificate representing shares of Capital One Common Stock or New Capital One Preferred Stock is to be issued in a name other than that in which the Old Certificate or Old Certificates surrendered in exchange therefor is or are registered, it shall be a condition of the issuance thereof that the Old Certificate or Old Certificates so surrendered shall be properly endorsed (or accompanied by an appropriate instrument of transfer) and otherwise in proper form for transfer, and that the person requesting such exchange shall pay to the Exchange Agent in advance any transfer or other similar Taxes required by reason of the issuance of a New Certificate representing shares of Capital One Common Stock or New Capital One Preferred Stock in any name other than that of the registered holder of the Old Certificate or Old

Certificates surrendered, or required for any other reason, or shall establish to the satisfaction of the Exchange Agent that such Tax has been paid or is not payable.

(d) After the Effective Time or the Second Effective Time, as applicable, there shall be no transfers on the stock transfer books of Discover of the shares of Discover Common Stock or Discover Preferred Stock that were issued and outstanding immediately prior thereto. If, after the Effective Time or Second Effective Time, as applicable, Old Certificates representing such shares are presented for transfer to the Exchange Agent, they shall be cancelled and exchanged for New Certificates representing shares of Capital One Common Stock or New Capital One Preferred Stock, as applicable, as provided in this Article II.

(e) Notwithstanding anything to the contrary contained herein, no New Certificates or scrip representing fractional shares of Capital One Common Stock shall be issued upon the surrender for exchange of Old Certificates, no dividend or distribution with respect to Capital One Common Stock shall be payable on or with respect to any fractional share, and such fractional share interests shall not entitle the owner thereof to vote or to any other rights of a stockholder of Capital One. In lieu of the issuance of any such fractional share, Capital One shall pay to each former holder of Discover Common Stock who otherwise would be entitled to receive such fractional share an amount in cash (rounded to the nearest cent) determined by multiplying (i) the average of the closing sale prices of Capital One Common Stock on the New York Stock Exchange (the "NYSE") as reported by *The Wall Street Journal* for the consecutive period of five (5) full trading days ending on the day preceding the Closing Date by (ii) the fraction of a share (after taking into account all shares of Discover Common Stock held by such holder immediately prior to the Effective Time and rounded to the nearest one-thousandth when expressed in decimal form) of Capital One Common Stock which such holder would otherwise be entitled to receive pursuant to Section 1.5. The parties acknowledge that payment of such cash consideration in lieu of issuing fractional shares is not separately bargained-for consideration, but merely represents a mechanical rounding off for purposes of avoiding the expense and inconvenience that would otherwise be caused by the issuance of fractional shares.

(f) Any portion of the Exchange Fund that remains unclaimed by the stockholders of Discover for twelve (12) months after the Effective Time shall be paid to the Surviving Entity. Any former holders of Discover Common Stock or Discover Preferred Stock who have not theretofore complied with this Article II shall thereafter look only to the Surviving Entity for payment of the shares of Capital One Common Stock, cash in lieu of any fractional shares and any unpaid dividends and distributions on the Capital One Common Stock deliverable in respect of each former share of Discover Common Stock such holder holds as determined pursuant to this Agreement, or the shares of New Capital One Preferred Stock and any unpaid dividends and distributions on the New Capital One Preferred Stock deliverable in respect of each former share of Discover Preferred Stock such holder holds as determined pursuant to this Agreement, in each case, without any interest thereon. Notwithstanding the foregoing, none of Capital One, Discover, the Surviving Entity, the Exchange Agent or any other person shall be liable to any former holder of shares of Discover Common Stock or Discover Preferred Stock for any amount delivered in good faith to a public official pursuant to applicable abandoned property, escheat or similar laws.

(g) Capital One shall be entitled to deduct and withhold, or cause the Exchange Agent to deduct and withhold, from any cash in lieu of fractional shares of Capital One Common Stock, cash dividends or distributions payable pursuant to this Section 2.2 or any other amounts otherwise payable pursuant to this Agreement to any holder of Discover Common Stock, Discover Preferred Stock or Discover Equity Awards, such amounts as it is required to deduct and withhold with respect to the making of such payment under the Code or any provision of state, local or foreign Tax law. To the extent that amounts are so withheld by Capital One or the Exchange Agent, as the case may be, and paid over to the appropriate governmental authority, the withheld amounts shall be treated for all purposes of this Agreement as having been paid to the holder of Discover Common Stock, Discover Preferred Stock or Discover Equity Awards in respect of which the deduction and withholding was made by Capital One or the Exchange Agent, as the case may be.

(h) In the event any Old Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming such Old Certificate to be lost, stolen or destroyed and, if required by Capital One or the Exchange Agent, the posting by such person of a bond in such amount as Capital One or the Exchange Agent may determine is reasonably necessary as indemnity against any claim that may be made against it with respect to such Old Certificate, the Exchange Agent will issue in exchange for such lost, stolen or destroyed Old Certificate the shares of Capital One Common Stock and any cash in lieu of fractional shares, or the shares of New Capital One Preferred Stock, as applicable, deliverable in respect thereof pursuant to this Agreement.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF DISCOVER

Except (a) as disclosed in the disclosure schedule delivered by Discover to Capital One concurrently herewith (the "Discover Disclosure Schedule"); provided, that (i) no such item is required to be set forth as an exception to a representation or warranty if its absence would not result in the related representation or warranty being deemed untrue or incorrect, (ii) the mere inclusion of an item in the Discover Disclosure Schedule as an exception to a representation or warranty shall not be deemed an admission by Discover that such item represents a material exception or fact, event or circumstance or that such item would reasonably be expected to have a Material Adverse Effect and (iii) any disclosures made with respect to a section of Article III shall be deemed to qualify (1) any other section of Article III specifically referenced or cross-referenced and (2) other sections of Article III to the extent it is reasonably apparent on its face (notwithstanding the absence of a specific cross reference) from a reading of the disclosure that such disclosure applies to such other sections or (b) as disclosed in any Discover Reports filed by Discover since December 31, 2021 and prior to the date hereof (but disregarding risk factor disclosures contained under the heading "Risk Factors," or disclosures of risks set forth in any "forward-looking statements" disclaimer or any other statements that are similarly cautionary, predictive or forward-looking in nature), Discover hereby represents and warrants to Capital One as follows:

3.1 Corporate Organization.

(a) Discover is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, is a bank holding company duly registered under the Bank Holding Company Act of 1956, as amended (the "BHC Act") and has elected to be treated as a financial holding company under the BHC Act. Discover has the corporate power and authority to own, lease or operate all of its properties and assets and to carry on its business as it is now being conducted. Discover is duly licensed or qualified to do business and in good standing in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned, leased or operated by it makes such licensing, qualification or standing necessary, except where the failure to be so licensed or qualified or to be in good standing would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Discover. As used in this Agreement, the term "Material Adverse Effect" means, with respect to Capital One, Discover or the Surviving Entity, as the case may be, any effect, change, event, circumstance, condition, occurrence or development that, either individually or in the aggregate, has had or would reasonably be expected to have a material adverse effect on (i) the business, properties, assets, results of operations or financial condition of such party and its Subsidiaries taken as a whole (provided, however, that, with respect to this clause (i), Material Adverse Effect shall not be deemed to include the impact of (A) changes, after the date hereof, in U.S. generally accepted accounting principles ("GAAP") or applicable regulatory accounting requirements, (B) changes, after the date hereof, in laws, rules or regulations of general applicability to companies in the industries in which such party and its Subsidiaries operate, or interpretations thereof by courts or Governmental Entities, (C) changes, after the date hereof, in global, national or regional political conditions (including the outbreak of war or acts of terrorism) or in economic or market (including equity, credit and debt markets, as well as changes in interest rates) conditions affecting the financial services industry generally and not specifically relating to such party or its Subsidiaries, (D) changes, after the date hereof, resulting from hurricanes, earthquakes, tornados, floods or other natural disasters or from any outbreak of any disease or other public health events, (E) public disclosure of the transactions contemplated hereby (including any effect on a party's relationships with its customers, vendors or employees) (it being understood and agreed that the foregoing shall not apply for purposes of the representations and warranties in Sections 3.3(b), 3.4, 3.11(j), 4.3(b), 4.4 or 4.11(j)), (F) any stockholder litigation arising out of the Agreement or the Mergers that is brought or threatened against a party or any party's Board of Directors from and following the date of this Agreement and prior to the Effective Time (it being understood and agreed that the foregoing shall not apply for purposes of the representations and warranties in Sections 3.3(b), 3.4, 3.11(j), 4.3(b), 4.4 or 4.11(j)) or actions expressly required by this Agreement or that are taken with the prior written consent of the other party in contemplation of the transactions contemplated hereby or (G) a decline in the trading price of a party's common stock or the failure, in and of itself, to meet earnings projections or internal financial forecasts, but not, in either case, including any underlying causes thereof; except, with respect to subclauses (A), (B), (C) or (D), to the extent that the effects of such change are materially disproportionately adverse to the business, properties, results of operations or financial condition of such party and its Subsidiaries, taken as a whole, in the case of both parties, as compared to banking organizations substantially engaged in the credit card lending business or, in the case of Discover, also as compared to banking organizations engaged in the funds transfer network or transaction processing network businesses or (ii) the ability of such party to timely consummate the transactions contemplated

hereby. As used in this Agreement, the word "Subsidiary" when used with respect to any person, means any corporation, partnership, limited liability company, bank or other organization, whether incorporated or unincorporated, or person of which such first person directly or indirectly owns or controls at least a majority of the securities or other interests having by their terms ordinary voting or other power to elect a majority of the board of directors or other managing authority of such persons performing similar functions. True, correct and complete copies of the Restated Certificate of Incorporation of Discover (the "Discover Charter") and the Amended and Restated Bylaws of Discover (the "Discover Bylaws"), in each case as in effect as of the date of this Agreement, have previously been made available by Discover to Capital One.

(b) Each Subsidiary of Discover (a "Discover Subsidiary") (i) is duly organized and validly existing under the laws of its jurisdiction of organization, (ii) is duly licensed or qualified to do business and, where such concept is recognized under applicable law, in good standing in all jurisdictions (whether federal, state, local or foreign) where its ownership, leasing or operation of property or the conduct of its business requires it to be so licensed or qualified or in good standing and in which the failure to be so licensed or qualified or in good standing would reasonably be expected to have a Material Adverse Effect on Discover and (iii) has all requisite corporate power and authority to own, lease or operate its properties and assets and to carry on its business as now conducted. There are no restrictions on the ability of Discover or any Subsidiary of Discover to pay dividends or distributions except, in the case of Discover or a Subsidiary that is a regulated entity, for restrictions on dividends or distributions generally applicable to all similarly regulated entities. The deposit accounts of each Subsidiary of Discover that is an insured depository institution are insured by the Federal Deposit Insurance Corporation (the "FDIC") through the Deposit Insurance Fund (as defined in Section 3(y) of the Federal Deposit Insurance Act of 1950) to the fullest extent permitted by law, all premiums and assessments required to be paid in connection therewith have been paid when due, and no proceedings for the termination of such insurance are pending or threatened. Section 3.1(b) of the Discover Disclosure Schedule sets forth a true and complete list of all Subsidiaries of Discover that would constitute "significant subsidiaries" within the meaning of Rule 1-02 of Regulation S-X of the SEC as of the date hereof (any references to "significant Subsidiaries" of either Discover or Capital One in this Agreement shall mean "significant subsidiaries" within the meaning of Rule 1-02 of Regulation S-X of the SEC as of the date hereof and, in the case of Discover, the Subsidiaries of Discover set forth on Section 7.2(a) of the Discover Disclosure Schedule). There is no person whose results of operations, cash flows, changes in stockholders' equity or financial position are consolidated in the financial statements of Discover other than the Discover Subsidiaries.

3.2 Capitalization.

(a) The authorized capital stock of Discover consists of 2,000,000,000 shares of Discover Common Stock and 200,000,000 shares of preferred stock, par value $0.01 per share. As of February 15, 2024, there were (i) 250,557,658 shares of Discover Common Stock issued and outstanding; (ii) 320,984,826 shares of Discover Common Stock held in treasury; (iii) 1,345,280 shares of Discover Common Stock reserved for issuance upon the settlement of outstanding Discover RSU Awards (other than Discover RSU Awards outstanding under the Discover Directors' Compensation Plan), (iv) 255,748 Discover RSU Awards outstanding under

the Discover Directors' Compensation Plan; (v) 334,218 shares of Discover Common Stock reserved for issuance upon the settlement of outstanding Discover PSU Awards (assuming performance goals are satisfied at the target level) or 501,327 shares of Discover Common Stock reserved for issuance upon the settlement of outstanding Discover PSU Awards (assuming performance goals are satisfied at the maximum level); (vi) 1,559,512 shares of Discover Common Stock reserved for issuance under the Discover ESPP; and (vii) (A) 5,700 shares of Discover Series C Preferred Stock issued and outstanding and (B) 5,000 shares of Discover Series D Preferred Stock issued and outstanding. As of the date of this Agreement, except as set forth in the immediately preceding sentence and for changes since February 15, 2024 resulting from the vesting or settlement of any Discover RSU Awards and Discover PSU Awards (collectively, "Discover Equity Awards") issued prior to the date of this Agreement as described in the immediately preceding sentence or the exercise of options to purchase shares of Discover Common Stock under the Discover ESPP, there are no shares of capital stock or other voting securities or equity interests of Discover issued, reserved for issuance or outstanding. All of the issued and outstanding shares of Discover Common Stock and Discover Preferred Stock have been duly authorized and validly issued and are fully paid, nonassessable and free of preemptive rights, with no personal liability attaching to the ownership thereof. Discover is current on all dividends payable on the outstanding shares of Discover Preferred Stock and has complied in all material respects with the terms and conditions thereof. There are no bonds, debentures, notes or other indebtedness that have the right to vote on any matters on which stockholders of Discover may vote. No trust preferred or subordinated debt securities of Discover are issued or outstanding. Other than Discover Equity Awards issued prior to the date of this Agreement as described in this Section 3.2(a) or options to purchase shares of Discover Common Stock under the Discover ESPP, as of the date of this Agreement there are no outstanding subscriptions, options, warrants, stock appreciation rights, phantom units, scrip, rights to subscribe to, preemptive rights, anti-dilutive rights, rights of first refusal or similar rights, puts, calls, commitments or agreements of any character relating to, or securities or rights convertible or exchangeable into or exercisable for, shares of capital stock or other voting or equity securities of or ownership interest in Discover, or contracts, commitments, understandings or arrangements by which Discover may become bound to issue additional shares of its capital stock or other equity or voting securities of or ownership interests in Discover or that otherwise obligate Discover to issue, transfer, sell, purchase, redeem or otherwise acquire, any of the foregoing (collectively, "Discover Securities," and any of the foregoing in respect of Subsidiaries of Discover, collectively, "Discover Subsidiary Securities"). Other than Discover Equity Awards or options to purchase shares of Discover Common Stock under the Discover ESPP, no equity-based awards (including any cash awards where the amount of payment is determined in whole or in part based on the price of any capital stock of Discover or any of its Subsidiaries) are outstanding. There are no voting trusts, stockholder agreements, proxies or other agreements in effect to which Discover or any of its Subsidiaries is a party with respect to the voting or transfer of Discover Common Stock, capital stock or other voting or equity securities or ownership interests of Discover or granting any stockholder or other person any registration rights.

(b) Discover owns, directly or indirectly, all of the issued and outstanding shares of capital stock or other equity ownership interests of each of the Discover Subsidiaries, free and clear of any liens, claims, title defects, mortgages, pledges, charges, encumbrances and security interests whatsoever ("Liens"), and all of such shares or equity ownership interests are duly authorized and validly issued and are fully paid, nonassessable (except, with respect to

Subsidiaries that are depository institutions, as provided under 12 U.S.C. § 55 or any comparable provision of applicable state law) and free of preemptive rights, with no personal liability attaching to the ownership thereof.

3.3 Authority; No Violation.

(a) Discover has full corporate power and authority to execute and deliver this Agreement and, upon receipt of the Requisite Discover Vote (as defined below), to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby (including the Mergers) have been duly and validly approved by the Board of Directors of Discover. The Board of Directors of Discover has unanimously determined that the transactions contemplated hereby (including the Mergers), on the terms and conditions set forth in this Agreement, are advisable and in the best interests of Discover and its stockholders, has approved this Agreement and the transactions contemplated hereby (including the Mergers), and has directed that this Agreement be submitted to Discover's stockholders for adoption at a meeting of such stockholders and has adopted a resolution to the foregoing effect. Except for the adoption of this Agreement by the affirmative vote of the holders of a majority of the outstanding shares of Discover Common Stock entitled to vote on this Agreement (the "Requisite Discover Vote"), and the adoption and approval of the Bank Merger Agreement by Discover as Discover Bank's sole stockholder, no other corporate proceedings on the part of Discover are necessary to approve this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Discover and (assuming due authorization, execution and delivery by Capital One and Merger Sub) constitutes a valid and binding obligation of Discover, enforceable against Discover in accordance with its terms (except in all cases as such enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization or similar laws of general applicability affecting the rights of creditors generally and the availability of equitable remedies (the "Enforceability Exceptions")).

(b) Neither the execution and delivery of this Agreement by Discover nor the consummation by Discover of the transactions contemplated hereby (including the Mergers and the Bank Merger), nor compliance by Discover with any of the terms or provisions hereof, will (i) violate any provision of the Discover Charter or the Discover Bylaws or (ii) assuming that the consents and approvals referred to in Section 3.4 are duly obtained, (x) violate any law, statute, code, ordinance, rule, regulation, judgment, order, writ, decree or injunction applicable to Discover or any of its Subsidiaries or any of their respective properties or assets or (y) violate, conflict with, result in a breach of any provision of or the loss of any benefit under, constitute a default (or an event which, with notice or lapse of time, or both, would constitute a default) under, result in the termination of or a right of termination or cancellation under, accelerate the performance required by, or result in the creation of any Lien upon any of the respective properties or assets of Discover or any of its Subsidiaries under, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, deed of trust, license, lease, agreement or other instrument or obligation to which Discover or any of its Subsidiaries is a party, or by which they or any of their respective properties or assets may be bound, except (in the case of clauses (x) and (y) above) for such violations, conflicts, breaches, defaults, terminations, cancellations, accelerations or creations which, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on Discover.

3.4 Consents and Approvals. Except for (a) the filing of any required applications, filings and notices, as applicable, with the New York Stock Exchange, (b) the filing of any required applications, filings and notices, as applicable, with the Board of Governors of the Federal Reserve System (the "Federal Reserve Board") under the BHC Act and approval of such applications, filings and notices, (c) the filing of any required applications, filings and notices, as applicable, with the Office of the Comptroller of the Currency (the "OCC"), and approval of such applications, filings and notices, (d) the filing of any required applications, filings or notices with the Financial Industry Regulatory Authority ("FINRA") and approval of such applications, filings and notices, (e) the filing of any required applications, filings or notices with any state banking authorities listed on Section 3.4 of the Discover Disclosure Schedule or Section 4.4 of the Capital One Disclosure Schedule and approval of such applications, filings and notices, (f) the filing by Discover with the Securities and Exchange Commission (the "SEC") of a joint proxy statement in definitive form (including any amendments or supplements thereto, the "Joint Proxy Statement"), and the registration statement on Form S-4 in which the Joint Proxy Statement will be included as a prospectus, to be filed with the SEC by Capital One in connection with the transactions contemplated by this Agreement (the "S-4") and the declaration of effectiveness of the S-4, (g) the filing of the Certificates of Merger with the Delaware Secretary pursuant to the DGCL, the filing of the Bank Merger Certificates with the applicable Governmental Entities as required by applicable law, and the filing of the respective Certificates of Designation for the New Capital One Preferred Stock with the Delaware Secretary and (h) such filings and approvals as are required to be made or obtained under the securities or "Blue Sky" laws of various states in connection with the issuance of the shares of Capital One Common Stock and New Capital One Preferred Stock pursuant to this Agreement and the approval of the listing of such Capital One Common Stock on the NYSE, no consents or approvals of or filings or registrations with any court, administrative agency or commission or other governmental or regulatory authority or instrumentality or SRO (each a "Governmental Entity") are necessary in connection with (i) the execution and delivery by Discover of this Agreement or (ii) the consummation by Discover of the Mergers and the other transactions contemplated hereby (including the Bank Merger). As of the date hereof, Discover is not aware of any reason why the necessary regulatory approvals and consents will not be received in order to permit consummation of the Mergers and Bank Merger on a timely basis.

3.5 Reports. Discover and each of its Subsidiaries have timely filed (or furnished) all reports, forms, registrations and statements, together with any amendments required to be made with respect thereto, that they were required to file (or furnish, as applicable) since January 1, 2021 with (i) any state regulatory authority, (ii) the SEC, (iii) the Federal Reserve Board, (iv) the FDIC, (v) the OCC, (vi) any foreign regulatory authority and (vii) any self-regulatory organization (an "SRO") (clauses (i) – (vii), collectively "Regulatory Agencies"), including any report, form, registration or statement required to be filed (or furnished, as applicable) pursuant to the laws, rules or regulations of the United States, any state, any foreign entity, or any Regulatory Agency, and have paid all fees and assessments due and payable in connection therewith, except where the failure to file (or furnish, as applicable) such report, form, correspondence, registration or statement or to pay such fees and assessments, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on Discover. Subject to Section 9.14, except for normal examinations conducted by a Regulatory Agency in the ordinary course of business of Discover and its Subsidiaries, no Regulatory Agency has initiated or has pending any proceeding or, to the knowledge of

Discover, investigation into the business or operations of Discover or any of its Subsidiaries since January 1, 2021, except where such proceedings or investigations would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover. Subject to Section 9.14, there (i) is no unresolved violation, criticism, or exception by any Regulatory Agency with respect to any report or statement relating to any examinations or inspections of Discover or any of its Subsidiaries and (ii) have been no formal or informal inquiries by, or disagreements or disputes with, any Regulatory Agency with respect to the business, operations, policies or procedures of Discover or any of its Subsidiaries since January 1, 2021, in each case, which would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover.

3.6 Financial Statements.

(a) The financial statements of Discover and its Subsidiaries included (or incorporated by reference) in the Discover Reports (including the related notes, where applicable) (i) have been prepared from, and are in accordance with, the books and records of Discover and its Subsidiaries, (ii) fairly present in all material respects the consolidated results of operations, cash flows, changes in stockholders' equity and consolidated financial position of Discover and its Subsidiaries for the respective fiscal periods or as of the respective dates therein set forth (subject in the case of unaudited statements to year-end audit adjustments normal in nature and amount), (iii) complied, as of their respective dates of filing with the SEC, in all material respects with applicable accounting requirements and with the published rules and regulations of the SEC with respect thereto, and (iv) have been prepared in accordance with GAAP consistently applied during the periods involved, except, in each case, as indicated in such statements or in the notes thereto. Since December 31, 2020, no independent public accounting firm of Discover has resigned (or informed Discover that it intends to resign) or been dismissed as independent public accountants of Discover as a result of or in connection with any disagreements with Discover on a matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure.

(b) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, neither Discover nor any of its Subsidiaries has any liability of any nature whatsoever (whether absolute, accrued, contingent or otherwise and whether due or to become due), except for those liabilities that are reflected or reserved against on the consolidated balance sheet of Discover included in its Quarterly Report on Form 10-Q for the fiscal quarter ended September 30, 2023 (including any notes thereto) and for liabilities incurred in the ordinary course of business consistent with past practice since September 30, 2023, or in connection with this Agreement and the transactions contemplated hereby.

(c) The records, systems, controls, data and information of Discover and its Subsidiaries are recorded, stored, maintained and operated under means (including any electronic, mechanical or photographic process, whether computerized or not) that are under the exclusive ownership of Discover or its Subsidiaries or accountants (including all means of access thereto and therefrom), except for any non-exclusive ownership that would not reasonably be expected to have a Material Adverse Effect on Discover. Discover (x) has implemented and maintains disclosure controls and procedures (as defined in Rule 13a-15(e) of the Securities

Exchange Act of 1934, as amended (the "Exchange Act")) to ensure that material information relating to Discover, including its Subsidiaries, is made known to the chief executive officer and the chief financial officer of Discover by others within those entities as appropriate to allow timely decisions regarding required disclosures and to make the certifications required by the Exchange Act and Sections 302 and 906 of the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act"), and (y) has disclosed in writing, based on its most recent evaluation prior to the date hereof, to Discover's outside auditors and the audit committee of the Board of Directors of Discover (i) any significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting (as defined in Rule 13a-15(f) of the Exchange Act) which are reasonably likely to adversely affect Discover's ability to record, process, summarize and report financial information, and (ii) any fraud, whether or not material, that involves management or other employees who have a significant role in Discover's internal controls over financial reporting. There is no reason to believe that Discover's outside auditors and its chief executive officer and chief financial officer will not be able to give the certifications and attestations required pursuant to the rules and regulations adopted pursuant to Section 404 of the Sarbanes-Oxley Act, without qualification, when next due.

(d) Since January 1, 2021, (i) neither Discover nor any of its Subsidiaries, nor, to the knowledge of Discover, any director, officer, auditor, accountant or representative of Discover or any of its Subsidiaries, has received or otherwise had or obtained knowledge of any material complaint, allegation, assertion or claim, whether written or oral, regarding the accounting or auditing practices, procedures, methodologies or methods (including with respect to loan loss reserves, write-downs, charge-offs and accruals) of Discover or any of its Subsidiaries or their respective internal accounting controls, including any material complaint, allegation, assertion or claim that Discover or any of its Subsidiaries has engaged in questionable accounting or auditing practices, and (ii) no employee of or attorney representing Discover or any of its Subsidiaries, whether or not employed by Discover or any of its Subsidiaries, has reported evidence of a material violation of securities laws or banking laws, breach of fiduciary duty or similar violation by Discover or any of its Subsidiaries or any of their respective officers, directors, employees or agents to the Board of Directors of Discover or any committee thereof or to the knowledge of Discover, to any director or officer of Discover.

3.7 Broker's Fees. With the exception of PJT Partners LP and Morgan Stanley & Co. LLC, neither Discover nor any Discover Subsidiary nor any of their respective officers or directors has engaged any broker, finder or financial advisor or incurred any liability for any broker's fees, commissions or finder's fees in connection with the Merger or the other transactions contemplated by this Agreement. Discover has disclosed to Capital One as of the date hereof the aggregate fees to be paid by Discover to PJT Partners LP and Morgan Stanley & Co. LLC related to the Merger and the other transactions contemplated hereunder.

3.8 Absence of Certain Changes or Events.

(a) Since December 31, 2022, there has not been any effect, change, event, circumstance, condition, occurrence or development that has had or would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover.

(b) Since December 31, 2022, Discover and its Subsidiaries have carried on their respective businesses in all material respects in the ordinary course.

3.9 Legal and Regulatory Proceedings.

(a) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, neither Discover nor any of its Subsidiaries is a party to any, and there are no outstanding or pending or, to the knowledge of Discover, threatened in writing, legal, administrative, arbitral or other proceedings, claims, actions or governmental or regulatory investigations of any nature against Discover or any of its Subsidiaries or any of their current or former directors or executive officers or challenging the validity or propriety of the transactions contemplated by this Agreement.

(b) There is no injunction, order, judgment, decree, or regulatory restriction imposed upon Discover, any of its Subsidiaries or the assets of Discover or any of its Subsidiaries (or that, upon consummation of the Mergers, would apply to the Surviving Entity or any of its Affiliates) that would reasonably be expected to be material to the Surviving Entity and its Subsidiaries, taken as a whole.

3.10 Taxes and Tax Returns.

(a) Each of Discover and its Subsidiaries has duly and timely filed (including all applicable extensions) all material Tax Returns in all jurisdictions in which Tax Returns are required to be filed by it, and all such Tax Returns are true, correct, and complete in all material respects. Neither Discover nor any of its Subsidiaries is the beneficiary of any extension of time within which to file any material Tax Return (other than extensions to file Tax Returns obtained in the ordinary course). All material Taxes of Discover and its Subsidiaries (whether or not shown on any Tax Returns) that are due have been fully and timely paid. Each of Discover and its Subsidiaries has withheld and paid all material Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, creditor, stockholder, independent contractor or other third party. Neither Discover nor any of its Subsidiaries has received written notice of assessment or proposed assessment in connection with any material amount of Taxes, and there are no threatened in writing or pending disputes, claims, audits, examinations or other proceedings regarding any material Tax of Discover and its Subsidiaries or the assets of Discover and its Subsidiaries that has not been accrued in the latest audited balance sheet included in the Discover Reports. Neither Discover nor any of its Subsidiaries is a party to or is bound by any Tax sharing, allocation or indemnification agreement or arrangement (other than such an agreement or arrangement exclusively between or among Discover and its Subsidiaries). Neither Discover nor any of its Subsidiaries (A) has been a member of an affiliated group filing a consolidated federal income Tax Return for which the statute of limitations is open (other than a group the common parent of which was Discover) or (B) has any liability for the Taxes of any person (other than Discover or any of its Subsidiaries) under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign law), as a transferee or successor, by contract or otherwise. Neither Discover nor any of its Subsidiaries has been, within the past two (2) years or otherwise as part of a "plan (or series of related transactions)" within the meaning of Section 355(e) of the Code of which the Merger is also a part, a "distributing corporation" or a "controlled corporation" (within the meaning of Section 355(a)(1)(A) of the Code) in a

distribution of stock intending to qualify for tax-free treatment under Section 355 of the Code. Neither Discover nor any of its Subsidiaries has participated in a "reportable transaction" within the meaning of Treasury Regulation Section 1.6011-4(b)(1). At no time during the past five (5) years has Discover been a United States real property holding corporation within the meaning of Section 897(c)(2) of the Code.

(b) As used in this Agreement, the term "Tax" or "Taxes" means all federal, state, local, and foreign income, excise, gross receipts, ad valorem, profits, gains, property, capital, sales, transfer, use, license, payroll, employment, social security, severance, unemployment, withholding, duties, excise, windfall profits, intangibles, franchise, backup withholding, value added, alternative or add-on minimum, estimated and other taxes, charges, levies or like assessments together with all penalties and additions to tax and interest thereon.

(c) As used in this Agreement, the term "Tax Return" means any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof, supplied or required to be supplied to a Governmental Entity.

3.11 Employees.

(a) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, each Discover Benefit Plan has been established, operated and administered in accordance with its terms and the requirements of all applicable laws, including ERISA and the Code. For purposes of this Agreement, the term "Discover Benefit Plans" means all employee benefit plans (as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")), whether or not subject to ERISA, and all equity, bonus or incentive, deferred compensation, retiree medical or life insurance, supplemental retirement, severance, termination, change in control, retention, employment, welfare, insurance, medical, fringe or other benefit plans, programs, agreements, contracts, policies, arrangements or remuneration of any kind with respect to which Discover or any Subsidiary or any trade or business of Discover or any of its Subsidiaries, whether or not incorporated, all of which together with Discover would be deemed a "single employer" within the meaning of Section 4001 of ERISA (a "Discover ERISA Affiliate"), is a party or has any current or future obligation or that are maintained, contributed to or sponsored by Discover or any of its Subsidiaries for the benefit of any current or former employee, officer, director or independent contractor of Discover or any of its Subsidiaries, excluding, in each case, any "multiemployer plan" within the meaning of Section 4001(a)(3) of ERISA (a "Multiemployer Plan") or any plan, program or arrangement sponsored by a Governmental Entity.

(b) Discover has made available to Capital One true and complete copies of each material Discover Benefit Plan and the following related documents, to the extent applicable: (i) all summary plan descriptions, amendments, modifications or material supplements, (ii) the most recent annual report (Form 5500) filed with the Internal Revenue Service (the "IRS"), (iii) the most recently received IRS determination letter and (iv) the most recently prepared actuarial report.

(c) The IRS has issued a favorable determination letter or opinion with respect to each Discover Benefit Plan that is intended to be qualified under Section 401(a) of the Code (the "Discover Qualified Plans") and the related trust, which letter or opinion has not been revoked (nor has revocation been threatened), and, to the knowledge of Discover, there are no existing circumstances and no events have occurred that would reasonably be expected to adversely affect the qualified status of any Discover Qualified Plan or the related trust.

(d) Except as would not result in any material liability to Discover and its Subsidiaries, taken as a whole, with respect to each Discover Benefit Plan that is subject to Section 302 or Title IV of ERISA or Section 412, 430 or 4971 of the Code: (i) the minimum funding standard under Section 302 of ERISA and Sections 412 and 430 of the Code has been satisfied and no waiver of any minimum funding standard or any extension of any amortization period has been requested or granted, (ii) no such plan is in "at-risk" status for purposes of Section 430 of the Code, (iii) the present value of accrued benefits under such Discover Benefit Plan, based upon the actuarial assumptions used for funding purposes in the most recent actuarial report prepared by such Discover Benefit Plan's actuary with respect to such Discover Benefit Plan, did not, as of its latest valuation date, exceed the then current fair market value of the assets of such Discover Benefit Plan allocable to such accrued benefits, (iv) no reportable event within the meaning of Section 4043(c) of ERISA for which the 30-day notice requirement has not been waived has occurred, (v) all premiums to the Pension Benefit Guaranty Corporation (the "PBGC") have been timely paid in full, (vi) no liability (other than for premiums to the PBGC) under Title IV of ERISA has been or is expected to be insured by Discover or any of its Subsidiaries, and (viii) the PBGC has not instituted proceedings to terminate any such Discover Benefit Plan.

(e) None of Discover and its Subsidiaries nor any Discover ERISA Affiliate has, at any time during the last six (6) years, contributed to or been obligated to contribute to a Multiemployer Plan or a plan that has two (2) or more contributing sponsors at least two (2) of whom are not under common control, within the meaning of Section 4063 of ERISA (a "Multiple Employer Plan"), and none of Discover and its Subsidiaries nor any Discover ERISA Affiliate has incurred any liability that has not been satisfied to a Multiemployer Plan or Multiple Employer Plan as a result of a complete or partial withdrawal (as those terms are defined in Part I of Subtitle E of Title IV of ERISA) from a Multiemployer Plan or Multiple Employer Plan.

(f) Except as would not result in any material liability to Discover and its Subsidiaries, taken as a whole, no Discover Benefit Plan provides for any post-employment or post-retirement health or medical or life insurance benefits for retired, former or current employees or beneficiaries or dependents thereof, except as required by Section 4980B of the Code.

(g) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, all contributions required to be made to any Discover Benefit Plan by applicable law or by any plan document or other contractual undertaking for any period through the date hereof have been timely made or paid in full or, to the extent not required to be made or paid on or before the date hereof, have been fully reflected on the books and records of Discover.

(h) There are no pending or threatened claims (other than claims for benefits in the ordinary course), lawsuits or arbitrations which have been asserted or instituted, and, to Discover's knowledge, no set of circumstances exists which may reasonably give rise to a claim or lawsuit, against the Discover Benefit Plans, any fiduciaries thereof with respect to their duties to the Discover Benefit Plans or the assets of any of the trusts under any of the Discover Benefit Plans that would reasonably be expected to result in any liability of Discover or any of its Subsidiaries in an amount that would be material to Discover and its Subsidiaries, taken as a whole.

(i) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, none of Discover and its Subsidiaries nor any Discover ERISA Affiliate has engaged in any "prohibited transaction" (as defined in Section 4975 of the Code or Section 406 of ERISA) which would reasonably be expected to subject any of the Discover Benefit Plans or their related trusts, Discover, any of its Subsidiaries or any Discover ERISA Affiliate to any material Tax or penalty imposed under Section 4975 of the Code or Section 502 of ERISA.

(j) Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will (either alone or in conjunction with any other event) result in the acceleration of vesting, exercisability, funding or delivery of, or increase in the amount or value of, any payment, right or other benefit to any employee, officer, director or other service provider of Discover or any of its Subsidiaries, or result in any limitation on the right of Discover or any of its Subsidiaries to amend, merge, terminate or receive a reversion of assets from any Discover Benefit Plan or related trust on or after the Effective Time. Without limiting the generality of the foregoing, no amount paid or payable (whether in cash, in property, or in the form of benefits) by Discover or any of its Subsidiaries in connection with the transactions contemplated hereby (either solely as a result thereof or as a result of such transactions in conjunction with any other event) will be an "excess parachute payment" within the meaning of Section 280G of the Code.

(k) No Discover Benefit Plan provides for the gross-up or reimbursement of Taxes under Section 409A or 4999 of the Code, or otherwise.

(l) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, there are no pending or, to Discover's knowledge, threatened labor grievances or unfair labor practice claims or charges against Discover or any of its Subsidiaries, or any strikes or other labor disputes against Discover or any of its Subsidiaries. Neither Discover nor any of its Subsidiaries is party to or bound by any collective bargaining or similar agreement with any labor organization, or work rules or practices agreed to with any labor organization or employee association applicable to employees of Discover or any of its Subsidiaries and, except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, there are no pending or, to the knowledge of Discover, threatened organizing efforts by any union or other group seeking to represent any employees of Discover or any of its Subsidiaries.

(m) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, each Discover Benefit Plan that is

subject to the laws of a jurisdiction other than the United States (whether or not U.S. law also applies) (i) has been maintained in accordance with all applicable requirements, (ii) if intended to qualify for special tax treatment, meets all requirements for such treatment and (iii) if intended to be funded and/or book-reserved, is fully funded and/or book reserved, as appropriate, based upon reasonable actuarial assumptions.

3.12 SEC Reports. Discover has previously made available to Capital One an accurate and complete copy of each (a) final registration statement, prospectus, report, schedule and definitive proxy statement filed with or furnished to the SEC since December 31, 2020 by Discover pursuant to the Securities Act of 1933, as amended (the "Securities Act"), or the Exchange Act (the "Discover Reports") and (b) communication mailed by Discover to its stockholders since December 31, 2020 and prior to the date hereof, and no such Discover Report or communication, as of the date thereof (and, in the case of registration statements and proxy statements, on the dates of effectiveness and the dates of the relevant meetings, respectively), contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances in which they were made, not misleading, except that information filed or furnished as of a later date (but before the date of this Agreement) shall be deemed to modify information as of an earlier date. Since December 31, 2020, as of their respective dates, all Discover Reports filed or furnished under the Securities Act and the Exchange Act complied in all material respects with the published rules and regulations of the SEC with respect thereto. No executive officer of Discover has failed in any respect to make the certifications required of him or her under Section 302 or 906 of the Sarbanes-Oxley Act.

3.13 Compliance with Applicable Law.

(a) Discover and each of its Subsidiaries hold, and have at all times since December 31, 2020, held, all licenses, registrations, franchises, certificates, permits, charters and authorizations necessary for the lawful conduct of their respective businesses and ownership of their respective properties, rights and assets under and pursuant to each (and have paid all fees and assessments due and payable in connection therewith), except where neither the cost of failure to hold nor the cost of obtaining and holding such license, registration, franchise, certificate, permit, charter or authorization (nor the failure to pay any fees or assessments) would, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Discover, and to the knowledge of Discover, no suspension or cancellation of any such necessary license, registration, franchise, certificate, permit, charter or authorization is threatened.

(b) Except as would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Discover, Discover and each of its Subsidiaries have complied with and are not in default or violation under any law, statute, order, rule, regulation, policy and/or guideline of any Governmental Entity applicable to Discover or any of its Subsidiaries, including all laws related to data protection or privacy (including laws relating to the privacy and security of data or information that constitutes personal data or personal information under applicable laws ("Personal Data," and such laws relating thereto, "Data Protection Laws")), the USA PATRIOT Act, the Bank Secrecy Act, the Equal Credit Opportunity Act and Regulation B, the Fair Housing Act, the Community Reinvestment Act, the

Fair Credit Reporting Act, the Truth in Lending Act and Regulation Z, the Home Mortgage Disclosure Act, the Fair Debt Collection Practices Act, the Electronic Fund Transfer Act, the Dodd-Frank Wall Street Reform and Consumer Protection Act, any regulations promulgated by the Consumer Financial Protection Bureau, any rules or regulations relating to interchange fees, including, but not limited to, 12 C.F.R. Part 235, the Interagency Policy Statement on Retail Sales of Nondeposit Investment Products, the SAFE Mortgage Licensing Act of 2008, the Real Estate Settlement Procedures Act and Regulation X, Title V of the Gramm-Leach-Bliley Act, any and all sanctions or regulations enforced by the Office of Foreign Assets Control of the United States Department of Treasury and any other law, policy or guideline relating to the transmission, collection, processing, possession, handling, clearance, settlement and/or remittance of funds or to funds transfer or transaction processing networks (including with respect to transactions and relationships with merchants and merchant acquirers), bank secrecy, discriminatory lending, financing or leasing practices, consumer protection, money laundering prevention, foreign assets control, U.S. sanctions laws and regulations, Sections 23A and 23B of the Federal Reserve Act, the Sarbanes-Oxley Act, and all agency requirements relating to the origination, sale and servicing of mortgage and consumer loans.

(c) Discover Bank has a Community Reinvestment Act rating of "satisfactory" or better.

(d) Discover maintains a written information privacy and security program that includes measures reasonably designed to protect the privacy, confidentiality and security of all Personal Data processed or otherwise handled by or on behalf of Discover against any (i) loss or misuse of such Personal Data, (ii) unauthorized or unlawful processing or handling of such Personal Data, or (iii) other act or omission that compromises the security or confidentiality of such Personal Data (each of clauses (i) through (iii), a "Security Breach"). Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, Discover and its Subsidiaries have taken commercially reasonable measures, consistent with general industry practices, designed to ensure the confidentiality, privacy and security of Personal Data processed or otherwise handled by or on behalf of Discover. To the knowledge of Discover, Discover has not experienced any Security Breach that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Discover. To the knowledge of Discover, there are no data security or other technological vulnerabilities with respect to its information technology systems or networks that, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect on Discover. Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, Discover and its Subsidiaries are in compliance with all of its and their privacy policies relating to Personal Data.

(e) Without limitation, none of Discover or any of its Subsidiaries or to the knowledge of Discover, any director, officer, employee, agent or other person acting on behalf of Discover or any of its Subsidiaries has, directly or indirectly, (i) used any funds of Discover or any of its Subsidiaries for unlawful contributions, unlawful gifts, unlawful entertainment or other expenses relating to political activity, (ii) made any unlawful payment to foreign or domestic governmental officials or employees or to foreign or domestic political parties or campaigns from funds of Discover or any of its Subsidiaries, (iii) violated any provision that would result in the violation of the Foreign Corrupt Practices Act of 1977, as amended, or any similar law, (iv)

established or maintained any unlawful fund of monies or other assets of Discover or any of its Subsidiaries, (v) made any fraudulent entry on the books or records of Discover or any of its Subsidiaries, (vi) made any unlawful bribe, unlawful rebate, unlawful payoff, unlawful influence payment, unlawful kickback or other unlawful payment to any person, private or public, regardless of form, whether in money, property or services, to obtain favorable treatment in securing business, to obtain special concessions for Discover or any of its Subsidiaries, to pay for favorable treatment for business secured or to pay for special concessions already obtained for Discover or any of its Subsidiaries or (vii) is currently subject to any United States sanctions administered by the Office of Foreign Assets Control of the United States Treasury Department, except in each case as would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Discover.

(f) As of the date hereof, Discover and Discover Bank each meet the applicable published criteria to be "well-capitalized" (as such term is defined in the relevant regulation of the applicable institution's primary federal banking regulator).

(g) Except as would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Discover, (i) Discover and each of its Subsidiaries have properly administered all accounts for which it acts as a fiduciary, including accounts for which it serves as a trustee, agent, custodian, personal representative, guardian, conservator or investment advisor, in accordance with the terms of the governing documents and applicable state, federal and foreign law; and (ii) none of Discover, any of its Subsidiaries, or any of its or its Subsidiaries' directors, officers or employees, has committed any breach of trust or fiduciary duty with respect to any such fiduciary account, and the accountings for each such fiduciary account are true and correct and accurately reflect the assets and results of such fiduciary account.

3.14 Certain Contracts.

(a) Except as set forth in Section 3.14(a) of the Discover Disclosure Schedule or as filed with any Discover Reports, as of the date hereof, neither Discover nor any of its Subsidiaries is a party to or bound by any contract, arrangement, commitment or understanding (whether written or oral), but excluding any Discover Benefit Plan and any contract, arrangement, commitment or understanding solely among Discover and any wholly-owned Subsidiaries of Discover or solely among wholly owned Subsidiaries of Discover:

(i) which is a "material contract" (as such term is defined in Item 601(b)(10) of Regulation S-K of the SEC);

(ii) which contains a provision that materially restricts the conduct of any line of business by Discover or any of its Subsidiaries or upon consummation of the Mergers will materially restrict the ability of the Surviving Entity or any of its Affiliates to engage in any line of business or in any geographic region (including any exclusivity or exclusive dealing provisions with such an effect);

(iii) with or to a labor union or guild with respect to any employees of Discover or any its Subsidiaries (including any collective bargaining agreement);

(iv) any of the benefits of or obligations under which will arise or be increased or accelerated by the occurrence of the execution and delivery of this Agreement, receipt of the Requisite Discover Vote or the announcement or consummation of any of the transactions contemplated by this Agreement, or under which a right of cancellation or termination will arise as a result thereof, or the value of any of the benefits of which will be calculated on the basis of any of the transactions contemplated by this Agreement, where such increase or acceleration of benefits or obligations, right of cancellation or termination, or change in calculation of value of benefits would, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Discover;

(v) (A) that relates to the incurrence of indebtedness by Discover or any of its Subsidiaries, including any sale and leaseback transactions, securitizations, off-balance sheet financing arrangements, capitalized leases and other similar financing arrangements (other than deposit liabilities, trade payables, federal funds purchased, advances and loans from the Federal Home Loan Bank and securities sold under agreements to repurchase in each case incurred in the ordinary course of business consistent with past practice), or (B) that provides for the guarantee, support, indemnification, assumption or endorsement by Discover or any of its Subsidiaries of, or any similar commitment by Discover or any of its Subsidiaries with respect to, the obligations, liabilities or indebtedness of any other person, in the case of each of clauses (A) and (B), in the principal amount of $40,000,000 or more;

(vi) that grants any right of first refusal, right of first offer or similar right with respect to any material assets, rights or properties of Discover or its Subsidiaries;

(vii) that is a consulting agreement or data processing, software programming or licensing contract involving the payment by Discover or any of its Subsidiaries of more than $20,000,000 per annum (other than any such contracts which are terminable by Discover or any of its Subsidiaries on sixty (60) days' or less notice without any required payment or other conditions, other than the condition of notice);

(viii) that is one of the contracts related to the operations or the business of any of the Discover Network, the PULSE network or Diners Club International (each, a "Network" and collectively, the "Networks") listed on Section 3.14(a)(viii) of the Discover Disclosure Schedule;

(ix) any lease, sublease, license and other agreement under which Discover or any of its Subsidiaries leases, subleases, licenses, uses or occupies (in each case whether as landlord, tenant, sublandlord, subtenant or by other occupancy arrangement), or has the right to use or occupy, now or in the future, any real property pursuant to which the annual amount payable by Discover or any of its Subsidiaries is more than $10,000,000;

(x) that is a settlement, consent or similar agreement and contains any material continuing obligations of Discover or any of its Subsidiaries; or

(xi) that relates to the acquisition or disposition of any person, business or asset and under which Discover or its Subsidiaries have or may have a material obligation or liability.

Each contract, arrangement, commitment or understanding of the type described in this Section 3.14(a), whether or not set forth in the Discover Disclosure Schedule, is referred to herein as a "Discover Contract." Discover has made available to Capital One true, correct and complete copies of each Discover Contract in effect as of the date hereof.

(b) (i) Each Discover Contract is valid and binding on Discover or one of its Subsidiaries, as applicable, and in full force and effect, except as, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on Discover, (ii) Discover and each of its Subsidiaries have in all material respects complied with and performed all obligations required to be complied with or performed by any of them to date under each Discover Contract, except where such noncompliance or nonperformance, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on Discover, (iii) to the knowledge of Discover, each third-party counterparty to each Discover Contract has in all material respects complied with and performed all obligations required to be complied with and performed by it to date under such Discover Contract, except where such noncompliance or nonperformance, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on Discover, (iv) neither Discover nor any of its Subsidiaries has knowledge of, or has received notice of, any violation of any Discover Contract by any of the other parties thereto which would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover and (v) no event or condition exists which constitutes or, after notice or lapse of time or both, will constitute, a material breach or default on the part of Discover or any of its Subsidiaries or, to the knowledge of Discover, any other party thereto, of or under any such Discover Contract, except where such breach or default, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on Discover.

3.15 Agreements with Regulatory Agencies. Subject to Section 9.14, neither Discover nor any of its Subsidiaries is subject to any cease-and-desist or other order or enforcement action issued by, or is a party to any written agreement, consent agreement or memorandum of understanding with, or is a party to any commitment letter or similar undertaking to, or is subject to any order or directive by, or has been ordered to pay any civil money penalty by, or has been since January 1, 2021, a recipient of any supervisory letter from, or since January 1, 2021, has adopted any policies, procedures or board resolutions at the request or suggestion of, any Regulatory Agency or other Governmental Entity that currently restricts in any material respect or would reasonably be expected to restrict in any material respect the conduct of its business or that in any material manner relates to its capital adequacy, its ability to pay dividends, its credit or risk management policies, its management or its business (each, whether or not set forth in the Discover Disclosure Schedule, a "Discover Regulatory Agreement"), nor has Discover or any of its Subsidiaries been advised in writing since January 1, 2021, by any Regulatory Agency or other Governmental Entity that it is considering issuing, initiating, ordering, or requesting any such Discover Regulatory Agreement.

3.16 Risk Management Instruments. Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, all interest rate swaps, caps, floors, option agreements, futures and forward contracts and other similar derivative transactions and risk management arrangements, whether entered into for the account of Discover or any of its Subsidiaries or for the account of a customer of Discover or one of its Subsidiaries, were entered into in the ordinary course of business and in accordance with applicable rules, regulations and policies of any Regulatory Agency and with counterparties reasonably believed to be financially responsible at the time and are legal, valid and binding obligations of Discover or one of its Subsidiaries enforceable in accordance with their terms (except as may be limited by the Enforceability Exceptions). Discover and each of its Subsidiaries have duly performed in all material respects all of their respective material obligations thereunder to the extent that such obligations to perform have accrued, and, to the knowledge of Discover, there are no material breaches, violations or defaults or allegations or assertions of such by any party thereunder.

3.17 Environmental Matters. Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, Discover and its Subsidiaries are in compliance, and since December 31, 2020 have complied with, any federal, state or local law, regulation, order, decree, permit, authorization, common law or agency requirement relating to: (a) the protection or restoration of the environment, health and safety as it relates to hazardous substance exposure or natural resource damages, (b) the handling, use, presence, disposal, release or threatened release of, or exposure to, any hazardous substance or (c) noise, odor, wetlands, indoor air, pollution, contamination or any injury to persons or property from exposure to any hazardous substance (collectively, "Environmental Laws"). There are no legal, administrative, arbitral or other proceedings, claims or actions or, to the knowledge of Discover, any private environmental investigations or remediation activities or governmental investigations of any nature seeking to impose, or that could reasonably be expected to result in the imposition, on Discover or any of its Subsidiaries of any liability or obligation arising under any Environmental Law pending or threatened against Discover, which liability or obligation would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover. To the knowledge of Discover, there is no reasonable basis for any such proceeding, claim, action or governmental investigation that would impose any liability or obligation that would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover. Discover is not subject to any agreement, order, judgment, decree, letter agreement or memorandum of agreement by or with any court, Governmental Entity, Regulatory Agency or other third party imposing any liability or obligation with respect to the foregoing that would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover.

3.18 Investment Securities and Commodities. Each of Discover and its Subsidiaries has good title to all securities and commodities owned by it (except those sold under repurchase agreements) which are material to Discover's business on a consolidated basis, free and clear of any Lien, except to the extent such securities or commodities are pledged in the ordinary course of business to secure obligations of Discover or its Subsidiaries. Such securities

and commodities are valued on the books of Discover in accordance with GAAP in all material respects.

3.19 Real Property. Discover or a Discover Subsidiary (a) has good and marketable title to all the real property reflected in the latest audited balance sheet included in the Discover Reports as being owned by Discover or a Discover Subsidiary or acquired after the date thereof which are material to Discover's business on a consolidated basis (except properties sold or otherwise disposed of since the date thereof in the ordinary course of business) (the "Discover Owned Properties"), free and clear of all material Liens, except (i) statutory Liens securing payments not yet due, (ii) Liens for real property Taxes not yet due and payable, (iii) easements, rights of way, and other similar encumbrances that do not materially affect the value or use of the properties or assets subject thereto or affected thereby or otherwise materially impair business operations at such properties, (iv) landlords', lessors', merchants', materialmen's, warehousemen's, carriers', workers' or repairmen's Liens or similar Liens arising or incurred in the ordinary course of business and (v) such imperfections or irregularities of title or Liens as do not materially affect the value or use of the properties or assets subject thereto or affected thereby or otherwise materially impair business operations at such properties (collectively, "Permitted Encumbrances"), and (b) is the lessee of all leasehold estates reflected in the latest audited financial statements included in such Discover Reports or acquired after the date thereof which are material to Discover's business on a consolidated basis (except for leases that have expired by their terms since the date thereof) (such leasehold estates, collectively with the Discover Owned Properties, the "Discover Real Property"), free and clear of all material Liens, except for Permitted Encumbrances, and is in possession of the properties purported to be leased thereunder, and, to the knowledge of Discover, each such lease is valid without material default thereunder by the lessee or, to the knowledge of Discover, the lessor. There are no pending or, to the knowledge of Discover, threatened condemnation proceedings against the Discover Real Property.

3.20 Intellectual Property. Discover and each of its Subsidiaries owns (free and clear of any material Liens), or is licensed to use, all Intellectual Property necessary for the conduct of its business as currently conducted. Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover: (a) (1) to the knowledge of Discover, the conduct by Discover and its Subsidiaries of their respective businesses does not infringe, misappropriate or otherwise violate the rights of any person and (2) no person has asserted in writing to Discover that Discover or any of its Subsidiaries has infringed, misappropriated or otherwise violated the Intellectual Property rights of such person, (b) to the knowledge of Discover, no person is challenging, infringing on, misappropriating or otherwise violating any right of Discover or any of its Subsidiaries with respect to any Intellectual Property owned by Discover or its Subsidiaries, and (c) neither Discover nor any Discover Subsidiary has received any written notice of any pending claim challenging the ownership, validity or enforceability of any Intellectual Property owned by Discover or any Discover Subsidiary, and Discover and its Subsidiaries have taken commercially reasonable actions to avoid the abandonment, cancellation or unenforceability of all Intellectual Property owned by Discover and its Subsidiaries. For purposes of this Agreement, "Intellectual Property" means all rights anywhere in the world in or relating to: (i) trademarks, service marks, brand names, d/b/a's, internet domain names and URLs, logos, symbols, certification marks, trade dress and other indications of origin, all goodwill associated with the foregoing, and all

registrations and applications to register the foregoing, including any extension, modification or renewal of any such registration or application; (ii) inventions, discoveries and ideas, whether patentable or not, patents, applications for patents and invention disclosures (including divisionals, revisions, continuations, continuations in part and renewals), all improvements thereto, and any extensions, substitutes, reissues or re-examinations thereof; (iii) nonpublic information, trade secrets and know-how, including proprietary or confidential processes, technologies, protocols, formulae, prototypes and confidential information and rights to limit the use or disclosure thereof by any person; (iv) writings and other works of authorship, whether copyrightable or not (including software, content, data, databases and other compilations of information) and whether published or unpublished, registrations or applications for registration of copyrights, and any renewals or extensions thereof; and (v) any other intellectual property, industrial or proprietary rights.

3.21 Related Party Transactions. As of the date hereof, except as set forth in any Discover Reports, there are no transactions or series of related transactions, agreements, arrangements or understandings, nor are there any currently proposed transactions or series of related transactions, between Discover or any of its Subsidiaries, on the one hand, and any current or former director or "executive officer" (as defined in Rule 3b-7 under the Exchange Act) of Discover or any of its Subsidiaries or any person who beneficially owns (as defined in Rules 13d-3 and 13d-5 of the Exchange Act) five percent (5%) or more of the outstanding Discover Common Stock (or any of such person's immediate family members or Affiliates) (other than Subsidiaries of Discover), on the other hand, of the type required to be reported in any Discover Report pursuant to Item 404 of Regulation S-K promulgated under the Exchange Act.

3.22 State Takeover Laws. The Board of Directors of Discover has approved this Agreement and the transactions contemplated hereby and has taken all such other necessary actions as required to render inapplicable to such agreements and transactions the provisions of any potentially applicable takeover laws of any state, including any "moratorium," "control share," "fair price," "takeover" or "interested stockholder" law or any similar provisions of the Discover Charter or Discover Bylaws (collectively, with any similar provisions of the Capital One Charter or Capital One Bylaws, "Takeover Statutes"). In accordance with Section 262 of the DGCL, no appraisal or dissenters' rights will be available to the holders of Discover Common Stock or Discover Preferred Stock in connection with the Mergers.

3.23 Reorganization. Discover has not taken any action and is not aware of any fact or circumstance that could reasonably be expected to prevent the Mergers, taken together, from qualifying as a "reorganization" within the meaning of Section 368(a) of the Code.

3.24 Opinion. The Board of Directors of Discover has received the opinion of PJT Partners LP to the effect that, as of the date of such opinion and subject to the assumptions, qualifications, limitations and other matters considered in connection with the preparation of such opinion, the Exchange Ratio in the Mergers is fair, from a financial point of view, to the holders of Discover Common Stock. Such opinion has not been amended or rescinded as of the date of this Agreement.

3.25 Discover Information. The information relating to Discover and its Subsidiaries or that is provided by Discover or its Subsidiaries or their respective representatives for inclusion in the Joint Proxy Statement and the S-4, or in any other document filed with any Regulatory Agency or Governmental Entity in connection herewith, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances in which they are made, not misleading. The Joint Proxy Statement (to the extent that portions thereof relate only to Discover or any of its Subsidiaries) will comply in all material respects with the provisions of the Exchange Act and the rules and regulations thereunder.

3.26 Loan Portfolio.

(a) Section 3.26(a)(i) of the Discover Disclosure Schedule sets forth (i) the aggregate outstanding principal amount, as of September 30, 2023, of all written or oral loans, loan agreements, notes or borrowing arrangements (including leases, credit enhancements, commitments, guarantees and interest-bearing assets) (collectively, "Loans") in which Discover or any Subsidiary of Discover is a creditor, other than "non-accrual" Loans (i.e., Loans under the terms of which the obligor was, as of September 30, 2023, over ninety (90) days or more delinquent in payment of principal or interest) and (ii) the aggregate outstanding principal amount, as of September 30, 2023, of all "non-accrual" Loans in which Discover or any Subsidiary of Discover is a creditor. As of September 30, 2023, Discover and its Subsidiaries did not have outstanding Loans and assets classified as "Other Real Estate Owned" with an aggregate then-outstanding fully committed principal amount in excess of the amount set forth on Section 3.26(a)(ii) of the Discover Disclosure Schedule, net of specific reserves with respect to such Loans and assets, that, as of September 30, 2023, were classified by Discover as "Other Loans Specially Mentioned," "Special Mention," "Substandard," "Doubtful," "Loss," "Classified," "Criticized," "Credit Risk Assets," "Concerned Loans," "Watch List" or words of similar import ("Criticized Assets"). Section 3.26(a)(iii) of the Discover Disclosure Schedule sets forth (A) a summary of Criticized Assets as of September 30, 2023, by category of Loan (e.g., student, personal, home, etc.), together with the aggregate principal amount of such Loans by category and the amount of specific reserves with respect to each such category of Loans and (B) each asset of Discover or any of its Subsidiaries that, as of September 30, 2023, is classified as "Other Real Estate Owned" and the book value thereof.

(b) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, each Loan of Discover or any of its Subsidiaries (i) is evidenced by notes, agreements or other evidences of indebtedness that are true, genuine and what they purport to be, (ii) to the extent carried on the books and records of Discover and its Subsidiaries as secured Loans, has been secured by valid charges, mortgages, pledges, security interests, restrictions, claims, liens or encumbrances, as applicable, which have been perfected and (iii) is the legal, valid and binding obligation of the obligor named therein, enforceable in accordance with its terms, subject to the Enforceability Exceptions.

(c) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, each outstanding Loan of Discover or any of its Subsidiaries (including Loans held for resale to investors) was solicited and originated, and is and has been administered and, where applicable, serviced, and the relevant Loan files are

being maintained, in all material respects in accordance with the relevant notes or other credit or security documents, the written underwriting standards of Discover and its Subsidiaries (and, in the case of Loans held for resale to investors, the underwriting standards, if any, of the applicable investors) and with all applicable federal, state and local laws, regulations and rules.

3.27 Credit Card Accounts and Receivables. Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, (a) the accounts and Receivables related to the credit cards issued by Discover Bank and any portfolio of credit card accounts and Receivables acquired by the Discover Bank (collectively, the "Discover Credit Card Accounts and Receivables") (other than those acquired from a third party) have been originated, created, maintained and serviced in compliance with all applicable laws, rules and regulations and Discover's policies and procedures, and are being maintained in accordance with the Account Agreements and the Discover's written underwriting standards, (b) in the case of any Discover Credit Card Accounts and Receivables acquired from a third party, to the knowledge of Discover, such accounts and Receivables have been originated, created, maintained and serviced in compliance in all material respects with all applicable laws, rules and regulations and the originator's policies and procedures, (c) the interest rates, fees and charges in connection with the Discover Credit Card Accounts and Receivables comply with all applicable laws, rules and regulations and the applicable Account Agreements, (d) all disclosures made in connection with the Discover Credit Card Accounts and Receivables complied with all applicable laws, rules and regulations as of the time made and (e) the Account Agreements, as they relate to the Discover Credit Card Accounts and Receivables, are enforceable in accordance with their terms (except as may be limited by the Enforceability Exceptions). For purposes of this Agreement:

(i) "Receivables" means, with respect to Discover Bank or Capital One Bank, as applicable, any amounts payable by an obligor under any credit card account, including any amounts owing for the payment of goods and services, donations and other gifts, cash advances, cash advance fees, access check fees, card membership fees, accrued interest and other finance charges, and any other fee, expense, charge, or other amount of every nature, kind and description whatsoever, less any amount owed by Discover Bank or Capital One Bank, as applicable, or any of its respective Affiliates, to the obligor as a credit balance, but only to the extent that such amounts payable by the obligor are owned by Discover Bank or Capital One Bank, as applicable, or its respective Affiliates, directly or indirectly through a securitization exposure or otherwise.

(ii) "Account Agreement" means, with respect to Discover Bank or Capital One Bank, as applicable, an agreement between Discover Bank or Capital One Bank, as applicable (whether as an original party, successor or assign to such agreement) or any other Subsidiary of Discover or Capital One, as applicable (whether as an original party, successor or assign to such agreement) and a person or persons under which an account is established and credit cards are issued to or on behalf of such person or persons.

3.28 Insurance. Except as would not reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect on Discover, (a) Discover and its Subsidiaries are insured with reputable insurers against such risks and in such amounts as the

management of Discover reasonably has determined to be prudent and consistent with industry practice, and Discover and its Subsidiaries are in compliance in all material respects with their insurance policies and are not in default under any of the terms thereof, (b) each such policy is outstanding and in full force and effect and, except for policies insuring against potential liabilities of officers, directors and employees of Discover and its Subsidiaries, Discover or the relevant Subsidiary thereof is the sole beneficiary of such policies, (c) all premiums and other payments due under any such policy have been paid, and all claims thereunder have been filed in due and timely fashion, (d) there is no claim for coverage by Discover or any of its Subsidiaries pending under any insurance policy as to which coverage has been questioned, denied or disputed by the underwriters of such insurance policy and (e) neither Discover nor any of its Subsidiaries has received notice of any threatened termination of, material premium increase with respect to, or material alteration of coverage under, any insurance policies.

3.29 Networks.

(a) (i) Section 3.29(a)(i) of the Discover Disclosure Schedule sets forth a true and complete list of the Networks' ten (10) largest revenue relationships, as measured by revenue generated from such relationships in (A) the year ended December 31, 2022 and (B) the nine (9) months ended September 30, 2023, and (ii) Section 3.29(a)(ii) of the Discover Disclosure Schedule sets forth a true and complete list of the ten (10) largest vendors and service providers to the Networks, as measured by the costs accrued to such relationships in (A) the year ended December 31, 2022 and (B) the nine (9) months ended September 30, 2023 (each of the relationships contemplated by (i) and (ii), a "Covered Partner"). Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, since December 31, 2022, Discover and its Subsidiaries have not received any written notice from any Covered Partner that such Covered Partner intends to discontinue or substantially reduce its relationship with Discover or any of its Subsidiaries, terminate or adversely amend any existing material contract with Discover or any of its Subsidiaries, or not continue its relationship with Discover or any of its Subsidiaries.

(b) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, Discover and its Subsidiaries have, since January 1, 2021, complied with and are not in default under any law, statute, order, rule, regulation, policy, guideline, bylaws or requirements of any applicable network alliance, association or exchange, in each case applicable to the Networks or which maintain relationships with the Networks.

(c) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, to the knowledge of Discover, no third party has gained unauthorized access to or misused any Personal Data or any hardware, software, code, systems, servers, networks, data communications lines and other information technology and equipment (collectively "IT Systems") used in the operation, maintenance or support of the Networks (collectively, "Network Software and IT Systems"), in each case in a manner that has resulted or is reasonably likely to result in either (i) liability, cost or disruption to the Networks or (ii) a duty to notify any person. Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, Discover and its Subsidiaries have taken commercially reasonable steps and implemented commercially

reasonable safeguards, consistent with accepted industry practices, Data Protection Laws and all contracts to the extent such contracts relate to the processing of Personal Data, that are designed to protect their products and services and the Network Software and IT Systems from unauthorized access and free from any disabling codes or instructions, spyware, trojan horses, worms, viruses, or other software routines that permit or cause unauthorized access to, or disruption, impairment, disablement, or destruction of software, data or other materials ("Malicious Code"). Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, the Network Software and IT Systems are (i) free from Malicious Code and (ii) have not, since December 31, 2020, experienced any failure or malfunction.

(d) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Discover, the Network Software and IT Systems have not, since December 31, 2020, suffered an unscheduled outage or other failure.

3.30 No Investment Adviser or Broker-Dealer Subsidiary.

(a) Neither Discover nor any Discover Subsidiary serves in a capacity described in Section 9(a) or 9(b) of the Investment Company Act of 1940, as amended, nor acts as an "investment adviser" required to register as such under the Investment Advisers Act of 1940, as amended.

(b) Neither Discover nor any Discover Subsidiary is a broker-dealer required to be registered under the Exchange Act with the SEC.

3.31 No Other Representations or Warranties.

(a) Except for the representations and warranties made by Discover in this Article III, neither Discover nor any other person makes any express or implied representation or warranty with respect to Discover, its Subsidiaries, or their respective businesses, operations, assets, liabilities, conditions (financial or otherwise) or prospects, and Discover hereby disclaims any such other representations or warranties. In particular, without limiting the foregoing disclaimer, neither Discover nor any other person makes or has made any representation or warranty to Capital One or any of its Affiliates or representatives with respect to (i) any financial projection, forecast, estimate, budget or prospective information relating to Discover, any of its Subsidiaries or their respective businesses or (ii) except for the representations and warranties made by Discover in this Article III, any oral or written information presented to Capital One or any of its Affiliates or representatives in the course of their due diligence investigation of Discover, the negotiation of this Agreement or in the course of the transactions contemplated hereby.

(b) Discover acknowledges and agrees that neither Capital One nor Merger Sub nor any other person has made or is making any express or implied representation or warranty other than those contained in Article IV.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF CAPITAL ONE AND MERGER SUB

Except (a) as disclosed in the disclosure schedule delivered by Capital One and Merger Sub to Discover concurrently herewith (the "Capital One Disclosure Schedule"); provided, that (i) no such item is required to be set forth as an exception to a representation or warranty if its absence would not result in the related representation or warranty being deemed untrue or incorrect, (ii) the mere inclusion of an item in the Capital One Disclosure Schedule as an exception to a representation or warranty shall not be deemed an admission by Capital One that such item represents a material exception or fact, event or circumstance or that such item would reasonably be expected to have a Material Adverse Effect and (iii) any disclosures made with respect to a section of Article IV shall be deemed to qualify (1) any other section of Article IV specifically referenced or cross-referenced and (2) other sections of Article IV to the extent it is reasonably apparent on its face (notwithstanding the absence of a specific cross reference) from a reading of the disclosure that such disclosure applies to such other sections or (b) as disclosed in any Capital One Reports filed by Capital One since December 31, 2021, and prior to the date hereof (but disregarding risk factor disclosures contained under the heading "Risk Factors," or disclosures of risks set forth in any "forward-looking statements" disclaimer or any other statements that are similarly cautionary, predictive or forward-looking in nature), Capital One and Merger Sub hereby represent and warrant to Discover as follows:

4.1 Corporate Organization.

(a) Capital One is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, is a bank holding company duly registered under the BHC Act and has elected to be treated as a financial holding company under the BHC Act. Merger Sub is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. Each of Capital One and Merger Sub has the corporate power and authority to own, lease or operate all of its properties and assets and to carry on its business as it is now being conducted. Each of Capital One and Merger Sub is duly licensed or qualified to do business and in good standing in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned, leased or operated by it makes such licensing, qualification or standing necessary, except where the failure to be so licensed or qualified or to be in good standing would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Capital One. True and complete copies of the Restated Certificate of Incorporation of Capital One (the "Capital One Charter") and the Amended and Restated Bylaws of Capital One (the "Capital One Bylaws") and the certificate of incorporation of Merger Sub (the "Merger Sub Charter") and the bylaws of Merger Sub (the "Merger Sub Bylaws"), in each case as in effect as of the date of this Agreement, have previously been made available by Capital One to Discover.

(b) Each Subsidiary of Capital One (a "Capital One Subsidiary") (i) is duly organized and validly existing under the laws of its jurisdiction of organization, (ii) is duly licensed or qualified to do business and, where such concept is recognized under applicable law, in good standing in all jurisdictions (whether federal, state, local or foreign) where its ownership, leasing or operation of property or the conduct of its business requires it to be so licensed or

qualified or in good standing and in which the failure to be so licensed or qualified or in good standing would reasonably be expected to have a Material Adverse Effect on Capital One and (iii) has all requisite corporate power and authority to own, lease or operate its properties and assets and to carry on its business as now conducted. There are no restrictions on the ability of Capital One or any Subsidiary of Capital One to pay dividends or distributions except, in the case of Capital One or a Subsidiary that is a regulated entity, for restrictions on dividends or distributions generally applicable to all similarly regulated entities. The deposit accounts of each Subsidiary of Capital One that is an insured depository institution are insured by the FDIC through the Deposit Insurance Fund (as defined in Section 3(y) of the Federal Deposit Insurance Act of 1950) to the fullest extent permitted by law, all premiums and assessments required to be paid in connection therewith have been paid when due, and no proceedings for the termination of such insurance are pending or threatened. Section 4.1(b) of the Capital One Disclosure Schedule sets forth a true and complete list of all Subsidiaries of Capital One that would constitute significant Subsidiaries. There is no person whose results of operations, cash flows, changes in stockholders' equity or financial position are consolidated in the financial statements of Capital One other than the Capital One Subsidiaries.

4.2 Capitalization.

(a) The authorized capital stock of Capital One consists of 1,000,000,000 shares of Capital One Common Stock and 50,000,000 shares of preferred stock, par value $0.01 per share. As of February 15, 2024, there were (i) 380,373,476 shares of Capital One Common Stock issued and outstanding; (ii) 316,375,901 shares of Capital One Common Stock held in treasury; (iii) 403,823 shares of Capital One Common Stock reserved for issuance upon the exercise of outstanding stock options to purchase shares of Capital One Common Stock ("Capital One Stock Options"); (iv) 10,484,834 shares of Capital One Common Stock reserved for issuance upon the settlement of outstanding Capital One RSU Awards; (v) 1,340,794 shares of Capital One Common Stock (assuming performance goals are satisfied at the target level) or 2,011,317 shares of Capital One Common Stock (assuming performance goals are satisfied at the maximum level) reserved for issuance upon the settlement of outstanding performance unit awards in respect of shares of Capital One Common Stock ("Capital One PSU Awards"); (vi) 3,459,690 shares of Capital One Common Stock reserved for issuance under the Capital One Amended and Restated 2002 Associates Stock Purchase Plan (the "Capital One ASPP"); and (vii) (A) 1,500,000 shares of preferred stock, which have been designated as Fixed Rate Non-Cumulative Perpetual Preferred Stock, Series I, issued and outstanding, (B) 1,250,000 shares of preferred stock, which have been designated as Fixed Rate Non-Cumulative Perpetual Preferred Stock, Series J, issued and outstanding, (C) 125,000 shares of preferred stock, which have been designated as Fixed Rate Non-Cumulative Perpetual Preferred Stock, Series K, issued and outstanding, (D) 675,000 shares of preferred stock, which have been designated as Fixed Rate Non-Cumulative Perpetual Preferred Stock, Series L, issued and outstanding, (E) 1,000,000 shares of preferred stock, which have been designated as Fixed Rate Reset Non-Cumulative Perpetual Preferred Stock, Series M, issued and outstanding and (F) 425,000 shares of preferred stock, which have been designated as Fixed Rate Non-Cumulative Perpetual Preferred Stock, Series N, issued and outstanding (the preferred stock described in subclauses (A) through (F), the "Capital One Preferred Stock"). As of the date of this Agreement, except as set forth in the immediately preceding sentence and for changes since February 15, 2024 resulting from the exercise, vesting or settlement of any Capital One Stock Options, Capital One

RSU Awards and Capital One PSU Awards (collectively, the "Capital One Equity Awards") issued prior to the date of this Agreement as described in the immediately preceding sentence or the exercise of options to purchase shares of Capital One Common Stock under the Capital One ASPP, there are no shares of capital stock or other voting securities or equity interests of Capital One issued, reserved for issuance or outstanding. All of the issued and outstanding shares of Capital One Common Stock and Capital One Preferred Stock and Merger Sub Common Stock have been duly authorized and validly issued and are fully paid, nonassessable and free of preemptive rights, with no personal liability attaching to the ownership thereof. Capital One is current on all dividends payable on the outstanding shares of Capital One Preferred Stock and has complied in all material respects with the terms and conditions thereof. There are no bonds, debentures, notes or other indebtedness that have the right to vote on any matters on which stockholders of Capital One or Merger Sub may vote. Except as set forth in Section 4.2(a) of the Capital One Disclosure Schedule, no trust preferred or subordinated debt securities of Capital One are issued or outstanding. Other than Capital One Equity Awards and Capital One Preferred Stock issued prior to the date of this Agreement as described in this Section 4.2(a) or the exercise of options to purchase shares of Capital One Common Stock under the Capital One ASPP, as of the date of this Agreement there are no outstanding subscriptions, options, warrants, stock appreciation rights, phantom units, scrip, rights to subscribe to, preemptive rights, anti-dilutive rights, rights of first refusal or similar rights, puts, calls, commitments or agreements of any character relating to, or securities or rights convertible or exchangeable into or exercisable for, shares of capital stock or other voting or equity securities of or ownership interest in Capital One, or contracts, commitments, understandings or arrangements by which Capital One may become bound to issue additional shares of its capital stock or other equity or voting securities of or ownership interests in Capital One or that otherwise obligate Capital One to issue, transfer, sell, purchase, redeem or otherwise acquire, any of the foregoing. Other than the Capital One Equity Awards or options to purchase shares of Capital One Common Stock under the Capital One ASPP, no equity-based awards (including any cash awards where the amount of payment is determined in whole or in part based on the price of any capital stock of Capital One or any of its Subsidiaries) are outstanding. There are no voting trusts, stockholder agreements, proxies or other agreements in effect to which Capital One or any of its Subsidiaries is a party with respect to the voting or transfer of Capital One Common Stock, capital stock or other voting or equity securities or ownership interests of Capital One or granting any stockholder or other person any registration rights.

(b) Capital One owns, directly or indirectly, all of the issued and outstanding shares of capital stock or other equity ownership interests of each of the Capital One Subsidiaries, free and clear of any Liens, and all of such shares or equity ownership interests are duly authorized and validly issued and are fully paid, nonassessable (except, with respect to Subsidiaries that are depository institutions, as provided under 12 U.S.C. § 55 or any comparable provision of applicable state law) and free of preemptive rights, with no personal liability attaching to the ownership thereof. The authorized capital stock of Merger Sub consists of 100 shares of Merger Sub Common Stock of which, as of the date of this Agreement, 100 shares were issued and outstanding. All of the issued and outstanding capital stock of Merger Sub is, and as of immediately prior to the Effective Time will be, owned by Capital One. Merger Sub has not conducted any business other than (i) incident to its formation for the sole purpose of carrying out the transactions contemplated by this Agreement and (ii) in relation to this Agreement, the Mergers and the other transactions contemplated hereby.

4.3 Authority; No Violation.

(a) Each of Capital One and Merger Sub has full corporate power and authority to execute and deliver this Agreement and, upon receipt of the Requisite Capital One Vote (as defined below), to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby (including the Mergers) have been duly and validly approved by the Board of Directors of Capital One and Merger Sub. The Board of Directors of Capital One has unanimously determined that the transactions contemplated hereby (including the Mergers), on the terms and conditions set forth in this Agreement, are advisable and in the best interests of Capital One and its stockholders, has adopted and approved this Agreement and the transactions contemplated hereby (including the Mergers), and has directed that the issuance of shares of Capital One Common Stock in connection with the Merger (the "Capital One Share Issuance") be submitted to Capital One's stockholders for approval at a meeting of such stockholders and has adopted a resolution to the foregoing effect. The Board of Directors of Merger Sub has determined that the Merger, on the terms and conditions set forth in this Agreement, is in the best interests of Merger Sub and its sole stockholder and has adopted a resolution to the foregoing effect. Capital One, as Merger Sub's sole stockholder, has adopted and approved this Agreement and the transactions contemplated hereby by written consent. Except for (i) the approval of the Capital One Share Issuance by the affirmative vote of a majority of the votes cast by the holders of Capital One Common Stock at the Capital One Meeting (the "Requisite Capital One Vote"), (ii) the adoption and approval of the Bank Merger Agreement by Capital One as Capital One Bank's sole stockholder, (iii) the adoption, approval and filing of Certificates of Designation with respect to the New Capital One Preferred Stock with the Delaware Secretary, and (iv) the adoption of resolutions to give effect to the provisions of Section 6.12 in connection with the Closing, no other corporate proceedings on the part of Capital One or Merger Sub are necessary to approve this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by each of Capital One and Merger Sub and (assuming due authorization, execution and delivery by Discover) constitutes a valid and binding obligation of each of Capital One and Merger Sub, enforceable against each of Capital One and Merger Sub in accordance with its terms (except in all cases as such enforceability may be limited by the Enforceability Exceptions). The shares of Capital One Common Stock and New Capital One Preferred Stock to be issued in the Mergers have been validly authorized (subject to the receipt of the Requisite Capital One Vote), and when issued, will be validly issued, fully paid and nonassessable, and no current or past stockholder of Capital One will have any preemptive right or similar rights in respect thereof.

(b) Neither the execution and delivery of this Agreement by Capital One or Merger Sub, nor the consummation by Capital One or Merger Sub of the transactions contemplated hereby (including the Mergers and the Bank Merger), nor compliance by Capital One or Merger Sub with any of the terms or provisions hereof, will (i) violate any provision of the Capital One Charter or the Capital One Bylaws or the Merger Sub Charter or the Merger Sub Bylaws or (ii) assuming that the consents and approvals referred to in Section 4.4 are duly obtained, (x) violate any law, statute, code, ordinance, rule, regulation, judgment, order, writ, decree or injunction applicable to Capital One or any of its Subsidiaries or any of their respective properties or assets or (y) violate, conflict with, result in a breach of any provision of or the loss of any benefit under, constitute a default (or an event which, with notice or lapse of time, or both,

would constitute a default) under, result in the termination of or a right of termination or cancellation under, accelerate the performance required by, or result in the creation of any Lien upon any of the respective properties or assets of Capital One or any of its Subsidiaries under, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, deed of trust, license, lease, agreement or other instrument or obligation to which Capital One or any of its Subsidiaries is a party, or by which they or any of their respective properties or assets may be bound, except (in the case of clauses (x) and (y) above) for such violations, conflicts, breaches, defaults, terminations, cancellations, accelerations or creations which, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on Capital One.

4.4 Consents and Approvals. Except for (a) the filing of any required applications, filings and notices, as applicable, with the New York Stock Exchange, (b) the filing of any required applications, filings and notices, as applicable, with the Federal Reserve Board under the BHC Act and approval of such applications, filings and notices, (c) the filing of any required applications, filings and notices, as applicable, with the OCC and approval of such applications, filings and notices, (d) the filing of any required applications, filings or notices with FINRA and approval of such applications, filings and notices, (e) the filing of any required applications, filings or notices with any state banking authorities listed on Section 3.4 of the Discover Disclosure Schedule or Section 4.4 of the Capital One Disclosure Schedule and approval of such applications, filings and notices, (f) the filing with the SEC of the Joint Proxy Statement and the S-4 in which the Joint Proxy Statement will be included as a prospectus, and the declaration of effectiveness of the S-4, (g) the filing of the Certificates of Merger with the Delaware Secretary pursuant to the DGCL, the filing of the Bank Merger Certificates with the applicable Governmental Entities as required by applicable law, and the filing of Certificates of Designation for the New Capital One Preferred Stock with the Delaware Secretary and (h) such filings and approvals as are required to be made or obtained under the securities or "Blue Sky" laws of various states in connection with the issuance of the shares of Capital One Common Stock and New Capital One Preferred Stock pursuant to this Agreement and the approval of the listing of such Capital One Common Stock on the NYSE, no consents or approvals of or filings or registrations with any Governmental Entity are necessary in connection with (i) the execution and delivery by Capital One and Merger Sub of this Agreement or (ii) the consummation by Capital One and Merger Sub of the Mergers, as applicable, and the other transactions contemplated hereby (including the Bank Merger). As of the date hereof, Capital One is not aware of any reason why the necessary regulatory approvals and consents will not be received in order to permit consummation of the Mergers and Bank Merger on a timely basis.

4.5 Reports. Capital One and each of its Subsidiaries have timely filed (or furnished) all reports, forms, registrations and statements, together with any amendments required to be made with respect thereto, that they were required to file (or furnish, as applicable) since January 1, 2021 with any Regulatory Agencies, including any report, form, registration or statement required to be filed (or furnished, as applicable) pursuant to the laws, rules or regulations of the United States, any state, any foreign entity, or any Regulatory Agency, and have paid all fees and assessments due and payable in connection therewith, except where the failure to file (or furnish, as applicable) such report, form, correspondence, registration or statement or to pay such fees and assessments, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on Capital One. Subject to Section

9.14, except for normal examinations conducted by a Regulatory Agency in the ordinary course of business of Capital One and its Subsidiaries, no Regulatory Agency has initiated or has pending any proceeding or, to the knowledge of Capital One, investigation into the business or operations of Capital One or any of its Subsidiaries since January 1, 2021, except where such proceedings or investigations would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One. Subject to Section 9.14, there (i) is no unresolved violation, criticism, or exception by any Regulatory Agency with respect to any report or statement relating to any examinations or inspections of Capital One or any of its Subsidiaries and (ii) have been no formal or informal inquiries by, or disagreements or disputes with, any Regulatory Agency with respect to the business, operations, policies or procedures of Capital One or any of its Subsidiaries since January 1, 2021, in each case, which would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One.

4.6 Financial Statements.

(a) The financial statements of Capital One and its Subsidiaries included (or incorporated by reference) in the Capital One Reports (including the related notes, where applicable) (i) have been prepared from, and are in accordance with, the books and records of Capital One and its Subsidiaries, (ii) fairly present in all material respects the consolidated results of operations, cash flows, changes in stockholders' equity and consolidated financial position of Capital One and its Subsidiaries for the respective fiscal periods or as of the respective dates therein set forth (subject in the case of unaudited statements to year-end audit adjustments normal in nature and amount), (iii) complied, as of their respective dates of filing with the SEC, in all material respects with applicable accounting requirements and with the published rules and regulations of the SEC with respect thereto, and (iv) have been prepared in accordance with GAAP consistently applied during the periods involved, except, in each case, as indicated in such statements or in the notes thereto. Since December 31, 2020, no independent public accounting firm of Capital One has resigned (or informed Capital One that it intends to resign) or been dismissed as independent public accountants of Capital One as a result of or in connection with any disagreements with Capital One on a matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure.

(b) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, neither Capital One nor any of its Subsidiaries has any liability of any nature whatsoever (whether absolute, accrued, contingent or otherwise and whether due or to become due), except for those liabilities that are reflected or reserved against on the consolidated balance sheet of Capital One included in its Quarterly Report on Form 10-Q for the fiscal quarter ended September 30, 2023 (including any notes thereto) and for liabilities incurred in the ordinary course of business consistent with past practice since September 30, 2023, or in connection with this Agreement and the transactions contemplated hereby.

(c) The records, systems, controls, data and information of Capital One and its Subsidiaries are recorded, stored, maintained and operated under means (including any electronic, mechanical or photographic process, whether computerized or not) that are under the exclusive ownership of Capital One or its Subsidiaries or accountants (including all means of

access thereto and therefrom), except for any non-exclusive ownership that would not reasonably be expected to have a Material Adverse Effect on Capital One. Capital One (x) has implemented and maintains disclosure controls and procedures (as defined in Rule 13a-15(e) of the Exchange Act) to ensure that material information relating to Capital One, including its Subsidiaries, is made known to the chief executive officer and the chief financial officer of Capital One by others within those entities as appropriate to allow timely decisions regarding required disclosures and to make the certifications required by the Exchange Act and Sections 302 and 906 of the Sarbanes-Oxley Act, and (y) has disclosed in writing, based on its most recent evaluation prior to the date hereof, to Capital One's outside auditors and the audit committee of the Board of Directors of Capital One (i) any significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting (as defined in Rule 13a-15(f) of the Exchange Act) which are reasonably likely to adversely affect Capital One's ability to record, process, summarize and report financial information, and (ii) any fraud, whether or not material, that involves management or other employees who have a significant role in Capital One's internal controls over financial reporting. There is no reason to believe that Capital One's outside auditors and its chief executive officer and chief financial officer will not be able to give the certifications and attestations required pursuant to the rules and regulations adopted pursuant to Section 404 of the Sarbanes-Oxley Act, without qualification, when next due.

(d) Since January 1, 2021, (i) neither Capital One nor any of its Subsidiaries, nor, to the knowledge of Capital One, any director, officer, auditor, accountant or representative of Capital One or any of its Subsidiaries, has received or otherwise had or obtained knowledge of any material complaint, allegation, assertion or claim, whether written or oral, regarding the accounting or auditing practices, procedures, methodologies or methods (including with respect to loan loss reserves, write-downs, charge-offs and accruals) of Capital One or any of its Subsidiaries or their respective internal accounting controls, including any material complaint, allegation, assertion or claim that Capital One or any of its Subsidiaries has engaged in questionable accounting or auditing practices, and (ii) no employee of or attorney representing Capital One or any of its Subsidiaries, whether or not employed by Capital One or any of its Subsidiaries, has reported evidence of a material violation of securities laws or banking laws, breach of fiduciary duty or similar violation by Capital One or any of its Subsidiaries or any of their respective officers, directors, employees or agents to the Board of Directors of Capital One or to the knowledge of Capital One, to any director or officer of Capital One.

4.7 Broker's Fees. With the exception of the engagement of Centerview Partners LLC, neither Capital One nor any Capital One Subsidiary nor any of their respective officers or directors has employed any broker, finder or financial advisor or incurred any liability for any broker's fees, commissions or finder's fees in connection with the Mergers or the other transactions contemplated by this Agreement. Capital One has disclosed to Discover as of the date hereof the aggregate fees provided for in connection with the engagement by Capital One of Centerview Partners LLC related to the Mergers and the other transactions contemplated hereunder.

4.8 Absence of Certain Changes or Events.

(a) Since December 31, 2022, there has not been any effect, change, event, circumstance, condition, occurrence or development that has had or would reasonably be

expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One.

(b) Since December 31, 2022, Capital One and its Subsidiaries have carried on their respective businesses in all material respects in the ordinary course.

4.9 Legal and Regulatory Proceedings.

(a) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, neither Capital One nor any of its Subsidiaries is a party to any, and there are no outstanding or pending or, to the knowledge of Capital One, threatened in writing, legal, administrative, arbitral or other proceedings, claims, actions or governmental or regulatory investigations of any nature against Capital One or any of its Subsidiaries or any of their current or former directors or executive officers or challenging the validity or propriety of the transactions contemplated by this Agreement.

(b) There is no injunction, order, judgment, decree, or regulatory restriction imposed upon Capital One, any of its Subsidiaries or the assets of Capital One or any of its Subsidiaries (or that, upon consummation of the Mergers, would apply to the Surviving Entity or any of its Affiliates) that would reasonably be expected to be material to the Surviving Entity and its Subsidiaries, taken as a whole.

4.10 Taxes and Tax Returns. Each of Capital One and its Subsidiaries has duly and timely filed (including all applicable extensions) all material Tax Returns in all jurisdictions in which Tax Returns are required to be filed by it, and all such Tax Returns are true, correct, and complete in all material respects. Neither Capital One nor any of its Subsidiaries is the beneficiary of any extension of time within which to file any material Tax Return (other than extensions to file Tax Returns obtained in the ordinary course). All material Taxes of Capital One and its Subsidiaries (whether or not shown on any Tax Returns) that are due have been fully and timely paid. Each of Capital One and its Subsidiaries has withheld and paid all material Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, creditor, stockholder, independent contractor or other third party. Neither Capital One nor any of its Subsidiaries has received written notice of assessment or proposed assessment in connection with any material amount of Taxes, and there are no threatened in writing or pending disputes, claims, audits, examinations or other proceedings regarding any material Tax of Capital One and its Subsidiaries or the assets of Capital One and its Subsidiaries that has not been accrued in the latest audited balance sheet included in the Capital One Reports. Neither Capital One nor any of its Subsidiaries is a party to or is bound by any Tax sharing, allocation or indemnification agreement or arrangement (other than such an agreement or arrangement exclusively between or among Capital One and its Subsidiaries). Neither Capital One nor any of its Subsidiaries (A) has been a member of an affiliated group filing a consolidated federal income Tax Return for which the statute of limitations is open (other than a group the common parent of which was Capital One) or (B) has any liability for the Taxes of any person (other than Capital One or any of its Subsidiaries) under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign law), as a transferee or successor, by contract or otherwise. Neither Capital One nor any of its Subsidiaries has been, within the past two (2) years or otherwise as part of a "plan (or series of related transactions)" within the meaning of

Section 355(e) of the Code of which the Merger is also a part, a "distributing corporation" or a "controlled corporation" (within the meaning of Section 355(a)(1)(A) of the Code) in a distribution of stock intending to qualify for tax-free treatment under Section 355 of the Code. Neither Capital One nor any of its Subsidiaries has participated in a "reportable transaction" within the meaning of Treasury Regulation Section 1.6011-4(b)(1). At no time during the past five (5) years has Capital One been a United States real property holding corporation within the meaning of Section 897(c)(2) of the Code.

4.11 Employees.

(a) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, each Capital One Benefit Plan has been established, operated and administered in accordance with its terms and the requirements of all applicable laws, including ERISA and the Code. For purposes of this Agreement, the term "Capital One Benefit Plans" means all employee benefit plans (as defined in Section 3(3) of ERISA), whether or not subject to ERISA, and all equity, bonus or incentive, deferred compensation, retiree medical or life insurance, supplemental retirement, severance, termination change in control, retention, employment, welfare, insurance, medical, fringe or other benefit plans, programs, agreements, contracts, policies, arrangements or remuneration of any kind with respect to which Capital One or any Subsidiary or any trade or business of Capital One or any of its Subsidiaries, whether or not incorporated, all of which together with Capital One would be deemed a "single employer" within the meaning of Section 4001 of ERISA (a "Capital One ERISA Affiliate"), is a party or has any current or future obligation or that are maintained, contributed to or sponsored by Capital One or any of its Subsidiaries for the benefit of any current or former employee, officer, director or independent contractor of Capital One or any of its Subsidiaries, excluding, in each case, any Multiemployer Plan or any plan, program or arrangement sponsored by a Governmental Entity.

(b) Capital One has made available to Discover true and complete copies of each material Capital One Benefit Plan and the following related documents, to the extent applicable: (i) all summary plan descriptions, amendments, modifications or material supplements, (ii) the most recent annual report (Form 5500) filed with the IRS, (iii) the most recently received IRS determination letter and (iv) the most recently prepared actuarial report.

(c) The IRS has issued a favorable determination letter or opinion with respect to each Capital One Benefit Plan that is intended to be qualified under Section 401(a) of the Code (the "Capital One Qualified Plans") and the related trust, which letter or opinion has not been revoked (nor has revocation been threatened), and, to the knowledge of Capital One, there are no existing circumstances and no events have occurred that would reasonably be expected to adversely affect the qualified status of any Capital One Qualified Plan or the related trust.

(d) Except as would not result in any material liability to Capital One and its Subsidiaries, taken as a whole, with respect to each Capital One Benefit Plan that is subject to Section 302 or Title IV of ERISA or Section 412, 430 or 4971 of the Code: (i) the minimum funding standard under Section 302 of ERISA and Sections 412 and 430 of the Code has been satisfied and no waiver of any minimum funding standard or any extension of any amortization

period has been requested or granted, (ii) no such plan is in "at-risk" status for purposes of Section 430 of the Code, (iii) the present value of accrued benefits under such Capital One Benefit Plan, based upon the actuarial assumptions used for funding purposes in the most recent actuarial report prepared by such Capital One Benefit Plan's actuary with respect to such Capital One Benefit Plan, did not, as of its latest valuation date, exceed the then current fair market value of the assets of such Capital One Benefit Plan allocable to such accrued benefits, (iv) no reportable event within the meaning of Section 4043(c) of ERISA for which the 30-day notice requirement has not been waived has occurred, (v) all premiums to the PBGC have been timely paid in full, (vi) no liability (other than for premiums to the PBGC) under Title IV of ERISA has been or expected to be incurred by Capital One or any of its Subsidiaries, and (vii) the PBGC has not instituted proceedings to terminate any such Capital One Benefit Plan.

(e) None of Capital One and its Subsidiaries nor any Capital One ERISA Affiliate has, at any time during the last six (6) years, contributed to or been obligated to contribute to a Multiemployer Plan or a Multiple Employer Plan, and none of Capital One and its Subsidiaries nor any Capital One ERISA Affiliate has incurred any liability that has not been satisfied to a Multiemployer Plan or Multiple Employer Plan as a result of a complete or partial withdrawal (as those terms are defined in Part I of Subtitle E of Title IV of ERISA) from a Multiemployer Plan or Multiple Employer Plan.

(f) Except as would not result in any material liability to Capital One or its Subsidiaries, taken as a whole, no Capital One Benefit Plan provides for any post-employment or post-retirement health or medical or life insurance benefits for retired, former or current employees or beneficiaries or dependents thereof, except as required by Section 4980 of the Code.

(g) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, all contributions required to be made to any Capital One Benefit Plan by applicable law or by any plan document or other contractual undertaking, for any period through the date hereof, have been timely made or paid in full or, to the extent not required to be made or paid on or before the date hereof, have been fully reflected on the books and records of Capital One.

(h) There are no pending or threatened claims (other than claims for benefits in the ordinary course), lawsuits or arbitrations which have been asserted or instituted, and, to Capital One's knowledge, no set of circumstances exists which may reasonably give rise to a claim or lawsuit, against the Capital One Benefit Plans, any fiduciaries thereof with respect to their duties to the Capital One Benefit Plans or the assets of any of the trusts under any of the Capital One Benefit Plans that would reasonably be expected to result in any liability of Capital One or any of its Subsidiaries in an amount that would be material to Capital One and its Subsidiaries, taken as a whole.

(i) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, none of Capital One and its Subsidiaries nor any Capital One ERISA Affiliate has engaged in any "prohibited transaction" (as defined in Section 4975 of the Code or Section 406 of ERISA) which would reasonably be expected to subject any of the Capital One Benefit Plans or their related trusts, Capital One, any

of its Subsidiaries or any Capital One ERISA Affiliate to any material Tax or penalty imposed under Section 4975 of the Code or Section 502 of ERISA.

(j) Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will (either alone or in conjunction with any other event) result in, the acceleration of vesting, exercisability, funding or delivery of, or increase in the amount or value of, any payment, right or other benefit to any employee, officer, director or other service provider of Capital One or any of its Subsidiaries, or result in any limitation on the right of Capital One or any of its Subsidiaries to amend, merge, terminate or receive a reversion of assets from any Capital One Benefit Plan or related trust on or after the Effective Time. Without limiting the generality of the foregoing, no amount paid or payable (whether in cash, in property, or in the form of benefits) by Capital One or any of its Subsidiaries in connection with the transactions contemplated hereby (either solely as a result thereof or as a result of such transactions in conjunction with any other event) will be an "excess parachute payment" within the meaning of Section 280G of the Code.

(k) No Capital One Benefit Plan provides for the gross-up or reimbursement of Taxes under Section 409A or 4999 of the Code, or otherwise.

(l) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, there are no pending or, to Capital One's knowledge, threatened labor grievances or unfair labor practice claims or charges against Capital One or any of its Subsidiaries, or any strikes or other labor disputes against Capital One or any of its Subsidiaries. Neither Capital One nor any of its Subsidiaries is party to or bound by any collective bargaining or similar agreement with any labor organization, or work rules or practices agreed to with any labor organization or employee association applicable to employees of Capital One or any of its Subsidiaries and, except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, there are no pending or, to the knowledge of Capital One, threatened organizing efforts by any union or other group seeking to represent any employees of Capital One or any of its Subsidiaries.

(m) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, each Capital One Benefit Plan that is subject to the laws of a jurisdiction other than the United States (whether or not U.S. law also applies) (i) has been maintained in accordance with all applicable requirements, (ii) if intended to qualify for special tax treatment, meets all requirements for such treatment and (iii) if intended to be funded and/or book-reserved, is fully funded and/or book reserved, as appropriate, based upon reasonable actuarial assumptions.

4.12 SEC Reports. Capital One has previously made available to Discover an accurate and complete copy of each (a) final registration statement, prospectus, report, schedule and definitive proxy statement filed with or furnished to the SEC since December 31, 2020 by Capital One pursuant to the Securities Act or the Exchange Act (the "Capital One Reports") and (b) communication mailed by Capital One to its stockholders since December 31, 2020 and prior to the date hereof, and no such Capital One Report or communication, as of the date thereof (and, in the case of registration statements and proxy statements, on the dates of effectiveness and the dates of the relevant meetings, respectively), contained any untrue statement of a material fact or

omitted to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances in which they were made, not misleading, except that information filed or furnished as of a later date (but before the date of this Agreement) shall be deemed to modify information as of an earlier date. Since December 31, 2020, as of their respective dates, all Capital One Reports filed or furnished under the Securities Act and the Exchange Act complied in all material respects with the published rules and regulations of the SEC with respect thereto. No executive officer of Capital One has failed in any respect to make the certifications required of him or her under Section 302 or 906 of the Sarbanes-Oxley Act.

4.13 Compliance with Applicable Law.

(a) Capital One and each of its Subsidiaries hold, and have at all times since December 31, 2020, held, all licenses, registrations, franchises, certificates, permits charters and authorizations necessary for the lawful conduct of their respective businesses and ownership of their respective properties, rights and assets under and pursuant to each (and have paid all fees and assessments due and payable in connection therewith), except where neither the cost of failure to hold nor the cost of obtaining and holding such license, registration, franchise, certificate, permit, charter or authorization (nor the failure to pay any fees or assessments) would, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Capital One, and to the knowledge of Capital One, no suspension or cancellation of any such necessary license, registration, franchise, certificate, permit, charter or authorization is threatened.

(b) Except as would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Capital One, Capital One and each of its Subsidiaries have complied with and are not in default or violation under any law, statute, order, rule, regulation, policy and/or guideline of any Governmental Entity applicable to Capital One or any of its Subsidiaries, including all laws related to data protection or privacy (including Data Protection Laws), the USA PATRIOT Act, the Bank Secrecy Act, the Equal Credit Opportunity Act and Regulation B, the Fair Housing Act, the Community Reinvestment Act, the Fair Credit Reporting Act, the Truth in Lending Act and Regulation Z, the Home Mortgage Disclosure Act, the Fair Debt Collection Practices Act, the Electronic Fund Transfer Act, the Dodd-Frank Wall Street Reform and Consumer Protection Act, any regulations promulgated by the Consumer Financial Protection Bureau, the Interagency Policy Statement on Retail Sales of Nondeposit Investment Products, the SAFE Mortgage Licensing Act of 2008, the Real Estate Settlement Procedures Act and Regulation X, Title V of the Gramm-Leach-Bliley Act, any and all sanctions or regulations enforced by the Office of Foreign Assets Control of the United States Department of Treasury and any other law, policy or guideline relating to bank secrecy, discriminatory lending, financing or leasing practices, consumer protection, money laundering prevention, foreign assets control, U.S. sanctions laws and regulations, Sections 23A and 23B of the Federal Reserve Act, the Sarbanes-Oxley Act, and all agency requirements relating to the origination, sale and servicing of mortgage and consumer loans.

(c) Capital One Bank has a Community Reinvestment Act rating of "satisfactory" or better.

(d) Capital One maintains a written information privacy and security program that includes measures reasonably designed to protect the privacy, confidentiality and security of all Personal Data processed or otherwise handled by or on behalf of Capital One against any Security Breach. Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, Capital One and its Subsidiaries have taken commercially reasonable measures, consistent with general industry practices, designed to ensure the confidentiality, privacy and security of Personal Data processed or otherwise handled by or on behalf of Capital One. To the knowledge of Capital One, Capital One has not experienced any Security Breach that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Capital One. To the knowledge of Capital One, there are no data security or other technological vulnerabilities with respect to its information technology systems or networks that, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect on Capital One. Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, Capital One and its Subsidiaries are in compliance with all of its and their privacy policies relating to Personal Data.

(e) Without limitation, none of Capital One or any of its Subsidiaries or to the knowledge of Capital One, any director, officer, employee, agent or other person acting on behalf of Capital One or any of its Subsidiaries has, directly or indirectly, (i) used any funds of Capital One or any of its Subsidiaries for unlawful contributions, unlawful gifts, unlawful entertainment or other expenses relating to political activity, (ii) made any unlawful payment to foreign or domestic governmental officials or employees or to foreign or domestic political parties or campaigns from funds of Capital One or any of its Subsidiaries, (iii) violated any provision that would result in the violation of the Foreign Corrupt Practices Act of 1977, as amended, or any similar law, (iv) established or maintained any unlawful fund of monies or other assets of Capital One or any of its Subsidiaries, (v) made any fraudulent entry on the books or records of Capital One or any of its Subsidiaries, (vi) made any unlawful bribe, unlawful rebate, unlawful payoff, unlawful influence payment, unlawful kickback or other unlawful payment to any person, private or public, regardless of form, whether in money, property or services, to obtain favorable treatment in securing business, to obtain special concessions for Capital One or any of its Subsidiaries, to pay for favorable treatment for business secured or to pay for special concessions already obtained for Capital One or any of its Subsidiaries or (vii) is currently subject to any United States sanctions administered by the Office of Foreign Assets Control of the United States Treasury Department, except in each case as would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Capital One.

(f) As of the date hereof, Capital One and Capital One Bank each meet the applicable published criteria to be "well-capitalized" (as such term is defined in the relevant regulation of the applicable institution's primary federal banking regulator).

(g) Except as would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Capital One, (i) Capital One and each of its Subsidiaries have properly administered all accounts for which it acts as a fiduciary, including accounts for which it serves as a trustee, agent, custodian, personal representative, guardian, conservator or investment advisor, in accordance with the terms of the governing documents and applicable state, federal and foreign law; and (ii) none of Capital One, any of its Subsidiaries, or

any of its or its Subsidiaries' directors, officers or employees, has committed any breach of trust or fiduciary duty with respect to any such fiduciary account, and the accountings for each such fiduciary account are true and correct and accurately reflect the assets and results of such fiduciary account.

4.14 Certain Contracts.

(a) Except as set forth in Section 4.14(a) of the Capital One Disclosure Schedule or as filed with any Capital One Reports, as of the date hereof, neither Capital One nor any of its Subsidiaries is a party to or bound by any contract, arrangement, commitment or understanding (whether written or oral), but excluding any Capital One Benefit Plan and any contract, arrangement, commitment or understanding solely among Capital One and any wholly owned Subsidiaries of Capital One or solely among wholly owned Subsidiaries of Capital One:

(i) which is a "material contract" (as such term is defined in Item 601(b)(10) of Regulation S-K of the SEC);

(ii) which contains a provision that materially restricts the conduct of any line of business by Capital One or any of its Subsidiaries or upon consummation of the Mergers will materially restrict the ability of the Surviving Entity or any of its Affiliates to engage in any line of business or in any geographic region (including any exclusivity or exclusive dealing provisions with such an effect);

(iii) with or to a labor union or guild with respect to any employees of Capital One or any its Subsidiaries (including any collective bargaining agreement);

(iv) any of the benefits of or obligations under which will arise or be increased or accelerated by the occurrence of the execution and delivery of this Agreement, receipt of the Requisite Capital One Vote or the announcement or consummation of any of the transactions contemplated by this Agreement, or under which a right of cancellation or termination will arise as a result thereof, or the value of any of the benefits of which will be calculated on the basis of any of the transactions contemplated by this Agreement, where such increase or acceleration of benefits or obligations, right of cancellation or termination, or change in calculation of value of benefits would, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Capital One;

(v) (A) that relates to the incurrence of indebtedness by Capital One or any of its Subsidiaries, including any sale and leaseback transactions, securitizations, off-balance sheet financing arrangements, capitalized leases and other similar financing arrangements (other than deposit liabilities, trade payables, federal funds purchased, advances and loans from the Federal Home Loan Bank and securities sold under agreements to repurchase in each case incurred in the ordinary course of business consistent with past practice), or (B) that provides for the guarantee, support, indemnification, assumption or endorsement by Capital One or any of its Subsidiaries of, or any similar commitment by Capital One or any of its Subsidiaries with respect to, the

obligations, liabilities or indebtedness of any other person, in the case of each of clauses (A) and (B), in the principal amount of $40,000,000 or more;

(vi) that grants any right of first refusal, right of first offer or similar right with respect to any material assets, rights or properties of Capital One or its Subsidiaries;

(vii) that is a settlement, consent or similar agreement and contains any material continuing obligations of Capital One or any of its Subsidiaries; or

(viii) that relates to the acquisition or disposition of any person, business or asset and under which Capital One or its Subsidiaries have or may have a material obligation or liability.

Each contract, arrangement, commitment or understanding of the type described in this Section 4.14(a), whether or not set forth in the Capital One Disclosure Schedule, is referred to herein as a "Capital One Contract." Capital One has made available to Discover true, correct and complete copies of each Capital One Contract in effect as of the date hereof.

(b) (i) Each Capital One Contract is valid and binding on Capital One or one of its Subsidiaries, as applicable, and in full force and effect, except as, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on Capital One, (ii) Capital One and each of its Subsidiaries have in all material respects complied with and performed all obligations required to be complied with or performed by any of them to date under each Capital One Contract, except where such noncompliance or nonperformance, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on Capital One, (iii) to the knowledge of Capital One, each third-party counterparty to each Capital One Contract has in all material respects complied with and performed all obligations required to be complied with and performed by it to date under such Capital One Contract, except where such noncompliance or nonperformance, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on Capital One, (iv) neither Capital One nor any of its Subsidiaries has knowledge of, or has received notice of, any violation of any Capital One Contract by any of the other parties thereto which would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One and (v) no event or condition exists which constitutes or, after notice or lapse of time or both, will constitute, a material breach or default on the part of Capital One or any of its Subsidiaries or, to the knowledge of Capital One, any other party thereto, of or under any such Capital One Contract, except where such breach or default, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on Capital One.

4.15 Agreements with Regulatory Agencies. Subject to Section 9.14, neither Capital One nor any of its Subsidiaries is subject to any cease-and-desist or other order or enforcement action issued by, or is a party to any written agreement, consent agreement or memorandum of understanding with, or is a party to any commitment letter or similar undertaking to, or is subject to any order or directive by, or has been ordered to pay any civil money penalty by, or has been since January 1, 2021, a recipient of any supervisory letter from, or since January 1, 2021, has adopted any policies, procedures or board resolutions at the request

or suggestion of, any Regulatory Agency or other Governmental Entity that currently restricts in any material respect or would reasonably be expected to restrict in any material respect the conduct of its business or that in any material manner relates to its capital adequacy, its ability to pay dividends, its credit or risk management policies, its management or its business (each, whether or not set forth in the Capital One Disclosure Schedule, a "Capital One Regulatory Agreement"), nor has Capital One or any of its Subsidiaries been advised since January 1, 2021, by any Regulatory Agency or other Governmental Entity that it is considering issuing, initiating, ordering or requesting any such Capital One Regulatory Agreement.

4.16 Risk Management Instruments. Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, all interest rate swaps, caps, floors, option agreements, futures and forward contracts and other similar derivative transactions and risk management arrangements, whether entered into for the account of Capital One or any of its Subsidiaries or for the account of a customer of Capital One or one of its Subsidiaries, were entered into in the ordinary course of business and in accordance with applicable rules, regulations and policies of any Regulatory Agency and with counterparties reasonably believed to be financially responsible at the time and are legal, valid and binding obligations of Capital One or one of its Subsidiaries enforceable in accordance with their terms (except as may be limited by the Enforceability Exceptions). Capital One and each of its Subsidiaries have duly performed in all material respects all of their respective material obligations thereunder to the extent that such obligations to perform have accrued, and, to the knowledge of Capital One, there are no material breaches, violations or defaults or allegations or assertions of such by any party thereunder.

4.17 Environmental Matters. Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, Capital One and its Subsidiaries are in compliance, and since December 31, 2022 have complied, with all Environmental Laws. There are no legal, administrative, arbitral or other proceedings, claims or actions or, to the knowledge of Capital One, any private environmental investigations or remediation activities or governmental investigations of any nature seeking to impose, or that could reasonably be expected to result in the imposition, on Capital One or any of its Subsidiaries of any liability or obligation arising under any Environmental Law pending or threatened against Capital One, which liability or obligation would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One. To the knowledge of Capital One, there is no reasonable basis for any such proceeding, claim, action or governmental investigation that would impose any liability or obligation that would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One. Capital One is not subject to any agreement, order, judgment, decree, letter agreement or memorandum of agreement by or with any court, Governmental Entity, Regulatory Agency or other third party imposing any liability or obligation with respect to the foregoing that would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One.

4.18 Investment Securities and Commodities. Each of Capital One and its Subsidiaries has good title to all securities and commodities owned by it (except those sold under repurchase agreements) which are material to Capital One's business on a consolidated basis, free and clear of any Lien, except to the extent such securities or commodities are pledged in the

ordinary course of business to secure obligations of Capital One or its Subsidiaries. Such securities and commodities are valued on the books of Capital One in accordance with GAAP in all material respects.

4.19 Real Property. Capital One or a Capital One Subsidiary (a) has good and marketable title to all the real property reflected in the latest audited balance sheet included in the Capital One Reports as being owned by Capital One or a Capital One Subsidiary or acquired after the date thereof which are material to Capital One's business on a consolidated basis (except properties sold or otherwise disposed of since the date thereof in the ordinary course of business) (the "Capital One Owned Properties"), free and clear of all material Liens, except for Permitted Encumbrances, and (b) is the lessee of all leasehold estates reflected in the latest audited financial statements included in such Capital One Reports or acquired after the date thereof which are material to Capital One's business on a consolidated basis (except for leases that have expired by their terms since the date thereof) (such leasehold estates, collectively with the Capital One Owned Properties, the "Capital One Real Property"), free and clear of all material Liens, except for Permitted Encumbrances, and is in possession of the properties purported to be leased thereunder, and to the knowledge of Capital One, each such lease is valid without material default thereunder by the lessee or, to the knowledge of Capital One, the lessor. There are no pending or, to the knowledge of Capital One, threatened condemnation proceedings against the Capital One Real Property.

4.20 Intellectual Property. Capital One and each of its Subsidiaries owns (free and clear of any material Liens), or is licensed to use, all Intellectual Property necessary for the conduct of its business as currently conducted. Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One: (a) (i) to the knowledge of Capital One, the conduct by Capital One and its Subsidiaries of their respective businesses does not infringe, misappropriate or otherwise violate the rights of any person and (ii) no person has asserted in writing to Capital One that Capital One or any of its Subsidiaries has infringed, misappropriated or otherwise violated the Intellectual Property rights of such person, (b) to the knowledge of Capital One, no person is challenging, infringing on, misappropriating or otherwise violating any right of Capital One or any of its Subsidiaries with respect to any Intellectual Property owned by Capital One or its Subsidiaries, and (c) neither Capital One nor any Capital One Subsidiary has received any written notice of any pending claim challenging the ownership, validity or enforceability of any Intellectual Property owned by Capital One or any Capital One Subsidiary, and Capital One and its Subsidiaries have taken commercially reasonable actions to avoid the abandonment, cancellation or unenforceability of all Intellectual Property owned by Capital One and its Subsidiaries.

4.21 Related Party Transactions. As of the date hereof, except as set forth in any Capital One Reports, there are no transactions or series of related transactions, agreements, arrangements or understandings, nor are there any currently proposed transactions or series of related transactions, between Capital One or any of its Subsidiaries, on the one hand, and any current or former director or "executive officer" (as defined in Rule 3b-7 under the Exchange Act) of Capital One or any of its Subsidiaries or any person who beneficially owns (as defined in Rules 13d-3 and 13d-5 of the Exchange Act) five percent (5%) or more of the outstanding Capital One Common Stock (or any of such person's immediate family members or Affiliates) (other than Subsidiaries of Capital One), on the other hand, of the type required to be reported in

any Capital One Report pursuant to Item 404 of Regulation S-K promulgated under the Exchange Act.

4.22 State Takeover Laws. The Board of Directors of each of Capital One and Merger Sub has approved this Agreement and the transactions contemplated hereby and has taken all such other necessary actions as required to render inapplicable to such agreements and transactions the provisions of any potentially applicable Takeover Statutes.

4.23 Reorganization. Capital One has not taken any action and is not aware of any fact or circumstance that could reasonably be expected to prevent the Mergers, taken together, from qualifying as a "reorganization" within the meaning of Section 368(a) of the Code.

4.24 Opinion. Prior to the execution of this Agreement, Capital One has received an opinion (which if initially rendered orally, has been or will be confirmed by written opinion of the same date) from Centerview Partners LLC, to the effect that as of the date thereof and based upon and subject to the matters set forth therein, the Exchange Ratio provided for pursuant to this Agreement is fair, from a financial point of view, to Capital One. Such opinion has not been amended or rescinded as of the date of this Agreement.

4.25 Capital One Information. The information relating to Capital One and its Subsidiaries or that is provided by Capital One or its Subsidiaries or their respective representatives for inclusion in the Joint Proxy Statement and the S-4, or in any other document filed with any Regulatory Agency or Governmental Entity in connection herewith, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances in which they are made, not misleading. The Joint Proxy Statement (to the extent that portions thereof relate only to Capital One or any of its Subsidiaries) will comply in all material respects with the provisions of the Exchange Act and the rules and regulations thereunder. The S-4 (to the extent that portions thereof relate only to Capital One or any of its Subsidiaries) will comply in all material respects with the provisions of the Securities Act and the rules and regulations thereunder.

4.26 Loan Portfolio.

(a) As of the date hereof, except as set forth in Section 4.26(a) of the Capital One Disclosure Schedule, neither Capital One nor any of its Subsidiaries is a party to any written or oral Loan in which Capital One or any Subsidiary of Capital One is a creditor that, as of September 30, 2023, had an outstanding balance of $100,000,000 or more and under the terms of which the obligor was, as of September 30, 2023, over ninety (90) days or more delinquent in payment of principal or interest. Set forth in Section 4.26(a) of the Capital One Disclosure Schedule is a true, correct and complete list of (A) all of the Loans of Capital One and its Subsidiaries that, as of September 30, 2023, had an outstanding balance of $100,000,000 or more and were classified by Capital One as "Other Loans Specially Mentioned," "Special Mention," "Substandard," "Doubtful," "Loss," "Classified," "Criticized," "Credit Risk Assets," "Concerned Loans," "Watch List" or words of similar import, together with the principal amount of and accrued and unpaid interest on each such Loan and the identity of the borrower thereunder, together with the aggregate principal amount of and accrued and unpaid interest on such Loans,

by category of Loan (e.g., commercial, consumer, etc.), together with the aggregate principal amount of such Loans by category and (B) each asset of Capital One or any of its Subsidiaries that, as of September 30, 2023, is classified as "Other Real Estate Owned" and the book value thereof.

(b) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, each Loan of Capital One or any of its Subsidiaries (i) is evidenced by notes, agreements or other evidences of indebtedness that are true, genuine and what they purport to be, (ii) to the extent carried on the books and records of Capital One and its Subsidiaries as secured Loans, has been secured by valid charges, mortgages, pledges, security interests, restrictions, claims, liens or encumbrances, as applicable, which have been perfected and (iii) is the legal, valid and binding obligation of the obligor named therein, enforceable in accordance with its terms, subject to the Enforceability Exceptions.

(c) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, each outstanding Loan of Capital One or any of its Subsidiaries (including Loans held for resale to investors) was solicited and originated, and is and has been administered and, where applicable, serviced, and the relevant Loan files are being maintained, in all material respects in accordance with the relevant notes or other credit or security documents, the written underwriting standards of Capital One and its Subsidiaries (and, in the case of Loans held for resale to investors, the underwriting standards, if any, of the applicable investors) and with all applicable federal, state and local laws, regulations and rules.

4.27 Credit Card Accounts and Receivables. Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, (a) the accounts and Receivables related to the credit cards issued by Capital One Bank and any portfolio of credit card accounts and Receivables acquired by the Capital One Bank (collectively, the "Capital One Credit Card Accounts and Receivables") (other than those acquired from a third party) have been originated, created, maintained and serviced in compliance with all applicable laws, rules and regulations and Capital One's policies and procedures, and are being maintained in accordance with the Account Agreements and the Capital One's written underwriting standards, (b) in the case of any Capital One Credit Card Accounts and Receivables acquired from a third party, to the knowledge of Capital One, such accounts and Receivables have been originated, created, maintained and serviced in compliance in all material respects with all applicable laws, rules and regulations and the originator's policies and procedures, (c) the interest rates, fees and charges in connection with the Capital One Credit Card Accounts and Receivables comply with all applicable laws, rules and regulations and the applicable Account Agreements, (d) all disclosures made in connection with the Capital One Credit Card Accounts and Receivables complied with all applicable laws, rules and regulations as of the time made and (e) the Account Agreements, as they relate to the Capital One Credit Card Accounts and Receivables, are enforceable in accordance with their terms (except as may be limited by the Enforceability Exceptions).

4.28 Insurance. Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, (a) Capital One and its Subsidiaries are insured with reputable insurers against such risks and in such amounts as the

management of Capital One reasonably has determined to be prudent and consistent with industry practice, and Capital One and its Subsidiaries are in compliance in all material respects with their insurance policies and are not in default under any of the terms thereof, (b) each such policy is outstanding and in full force and effect and, except for policies insuring against potential liabilities of officers, directors and employees of Capital One and its Subsidiaries, Capital One or the relevant Subsidiary thereof is the sole beneficiary of such policies, (c) all premiums and other payments due under any such policy have been paid, and all claims thereunder have been filed in due and timely fashion, (d) there is no claim for coverage by Capital One or any of its Subsidiaries pending under any insurance policy as to which coverage has been questioned, denied or disputed by the underwriters of such insurance policy and (e) neither Capital One nor any of its Subsidiaries has received notice of any threatened termination of, material premium increase with respect to, or material alteration of coverage under, any insurance policies.

4.29 IT Systems.

(a) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, to the knowledge of Capital One, no third party has gained unauthorized access to or misused any Personal Data or any IT Systems used in the operation of their respective businesses (collectively, "Capital One Software and IT Systems"), in each case in a manner that has resulted or is reasonably likely to result in either (i) liability, cost or disruption to the Networks or (ii) a duty to notify any person. Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, Capital One and its Subsidiaries have taken commercially reasonable steps and implemented commercially reasonable safeguards, consistent with accepted industry practices, Data Protection Laws and all contracts to the extent such contracts relate to the processing of Personal Data, that are designed to protect their products and services and the Capital One Software and IT Systems from unauthorized access and free from any Malicious Code. Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, the Capital One IT Systems are (i) free from Malicious Code and (ii) have not, since December 31, 2020, experienced any failure or malfunction.

(b) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, the Capital One Software and IT Systems have not, since December 31, 2020, suffered an unscheduled outage or other failure.

4.30 No Investment Advisor Subsidiary. Neither Capital One nor any Capital One Subsidiary serves in a capacity described in Section 9(a) or 9(b) of the Investment Company Act of 1940, as amended, nor acts as an "investment adviser" required to register as such under the Investment Advisers Act of 1940, as amended.

4.31 Broker-Dealer Subsidiary.

(a) Capital One has certain Subsidiaries that are broker-dealers (each, a "Capital One Broker-Dealer Subsidiary"). Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One: (i) each

Capital One Broker-Dealer Subsidiary is duly registered under the Exchange Act as a broker-dealer with the SEC and is in compliance with the applicable provisions of the Exchange Act, including the net capital requirements and customer protection requirements thereof; (ii) each Capital One Broker-Dealer Subsidiary is a member in good standing with FINRA and all other required SROs and in compliance with all applicable rules and regulations of FINRA and any such SRO of which it is a member or which otherwise has authority over it; (iii) each Capital One Broker-Dealer Subsidiary (and each registered representative thereof) is duly registered, licensed or qualified as a broker-dealer or registered representative, as applicable, under, and in compliance with, the applicable laws of all jurisdictions in which it is required to be so registered and each such registration, license or qualification is in full force and effect and in good standing; and (iv) there is no action, suit, proceeding or investigation pending or, to the knowledge of Capital One, threatened that would reasonably be likely to lead to the revocation, amendment, failure to renew, limitation, suspension or restriction of any such registrations, licenses and qualifications.

(b) Except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on Capital One, (i) none of the Capital One Broker-Dealer Subsidiaries nor any "associated person" thereof (A) is or has been ineligible to serve as a broker-dealer or an associated person of a broker-dealer under Section 15(b) of the Exchange Act, (B) is subject to a "statutory disqualification" as defined in Section 3(a)(39) of the Exchange Act or (C) is subject to a disqualification that would be a basis for censure, limitations on the activities, functions or operations of, or suspension or revocation of the registration of any Capital One Broker-Dealer Subsidiary as broker-dealer, municipal securities dealer, government securities broker or government securities dealer under Section 15, Section 15B or Section 15C of the Exchange Act, and (ii) there is no action, suit, proceeding or investigation pending or, to the knowledge of Capital One, threatened, that is reasonably likely to result in any such person being deemed ineligible as described in clause (A), subject to a "statutory disqualification" as described in clause (B) or subject to a disqualification as described in clause (C).

4.32 No Other Representations or Warranties.

(a) Except for the representations and warranties made by Capital One and Merger Sub in this Article IV, neither Capital One nor Merger Sub any other person makes any express or implied representation or warranty with respect to Capital One, its Subsidiaries, Merger Sub or their respective businesses, operations, assets, liabilities, conditions (financial or otherwise) or prospects, and Capital One and Merger Sub hereby disclaim any such other representations or warranties. In particular, without limiting the foregoing disclaimer, neither Capital One nor Merger Sub nor any other person makes or has made any representation or warranty to Discover or any of its Affiliates or representatives with respect to (i) any financial projection, forecast, estimate, budget or prospective information relating to Capital One, Merger Sub, any of their respective Subsidiaries or their respective businesses or (ii) except for the representations and warranties made by Capital One and Merger Sub in this Article IV, any oral or written information presented to Discover or any of its Affiliates or representatives in the course of their due diligence investigation of Capital One, the negotiation of this Agreement or in the course of the transactions contemplated hereby.

(b) Capital One and Merger Sub acknowledge and agree that neither Discover nor any other person has made or is making any express or implied representation or warranty other than those contained in Article III.

ARTICLE V

COVENANTS RELATING TO CONDUCT OF BUSINESS

5.1 Conduct of Business Prior to the Effective Time. During the period from the date of this Agreement to the Effective Time or earlier termination of this Agreement, except as expressly contemplated or permitted by this Agreement (including as set forth in the Discover Disclosure Schedule or the Capital One Disclosure Schedule), required by law or as consented to in writing by the other party (such consent not to be unreasonably withheld, conditioned or delayed), Discover and Capital One shall, and shall cause each of its Subsidiaries to, (a) use reasonable best efforts to conduct its business in the ordinary course in all material respects and (b) use reasonable best efforts to maintain and preserve intact its business organization, employees and advantageous business relationships.

5.2 Discover Forbearances. During the period from the date of this Agreement to the Effective Time or earlier termination of this Agreement, except as set forth in the Discover Disclosure Schedule, as expressly contemplated or permitted by this Agreement or as required by law, Discover shall not, and shall not permit any of its Subsidiaries to, without the prior written consent of Capital One (such consent not to be unreasonably withheld, conditioned or delayed):

(a) other than (i) federal funds and Federal Home Loan Bank borrowings, (ii) borrowings pursuant to the Bank Term Funding Program or Discount Window, (iii) entry into repurchase agreements, (iv) deposits (including brokered deposits), (v) purchases of federal funds, (vi) asset securitizations, (vii) sales of certificates of deposit, (viii) capitalized leases and (ix) issuances of letters of credit, in each case, in the ordinary course of business consistent with past practice, incur any indebtedness for borrowed money (other than indebtedness of Discover or any of its wholly-owned Subsidiaries to Discover or any of its wholly-owned Subsidiaries), or assume, guarantee, endorse or otherwise as an accommodation become responsible for the obligations of any other individual, corporation or other entity;

(b) (i) adjust, split, combine or reclassify any capital stock;

(ii) make, declare, pay or set a record date for any dividend, or any other distribution on, or directly or indirectly redeem, purchase or otherwise acquire, any shares of its capital stock or other equity or voting securities or any securities or obligations convertible (whether currently convertible or convertible only after the passage of time or the occurrence of certain events) or exchangeable into or exercisable for any shares of its capital stock or other equity or voting securities, including any Discover Securities or Discover Subsidiary Securities, except, in each case, (A) regular quarterly cash dividends by Discover at a rate not in excess of $0.700 per share of Discover Common Stock, (B) dividends paid by any of the Subsidiaries of Discover to Discover or any of its wholly-owned Subsidiaries, (C) dividends provided for and paid on

Discover Preferred Stock in accordance with the terms of such Discover Preferred Stock or (D) the acceptance of shares of Discover Common Stock for withholding Taxes incurred in connection with the vesting or settlement of Discover RSU Awards or Discover PSU Awards, in each case, in accordance with past practice and the terms of the applicable award agreements;

(iii) grant any stock options, stock-appreciation rights, restricted stock units, performance stock units, phantom stock units, restricted shares or other equity-based awards or interests, or grant any person any right to acquire any Discover Securities or Discover Subsidiary Securities; or

(iv) issue, sell, transfer, encumber or otherwise permit to become outstanding any shares of capital stock or voting securities or equity interests or securities convertible (whether currently convertible or convertible only after the passage of time of the occurrence of certain events) or exchangeable into, or exercisable for, any shares of its capital stock or other equity or voting securities, including any Discover Securities or Discover Subsidiary Securities, or any options, warrants, or other rights of any kind to acquire any shares of capital stock or other equity or voting securities, including any Discover Securities or Discover Subsidiary Securities, except pursuant to the settlement of Discover RSU Awards or Discover PSU Awards, in each case, in accordance with the terms of the applicable award agreements;

(c) sell, transfer, mortgage, encumber or otherwise dispose of any of its material properties or assets (including any material Intellectual Property) to any individual, corporation or other entity other than a wholly-owned Subsidiary, or cancel, release or assign any indebtedness to any such person or any claims held by any such person, in each case other than (i) in the ordinary course of business, (ii) cancellation, abandonment, lapse or expiry in the ordinary course of business of any Intellectual Property owned by Discover or its Subsidiaries that is not material to any of their businesses and (iii) grants of non-exclusive licenses to Intellectual Property in the ordinary course of business;

(d) except for foreclosure or acquisitions of control in a fiduciary or similar capacity or in satisfaction of debts previously contracted in good faith in the ordinary course of business, make any material investment in or acquisition of (whether by purchase of stock or securities, contributions to capital, property transfers, merger or consolidation, or formation of a joint venture or otherwise) any other person or the property or assets of any other person, in each case other than a wholly-owned Subsidiary of Discover;

(e) (i) terminate, materially amend, or waive any material provision of, any Discover Contract, or make any change in any instrument or agreement governing the terms of any of its securities, other than in the ordinary course of business without material adverse changes of terms with respect to Discover or (ii) enter into any contract that would constitute a Discover Contract of the type described in Section 3.14(a)(ii), (iii), (iv), (vi), (vii) or (xi) if it were in effect on the date of this Agreement (other than normal renewals of contracts or replacement of substantially similar services in the ordinary course of business without material adverse changes of terms with respect to Discover);

(f) except as required under applicable law or the terms of any Discover Benefit Plan existing as of the date hereof, as applicable, (i) enter into, establish, adopt, materially amend or terminate any Discover Benefit Plan, or any arrangement that would be a Discover Benefit Plan if in effect on the date hereof, other than (x) in the ordinary course of business consistent with past practice and (y) with respect to Discover Benefit Plans that are health and welfare plans, as would not reasonably be expected to materially increase the cost of providing benefits under any such Discover Benefit Plan, (ii) increase the compensation or benefits payable to any current or former employee, officer, director or individual contractor or consultant, other than increases in annual base salary or wages in the ordinary course of business consistent with past practice and within the limitations set forth in Section 5.2(f) of the Discover Disclosure Schedule, (iii) accelerate the vesting of any equity-based awards or other compensation, (iv) enter into any new, or amend any existing, employment, severance, change in control, retention, collective bargaining agreement or similar agreement or arrangement, other than the entry into offer letters in the ordinary course of business consistent with past practice that do not provide for enhanced or change in control severance (other than within the limitations on participation in the Discover Change in Control Severance Policy set forth in Section 5.2(f) of the Discover Disclosure Schedule), (v) fund any rabbi trust or similar arrangement or in any other way secure the payment of compensation or benefits under any Discover Benefit Plan, (vi) terminate the employment of any employee at the level of Executive Vice President or above, other than for cause, (vii) hire any employee at the level of Senior Vice President or above or any individual independent contractor with annual compensation of $250,000 or more (other than as a replacement hire receiving substantially similar annual compensation and with terms consistent with and subject to the limitations on participation in the Discover Change in Control Severance Policy set forth in Section 5.2(f) of the Discover Disclosure Schedule), or (viii) promote, change the employee level, grade or title of or otherwise materially alter the role of any employee to the level of Senior Vice President or above or any individual independent contractor with annual compensation of $250,000 or more (unless such action (x) is to fill a vacant position (in lieu of a replacement hire) with substantially similar annual compensation as the individual being replaced and with the terms of such promotion to be consistent with and subject to the limitations on participation in the Discover Change in Control Severance Policy set forth in Section 5.2(f) of the Discover Disclosure Schedule or (y) does not affect the individual's compensation or benefits);

(g) settle any claim, suit, action or proceeding, other than the settlement of any claim, suit, action or proceeding involving a monetary payment by Discover or its Subsidiaries in an amount not to exceed $10,000,000 individually or $50,000,000, in excess of current reserves as of the date of this Agreement, in the aggregate and which does not involve any injunctive relief against, or any finding or admission of any violation of law or wrongdoing by, and would not impose any material restriction on, or create any precedent that would be materially adverse to, Discover or its Subsidiaries or the Surviving Entity or its Subsidiaries;

(h) take any action or knowingly fail to take any action where such action or failure to act could reasonably be expected to prevent the Mergers, taken together, from qualifying as a "reorganization" within the meaning of Section 368(a) of the Code;

(i) amend the Discover Charter, the Discover Bylaws or comparable governing documents of its Subsidiaries that are "significant Subsidiaries";

(j) merge or consolidate itself or any of its "significant Subsidiaries" with any other person, or restructure, reorganize or completely or partially liquidate or dissolve it or any of its "significant Subsidiaries";

(k) other than in prior consultation with Capital One, materially restructure or materially change its investment securities or derivatives portfolio or its interest rate exposure, through purchases, sales or otherwise, or the manner in which the portfolio is classified or reported;

(l) implement or adopt any material change in its accounting principles, practices or methods, other than as may be required by GAAP;

(m) enter into any new material line of business or business operations, or abandon or discontinue any existing material line of business or business operations, or change in any material respect its lending, investment, underwriting, risk and asset liability management and other banking and operating, hedging, securitization and servicing policies (including any change in the maximum ratio or similar limits as a percentage of its capital exposure applicable with respect to its loan portfolio or any segment thereof), except as required by applicable law, regulation or policies imposed by any Governmental Entity;

(n) make, or commit to make, any capital expenditures that exceed $10,000,000 individually or $30,000,000 in the aggregate, other than as set forth in Discover's capital expenditure budget set forth in Section 5.2(n) of the Discover Disclosure Schedule;

(o) make, change or revoke any material Tax election, change an annual Tax accounting period, adopt or change any material Tax accounting method, file any material amended Tax Return, enter into any closing agreement with respect to a material amount of Taxes, or settle any material Tax claim, audit, assessment or dispute or surrender any material right to claim a refund of Taxes;

(p) knowingly take any action that is intended to or would reasonably be likely to adversely affect or materially delay the ability of Discover or its Subsidiaries to obtain any necessary approvals of any Governmental Entity required for the transactions contemplated hereby or by the Bank Merger Agreement or the Requisite Discover Vote or to perform its covenants and agreements under this Agreement or the Bank Merger Agreement or to consummate the transactions contemplated hereby or thereby; or

(q) agree to take, make any commitment to take, or adopt any resolutions of its Board of Directors or similar governing body in support of, any of the actions prohibited by this Section 5.2.

5.3 Capital One Forbearances. During the period from the date of this Agreement to the Effective Time or earlier termination of this Agreement, except as set forth in the Capital One Disclosure Schedule, as expressly contemplated or permitted by this Agreement or as required by law, Capital One shall not, and shall not permit any of its Subsidiaries to, without the prior written consent of Discover (such consent not to be unreasonably withheld, conditioned or delayed):

(a) amend the Capital One Charter or the Capital One Bylaws in a manner that would adversely affect the holders of Discover Common Stock, or adversely affect the holders of Discover Common Stock relative to other holders of Capital One Common Stock;

(b) adjust, split, combine or reclassify any capital stock of Capital One;

(c) make, declare, pay or set a record date for any dividend, or any other distribution on, any shares of its capital stock or other equity or voting securities or any securities or obligations convertible (whether currently convertible or convertible only after the passage of time or the occurrence of certain events) or exchangeable into or exercisable for any shares of its capital stock or other equity or voting securities, except, in each case, (A) regular quarterly cash dividends by Capital One at a rate not in excess of $0.600 per share of Capital One Common Stock, (B) dividends paid by any of the Subsidiaries of Capital One to Capital One or any of its wholly-owned Subsidiaries, (C) dividends provided for and paid on Capital One Preferred Stock in accordance with the terms of such Capital One Preferred Stock or (D) the acceptance of shares of Capital One Common Stock as payment for the exercise price of stock options or for withholding Taxes incurred in connection with the exercise of stock options or the vesting or settlement of equity compensation awards, in each case, in accordance with past practice and the terms of the applicable award agreements;

(d) take any action or knowingly fail to take any action where such action or failure to act could reasonably be expected to prevent the Mergers, taken together, from qualifying as a "reorganization" within the meaning of Section 368(a) of the Code;

(e) knowingly take any action that is intended to or would reasonably be likely to adversely affect or materially delay the ability of Capital One or its Subsidiaries to obtain any necessary approvals of any Governmental Entity required for the transactions contemplated hereby or by the Bank Merger Agreement or the Requisite Capital One Vote or to perform its covenants and agreements under this Agreement or the Bank Merger Agreement or to consummate the transactions contemplated hereby or thereby; or

(f) agree to take, make any commitment to take, or adopt any resolutions of its Board of Directors or similar governing body in support of, any of the actions prohibited by this Section 5.3.

ARTICLE VI

ADDITIONAL AGREEMENTS

6.1 Regulatory Matters.

(a) Promptly after the date of this Agreement, Capital One and Discover shall prepare and file with the SEC the Joint Proxy Statement, and Capital One shall prepare and file with the SEC the S-4, in which the Joint Proxy Statement will be included as a prospectus. Capital One and Discover, as applicable, shall use reasonable best efforts to make such filings within forty-five (45) days of the date of this Agreement. Each of Capital One and Discover shall use its reasonable best efforts to have the S-4 declared effective under the Securities Act as promptly as practicable after such filings, and Capital One and Discover shall thereafter mail or

deliver the Joint Proxy Statement to their respective stockholders. Capital One shall also use its reasonable best efforts to obtain all necessary state securities law or "Blue Sky" permits and approvals required to carry out the transactions contemplated by this Agreement, and Discover shall furnish all information concerning Discover and the holders of Discover Common Stock and Discover Preferred Stock as may be reasonably requested in connection with any such action.

(b) The parties hereto shall cooperate with each other and use their reasonable best efforts to (i) promptly prepare and file all necessary documentation to effect all applications, notices, petitions and filings (and in the case of the applications, notices, petitions and filings in respect of the Requisite Regulatory Approvals, use their reasonable best efforts to make such filings within thirty (30) days of the date of this Agreement), (ii) obtain as promptly as practicable all permits, consents, approvals and authorizations of all third parties and Governmental Entities which are necessary or advisable to consummate the transactions contemplated by this Agreement (including the Mergers and the Bank Merger), and comply with the terms and conditions of all such permits, consents, approvals and authorizations of all such Governmental Entities and (iii) contest, defend and appeal any action or proceeding by a Governmental Entity (other than a bank regulatory agency), whether judicial or administrative, challenging this Agreement or the consummation of the Mergers and the transactions contemplated hereby. Capital One and Discover shall have the right to review in advance, and, unless not practicable, each will consult the other on, and give reasonable time to comment on, in each case subject to applicable laws relating to the exchange of information, any filing made with, or written materials submitted to, any third party or any Governmental Entity in connection with the transactions contemplated by this Agreement. In exercising the foregoing right, each of the parties hereto shall act reasonably and as promptly as practicable. The parties hereto agree that they will consult with each other with respect to the obtaining of all permits, consents, approvals and authorizations of all third parties and Governmental Entities necessary or advisable to consummate the transactions contemplated by this Agreement and each party will keep the other apprised of the status of matters relating to completion of the transactions contemplated herein. Each party shall consult with the other in advance of any meeting or conference with any Governmental Entity in connection with the transactions contemplated by this Agreement and, to the extent permitted by such Governmental Entity, give the other party and/or its counsel the opportunity to attend and participate in such meetings and conferences, in each case subject to applicable law. As used in this Agreement, the term "Requisite Regulatory Approvals" shall mean all regulatory authorizations, consents, orders and approvals (and the expiration or termination of all statutory waiting periods in respect thereof) (i) from the Federal Reserve Board and the OCC or (ii) as set forth in Section 3.4 or Section 4.4, that are necessary to consummate the transactions contemplated by this Agreement (including the Mergers and the Bank Merger) or those the failure of which to be obtained would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Surviving Entity.

(c) Each party shall use its reasonable best efforts to respond to any request for information and resolve any objection that may be asserted by any Governmental Entity with respect to this Agreement or the transactions contemplated hereby. Notwithstanding the foregoing, nothing contained herein shall be deemed to require Capital One or Discover or any of their respective Subsidiaries, and neither Capital One nor Discover nor any of their respective Subsidiaries shall be permitted (without the written consent of the other party), to take any

action, or commit to take any action, or agree to any condition or restriction, in connection with obtaining the foregoing permits, consents, approvals and authorizations of Governmental Entities that would reasonably be expected to have a material adverse effect on the Surviving Entity and its Subsidiaries, taken as a whole, after giving effect to the Mergers (a "Materially Burdensome Regulatory Condition").

(d) Capital One and Discover shall, upon request, furnish each other with all information concerning themselves, their Subsidiaries, directors, officers and stockholders and such other matters as may be reasonably necessary or advisable in connection with the Joint Proxy Statement, the S-4 or any other statement, filing, notice or application made by or on behalf of Capital One, Discover or any of their respective Subsidiaries to any Governmental Entity in connection with the Mergers, the Bank Merger and the other transactions contemplated by this Agreement.

(e) Capital One and Discover shall promptly advise each other upon receiving any material substantive communication from any Governmental Entity relating to any Requisite Regulatory Approval or other approval or clearance of any Governmental Entity being sought in connection with the transactions contemplated by this Agreement and/or the Bank Merger Agreement. For the avoidance of doubt, Section 9.14 shall not preclude either party from fulfilling its obligation under this Section 6.1(e) to the extent permissible under applicable law.

6.2 Access to Information; Confidentiality.

(a) Upon reasonable notice and subject to applicable laws, each of Capital One and Discover, for the purposes of verifying the representations and warranties of the other and preparing for the Mergers and the other matters contemplated by this Agreement, shall, and shall cause each of their respective Subsidiaries to, afford to the officers, employees, accountants, counsel, advisors and other representatives of the other party, access, during normal business hours during the period prior to the Effective Time, to such properties, books, contracts, personnel and records as reasonably requested by the other party, and each shall cooperate with the other party in preparing to execute after the Effective Time the conversion or consolidation of systems and business operations generally, and, during such period, each of Capital One and Discover shall, and shall cause its respective Subsidiaries to, make available to the other party (i) a copy of each report, schedule, registration statement and other document filed or received by it during such period pursuant to the requirements of federal securities laws or federal or state banking laws (other than reports or documents that Capital One or Discover, as the case may be, is not permitted to disclose under applicable law) and (ii) such other information concerning its business, properties and personnel as such party may reasonably request (other than reports or documents that Capital One or Discover, as the case may be, is not permitted to disclose under applicable law). Neither Capital One nor Discover nor any of their respective Subsidiaries shall be required to provide access to or disclose information where such access or disclosure would violate or prejudice the rights of Capital One's or Discover's, as the case may be, customers, jeopardize the attorney-client privilege of the institution in possession or control of such information (after giving due consideration to the existence of any common interest, joint defense or similar agreement between the parties) or contravene any law, rule, regulation, order, judgment, decree, fiduciary duty or binding agreement entered into prior to the date of this

Agreement. The parties hereto will make appropriate substitute disclosure arrangements under circumstances in which the restrictions of the preceding sentence apply.

(b) Each of Capital One and Discover shall hold all information furnished by or on behalf of the other party or any of such party's Subsidiaries or representatives pursuant to Section 6.2(a) in confidence to the extent required by, and in accordance with, the provisions of the confidentiality agreement, dated November 23, 2023 between Capital One Services, LLC and Discover (the "Confidentiality Agreement").

(c) No investigation by either of the parties or their respective representatives shall affect or be deemed to modify or waive the representations and warranties of the other set forth herein. Nothing contained in this Agreement shall give either party, directly or indirectly, the right to control or direct the operations of the other party prior to the Effective Time. Prior to the Effective Time, each party shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision over its and its Subsidiaries' respective operations.

6.3 Stockholders' Approvals. Each of Capital One and Discover shall call a meeting of its stockholders (the "Capital One Meeting" and the "Discover Meeting," respectively) to be held as soon as reasonably practicable after the S-4 is declared effective, for the purpose of obtaining (a) the Requisite Discover Vote and the Requisite Capital One Vote required in connection with this Agreement and the Merger and (b) if so desired and mutually agreed, a vote upon other matters of the type customarily brought before a meeting of stockholders in connection with the approval of a merger agreement or the transactions contemplated thereby, and each of Discover and Capital One shall use its reasonable best efforts to cause such meetings to occur as soon as reasonably practicable and on the same date. Each of Capital One and Discover and their respective Boards of Directors shall use its reasonable best efforts to obtain from the stockholders of Capital One and Discover, as applicable, the Requisite Capital One Vote and the Requisite Discover Vote, as applicable, including by communicating to the respective stockholders of Capital One and Discover its respective recommendation (and including such recommendation in the Joint Proxy Statement) that, in the case of Capital One, the stockholders of Capital One approve the Capital One Share Issuance (the "Capital One Board Recommendation"), and in the case of Discover, the stockholders of Discover adopt this Agreement (the "Discover Board Recommendation"). Each of Capital One and Discover and their respective Boards of Directors shall not (i) withhold, withdraw, modify or qualify in a manner adverse to the other party the Capital One Board Recommendation, in the case of Capital One, or the Discover Board Recommendation, in the case of Discover, (ii) fail to make the Capital One Board Recommendation, in the case of Capital One, or the Discover Board Recommendation, in the case of Discover, in the Joint Proxy Statement, (iii) adopt, approve, recommend or endorse an Acquisition Proposal or publicly announce an intention to adopt, approve, recommend or endorse an Acquisition Proposal, (iv) fail to publicly and without qualification (A) recommend against any Acquisition Proposal or (B) reaffirm the Capital One Board Recommendation, in the case of Capital One, or the Discover Board Recommendation, in the case of Discover, in each case within ten (10) business days (or such fewer number of days as remains prior to the Capital One Meeting or the Discover Meeting, as applicable) after an Acquisition Proposal is made public or any request by the other party to do so, or (v) publicly propose to do any of the foregoing (any of the foregoing a "Recommendation Change"). However, subject to Section 8.1 and Section 8.2, if the Board of Directors of Capital One or

Discover, after receiving the advice of its outside counsel and, with respect to financial matters, its financial advisors, determines in good faith that it would more likely than not result in a violation of its fiduciary duties under applicable law to make or continue to make the Capital One Board Recommendation or the Discover Board Recommendation, as applicable, such Board of Directors may, in the case of Capital One, prior to the receipt of the Requisite Capital One Vote, and in the case of Discover, prior to the receipt of the Requisite Discover Vote, submit this Agreement to its stockholders without recommendation (although the resolutions approving this Agreement as of the date hereof may not be rescinded or amended), in which event such Board of Directors may communicate the basis for its lack of a recommendation to its stockholders in the Joint Proxy Statement or an appropriate amendment or supplement thereto to the extent required by law; provided that such Board of Directors may not take any actions under this sentence unless it (A) gives the other party at least three (3) business days' prior written notice of its intention to take such action and a reasonable description of the event or circumstances giving rise to its determination to take such action (including, in the event such action is taken in response to an Acquisition Proposal, the latest material terms and conditions of, and the identity of the third party making, any such Acquisition Proposal, or any amendment or modification thereof, or describe in reasonable detail such other event or circumstances) and (B) at the end of such notice period, takes into account any amendment or modification to this Agreement proposed by the other party and, after receiving the advice of its outside counsel and, with respect to financial matters, its financial advisors, determines in good faith that it would nevertheless more likely than not result in a violation of its fiduciary duties under applicable law to make or continue to make the Capital One Board Recommendation or Discover Board Recommendation, as the case may be. Any material amendment to any Acquisition Proposal will be deemed to be a new Acquisition Proposal for purposes of this Section 6.3 and will require a new notice period as referred to in this Section 6.3. Capital One or Discover shall adjourn or postpone the Capital One Meeting or the Discover Meeting, as the case may be, if, as of the time for which such meeting is originally scheduled there are insufficient shares of Capital One Common Stock or Discover Common Stock, as the case may be, represented (either in person or by proxy) to constitute a quorum necessary to conduct the business of such meeting, or if on the date of such meeting Discover or Capital One, as applicable, has not received proxies representing a sufficient number of shares necessary to obtain the Requisite Discover Vote or the Requisite Capital One Vote; provided that the date of the Capital One Meeting or the Discover Meeting, as applicable, is not postponed or adjourned more than twice and in each case for more than an aggregate of 15 days in connection with any one postponement or adjournment or more than an aggregate of 30 days from the original date of the applicable meeting in reliance on the preceding sentence (excluding any adjournments or postponements required by applicable law). Notwithstanding anything to the contrary herein, unless this Agreement has been terminated in accordance with its terms, (x) the Capital One Meeting shall be convened and the Capital One Share Issuance shall be submitted to the stockholders of Capital One at the Capital One Meeting and (y) the Discover Meeting shall be convened and this Agreement shall be submitted to the stockholders of Discover at the Discover Meeting, and nothing contained herein shall be deemed to relieve either Capital One or Discover of such obligation. As used in this Agreement, "Acquisition Proposal" shall mean, with respect to Capital One or Discover, as applicable, other than the transactions contemplated by this Agreement, any offer, inquiry or proposal relating to, or any third party indication of interest in, (i) any acquisition or purchase, direct or indirect, of twenty-five percent (25%) or more of the consolidated assets of a party and its Subsidiaries or

twenty-five percent (25%) or more of any class of equity or voting securities of a party or its Subsidiaries whose assets, individually or in the aggregate, constitute twenty-five percent (25%) or more of the consolidated assets of the party, (ii) any tender offer (including a self-tender offer) or exchange offer that, if consummated, would result in such third party beneficially owning twenty-five percent (25%) or more of any class of equity or voting securities of a party or its Subsidiaries whose assets, individually or in the aggregate, constitute twenty-five percent (25%) or more of the consolidated assets of the party, or (iii) a merger, consolidation, share exchange, business combination, reorganization, recapitalization, liquidation, dissolution or other similar transaction involving a party or its Subsidiaries whose assets, individually or in the aggregate, constitute twenty-five percent (25%) or more of the consolidated assets of the party.

6.4 Legal Conditions to Merger. Subject in all respects to Section 6.1 of this Agreement, each of Capital One and Discover shall, and shall cause its Subsidiaries to, use their reasonable best efforts (a) to take, or cause to be taken, all actions necessary, proper or advisable to comply promptly with all legal requirements that may be imposed on such party or its Subsidiaries with respect to the Mergers and the Bank Merger and, subject to the conditions set forth in Article VII hereof, to consummate the transactions contemplated by this Agreement, and (b) to obtain (and to cooperate with the other party to obtain) any material consent, authorization, order or approval of, or any exemption by, any Governmental Entity and any other third party that is required to be obtained by Discover or Capital One or any of their respective Subsidiaries in connection with the Mergers, the Bank Merger and the other transactions contemplated by this Agreement.

6.5 Stock Exchange Listing. Capital One shall cause the shares of Capital One Common Stock to be issued in the Merger to be approved for listing on the NYSE, subject to official notice of issuance, prior to the Effective Time.

6.6 Employee Matters.

(a) Capital One shall, and shall cause each of its Subsidiaries to, for the one-year period following the Effective Time, maintain for the each employee of Discover and any of its Subsidiaries as of the Effective Time who remains so employed immediately following the Effective Time (the "Continuing Employees"), for so long as they are employed by the Surviving Entity following the Effective Time (i) base salary or wages (as applicable) that is no less favorable than that provided to the Continuing Employee as of immediately prior to the Effective Time, (ii) target annual cash incentive compensation and target long-term incentive compensation opportunities that are no less favorable in the aggregate to the aggregate target annual cash incentive compensation and target long-term incentive compensation opportunities provided to the Continuing Employee as of immediately prior to the Effective Time, (iii) employee benefits (other than severance) that are substantially comparable in the aggregate to the employee benefits (other than severance) provided by Discover to the Continuing Employees as of immediately prior to the Effective Time, and (iv) severance benefits no less favorable than the severance benefits provided to the Continuing Employees under the plans listed in Section 6.6(a) of the Discover Disclosure Schedule.

(b) With respect to any Capital One Benefit Plans in which any Continuing Employees become eligible to participate on or after the Effective Time, Capital One shall, and

shall cause each of its Subsidiaries to: (i) waive all pre-existing conditions, exclusions and waiting periods with respect to participation and coverage requirements applicable to such employees and their eligible dependents under any such Capital One Benefit Plans that provide health care benefits, except to the extent such pre-existing conditions, exclusions or waiting periods would apply under the analogous Discover Benefit Plan, (ii) use commercially reasonable efforts to provide each such employee and their eligible dependents with credit for any co-payments or coinsurance and deductibles paid prior to the Effective Time under a Capital One Benefit Plan that provides health care benefits, to the same extent that such credit was given under the analogous Discover Benefit Plan prior to the Effective Time, in satisfying any applicable deductible, co-payment, coinsurance or maximum out-of-pocket requirements under any such Capital One Benefit Plan, and (iii) use commercially reasonable efforts to recognize all service of such employees with Discover and its Subsidiaries for purposes of eligibility to participate, vesting and levels of benefits in any such Capital One Benefit Plan to the same extent that such service was taken into account under the analogous Discover Benefit Plan prior to the Effective Time; provided, that the foregoing service recognition shall not apply (A) to the extent it would result in a duplication of benefits for the same period of service, (B) for purposes of any pension plan or (C) for purposes of any benefit plan that is a frozen plan or provides grandfathered benefits.

(c) If requested by Capital One in writing delivered to Discover not less than twenty (20) business days before the Closing Date, the Board of Directors of Discover (or the appropriate committee thereof) shall adopt resolutions and take such corporate action as is necessary or appropriate to terminate the Discover 401(k) Plan (the "Discover 401(k) Plan"), effective as of the day prior to the Closing Date and contingent upon the occurrence of the Effective Time. If Capital One requests that the Discover 401(k) Plan be terminated, (i) Discover shall provide Capital One with evidence that such plan has been terminated (the form and substance of which shall be subject to reasonable review and comment by Capital One)not later than five (5) days immediately preceding the Closing Date and (ii) the Continuing Employees shall be eligible to participate, effective as of the Effective Time, in a 401(k) plan sponsored or maintained by Capital One or one of its Subsidiaries (the "Capital One 401(k) Plan"). Capital One and Discover shall take all actions as may be required, including amendments to the Discover 401(k) Plan and/or the Capital One 401(k) Plan, to permit the Continuing Employees to make rollover contributions to the Capital One 401(k) Plan of "eligible rollover distributions" (within the meaning of Section 401(a)(31) of the Code) in the form of cash, notes (in the case of loans) or a combination thereof.

(d) Effective as of the Effective Time, Capital One shall, or shall cause one of its Subsidiaries to, assume and honor the Discover Benefit Plans in accordance with their terms, it being understood that this sentence shall not be construed to limit the ability of Capital One or any of its Subsidiaries or Affiliates to amend or terminate any Discover Benefit Plan in accordance with its terms.

(e) Following the date hereof, Discover and Capital One shall, and shall cause their respective Affiliates to, cooperate and use good faith efforts in all matters reasonably necessary for employee, compensation and benefits integration, including exchanging information and data relating to employees, organizational structure, compensation and employee benefits, and distributing communications to the employees of Discover and its

Affiliates. Prior to the Closing, Capital One shall be provided the opportunity to review and comment on any broad-based or otherwise material employee notices or communication materials (including website postings) regarding the transactions contemplated by this Agreement from Discover or its Affiliates to the employees of Discover and its Affiliates, including broad-based or otherwise material notices or communication materials with respect to employment, compensation or benefits matters addressed in this Agreement or related, directly or indirectly, to the transactions contemplated by this Agreement or employment after the Closing prepared by Discover or its Affiliates prior to their distribution, and Discover and its Affiliates shall reflect any reasonable comments promptly received from Capital One.

(f) Nothing in this Agreement shall confer upon any employee, officer, director or consultant of Capital One or Discover or any of their Subsidiaries or Affiliates any right to continue in the employ or service of the Surviving Entity, Discover, Capital One or any Subsidiary or Affiliate thereof, or shall interfere with or restrict in any way the rights of the Surviving Entity, Discover, Capital One or any Subsidiary or Affiliate thereof to discharge or terminate the services of any employee, officer, director or consultant of the Surviving Entity, Discover, Capital One or any of their Subsidiaries or Affiliates at any time for any reason whatsoever, with or without cause. Nothing in this Agreement shall be deemed to (i) establish, amend, or modify any Discover Benefit Plan, Capital One Benefit Plan or any other benefit or employment plan, program, agreement or arrangement, or (ii) alter or limit the ability of the Surviving Entity, Discover, Capital One or any of their Subsidiaries or Affiliates to amend, modify or terminate any Discover Benefit Plan, Capital One Benefit Plan or any other benefit or employment plan, program, agreement or arrangement after the Effective Time. Without limiting the generality of Section 9.11, nothing in this Section 6.6, express or implied, is intended to or shall confer upon any person, including any current or former employee, officer, director or consultant of the Surviving Entity, Discover, Capital One or any of their Subsidiaries or Affiliates, any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

6.7 Indemnification; Directors' and Officers' Insurance.

(a) From and after the Effective Time, the Surviving Entity shall indemnify and hold harmless and shall advance expenses as incurred, in each case to the extent (subject to applicable law) such persons are indemnified as of the date of this Agreement by Discover pursuant to the Discover Charter, the Discover Bylaws, the governing or organizational documents of any Subsidiary of Discover and any indemnification agreements in existence as of the date hereof and disclosed in Section 6.7(a) of the Discover Disclosure Schedule, each present and former director, officer or employee of Discover and its Subsidiaries (in each case, when acting in such capacity) (collectively, the "Discover Indemnified Parties") against any costs or expenses (including reasonable attorneys' fees), judgments, fines, losses, damages or liabilities incurred in connection with any threatened or actual claim, action, suit, proceeding or investigation, whether civil, criminal, administrative or investigative, whether arising before or after the Effective Time, arising out of or pertaining to the fact that such person is or was a director, officer or employee of Discover or any of its Subsidiaries and pertaining to matters or facts existing or occurring at or prior to the Effective Time, including the transactions contemplated by this Agreement; provided, that in the case of advancement of expenses, any Discover Indemnified Party to whom expenses are advanced provides an undertaking to repay

such advances if it is ultimately determined that such Discover Indemnified Party is not entitled to indemnification.

(b) For a period of six (6) years after the Effective Time, the Surviving Entity shall cause to be maintained in effect the current policies of directors' and officers' liability insurance maintained by Discover (provided, that the Surviving Entity may substitute therefor policies with a substantially comparable insurer of at least the same coverage and amounts containing terms and conditions that are no less advantageous to the insured) with respect to claims against the present and former officers and directors of Discover and any of its Subsidiaries arising from facts or events which occurred at or before the Effective Time; provided, however, that the Surviving Entity shall not be obligated to expend, on an annual basis, an amount in excess of 300% of the current annual premium paid as of the date hereof by Discover for such insurance (the "Premium Cap"), and if such premiums for such insurance would at any time exceed the Premium Cap, then the Surviving Entity shall cause to be maintained policies of insurance which, in the Surviving Entity's good faith determination, provide the maximum coverage available at an annual premium equal to the Premium Cap. In lieu of the foregoing, Capital One or Discover, in consultation with, but only upon the consent of Capital One, may (and at the request of Capital One, Discover shall use its reasonable best efforts to) obtain at or prior to the Effective Time a six (6)-year "tail" policy under Discover's existing directors' and officers' insurance policy providing equivalent coverage to that described in the preceding sentence if and to the extent that the same may be obtained for an amount that, in the aggregate, does not exceed the Premium Cap.

(c) The provisions of this Section 6.7 shall survive the Effective Time and are intended to be for the benefit of, and shall be enforceable by, each Discover Indemnified Party and his or her heirs and representatives, each of whom shall be express third-party beneficiaries of this Section 6.7. If the Surviving Entity or any of its successors or assigns (i) consolidates with or merges into any other person and is not the continuing or surviving entity of such consolidation or merger, or (ii) transfers all or substantially all of its assets or deposits to any other person or engages in any similar transaction, then in each such case, the Surviving Entity will cause proper provision to be made so that the successors and assigns of the Surviving Entity will expressly assume the obligations set forth in this Section 6.7. The obligations of the Surviving Entity or any of its successors under this Section 6.7 shall not be terminated or modified after the Effective Time in a manner so as to adversely affect any Discover Indemnified Party or any other person entitled to the benefit of this Section 6.7 without the prior written consent of the affected Discover Indemnified Party or affected person.

6.8 Additional Agreements. In case at any time after the Effective Time any further action is necessary or desirable to carry out the purposes of this Agreement (including any merger between a Subsidiary of Capital One, on the one hand, and a Subsidiary of Discover, on the other hand) or to vest the Surviving Entity with full title to all properties, assets, rights, approvals, immunities and franchises of any of the parties to the Mergers or the Bank Merger, the proper officers and directors of each party to this Agreement and their respective Subsidiaries shall take all such necessary action as may be reasonably requested by Capital One.

6.9 Advice of Changes. Capital One and Discover shall each promptly advise the other party of any effect, change, event, circumstance, condition, occurrence or development

(i) that has had or would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on it or (ii) that it believes would or would reasonably be expected to cause or constitute a material breach of any of its representations, warranties, obligations, covenants or agreements contained herein that reasonably could be expected to give rise, individually or in the aggregate, to the failure of a condition in Article VII; provided, that any failure to give notice in accordance with the foregoing with respect to any breach shall not be deemed to constitute a violation of this Section 6.9 or the failure of any condition set forth in Section 7.2 or 7.3 to be satisfied, or otherwise constitute a breach of this Agreement by the party failing to give such notice, in each case unless the underlying breach would independently result in a failure of the conditions set forth in Section 7.2 or 7.3 to be satisfied; and provided, further, that the delivery of any notice pursuant to this Section 6.9 shall not cure any breach of, or noncompliance with, any other provision of this Agreement or limit the remedies available to the party receiving such notice.

6.10 Dividends. After the date of this Agreement, each of Capital One and Discover shall coordinate with the other the declaration of any dividends in respect of Capital One Common Stock and Discover Common Stock and the record dates and payment dates relating thereto, it being the intention of the parties hereto that holders of Discover Common Stock shall not receive two dividends, or fail to receive one dividend, in any quarter with respect to their shares of Discover Common Stock and any shares of Capital One Common Stock any such holder receives in exchange therefor in the Merger.

6.11 Stockholder Litigation. Each party shall give the other party prompt notice of any stockholder litigation against such party or its directors or officers relating to the transactions contemplated by this Agreement. Each party shall give the other party the opportunity to participate (at the other party's expense) in the defense or settlement of any such litigation. Each party shall give the other party the right to review and comment on all filings or responses to be made in connection with any such litigation, and will in good faith take such comments into account. No party shall agree to settle any such litigation without the other party's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed; provided, that a party shall not be obligated to consent to any settlement which does not include a full release of such party and its Affiliates or which imposes an injunction or other equitable relief after the Effective Time upon the Surviving Entity or any of its Affiliates.

6.12 Board Representation. Capital One shall take all appropriate action so that, as of the Effective Time, the number of directors constituting the Board of Directors of Capital One shall be increased by three (3) for a total of fifteen (15) directors, and three (3) current directors of Discover, determined by mutual agreement of Discover and Capital One, shall be appointed to the Board of Directors of Capital One (the "Discover Directors").

6.13 Acquisition Proposals.

(a) Each party agrees that it will not, will cause each of its Subsidiaries not to and will cause its and their respective officers, directors and employees not to, and will use its reasonable best efforts to cause its agents, advisors and representatives (collectively, "Representatives") not to, directly or indirectly, (i) initiate, solicit, knowingly encourage or knowingly facilitate any inquiries or proposals with respect to any Acquisition Proposal, (ii)

engage or participate in any negotiations with any person concerning any Acquisition Proposal, (iii) provide any confidential or nonpublic information or data to, or have or participate in any discussions with any person relating to any Acquisition Proposal or (iv) unless this Agreement has been terminated in accordance with its terms, approve or enter into any term sheet, letter of intent, commitment, memorandum of understanding, agreement in principle, acquisition agreement, merger agreement or other agreement (whether written or oral, binding or non-binding) (other than a confidentiality agreement referred to and entered into in accordance with this Section 6.13) in connection with or relating to any Acquisition Proposal. Notwithstanding the foregoing, in the event that after the date of this Agreement and prior to the receipt of the Requisite Capital One Vote, in the case or Capital One, or the Requisite Discover Vote, in the case of Discover, a party receives an unsolicited *bona fide* written Acquisition Proposal, such party may, and may permit its Subsidiaries and its and its Subsidiaries' Representatives to, furnish or cause to be furnished confidential or nonpublic information or data and participate in such negotiations or discussions with the person making the Acquisition Proposal if the Board of Directors of such party concludes in good faith (after receiving the advice of its outside counsel, and with respect to financial matters, its financial advisors) that failure to take such actions would be more likely than not to result in a violation of its fiduciary duties under applicable law; provided, that, prior to furnishing any confidential or nonpublic information permitted to be provided pursuant to this sentence, such party shall have entered into a confidentiality agreement with the person making such Acquisition Proposal on terms no less favorable to it than the Confidentiality Agreement, which confidentiality agreement shall not provide such person with any exclusive right to negotiate with such party. Each party will, and will cause its Representatives to, immediately cease and cause to be terminated any activities, discussions or negotiations conducted before the date of this Agreement with any person other than Discover or Capital One, as applicable, with respect to any Acquisition Proposal. Each party will promptly (within twenty-four (24) hours) advise the other party following receipt of any Acquisition Proposal or any inquiry which could reasonably be expected to lead to an Acquisition Proposal, and the substance thereof (including the terms and conditions of and the identity of the person making such inquiry or Acquisition Proposal), will provide the other party with an unredacted copy of any such Acquisition Proposal and any draft agreements, proposals or other materials received in connection with any such inquiry or Acquisition Proposal, and will keep the other party apprised of any related developments, discussions and negotiations on a current basis, including any amendments to or revisions of the terms of such inquiry or Acquisition Proposal. Each party shall use its reasonable best efforts to enforce any existing confidentiality or standstill agreements to which it or any of its Subsidiaries is a party in accordance with the terms thereof.

(b) Nothing contained in this Agreement shall prevent a party or its Board of Directors from complying with Rule 14d-9 and Rule 14e-2 under the Exchange Act with respect to an Acquisition Proposal; provided, that such rules will in no way eliminate or modify the effect that any action pursuant to such rules would otherwise have under this Agreement.

6.14 Public Announcements. Discover and Capital One agree that the initial press release with respect to the execution and delivery of this Agreement shall be a release mutually agreed to by the parties. Thereafter, each of the parties agrees that no public release or announcement or statement concerning this Agreement or the transactions contemplated hereby shall be issued by any party without the prior written consent of the other party (which consent shall not be unreasonably withheld, conditioned or delayed), except (i) as required by applicable

law or the rules or regulations of any applicable Governmental Entity or stock exchange to which the relevant party is subject, in which case the party required to make the release or announcement shall consult with the other party about, and allow the other party reasonable time to comment on, such release or announcement in advance of such issuance or (ii) for such releases, announcements or statements that are consistent with other such releases, announcements or statements made after the date of this Agreement in compliance with this Section 6.14.

6.15 Change of Method. Discover and Capital One shall be empowered, upon their mutual agreement, at any time prior to the Effective Time, to change the method or structure of effecting the transactions contemplated by this Agreement (including the provisions of Article I), if and to the extent they both deem such change to be necessary, appropriate or desirable; provided, however, that no such change shall (i) alter or change the Exchange Ratio or the number of shares of Capital One Common Stock received by holders of Discover Common Stock in exchange for each share of Discover Common Stock or the treatment of the Discover Preferred Stock, (ii) adversely affect the Tax treatment of Discover's stockholders or Capital One's stockholders pursuant to this Agreement, (iii) adversely affect the Tax treatment of Discover or Capital One pursuant to this Agreement or (iv) materially impede or delay the consummation of the transactions contemplated by this Agreement in a timely manner. The parties agree to reflect any such change in an appropriate amendment to this Agreement executed by both parties in accordance with Section 9.1.

6.16 Restructuring Efforts. If either Discover or Capital One shall have failed to obtain the Requisite Discover Vote or the Requisite Capital One Vote at the duly convened Discover Meeting or Capital One Meeting, as applicable, or any adjournment or postponement thereof, each of the parties shall in good faith use its reasonable best efforts to negotiate a restructuring of the transactions contemplated by this Agreement (it being understood that neither party shall have any obligation to alter or change any material terms, including the Exchange Ratio, the treatment of the Discover Preferred Stock or the amount or kind of the consideration to be issued to holders of the capital stock of Discover as provided for in this Agreement or any term that would adversely affect the tax treatment of the transactions contemplated hereby in a manner adverse to such party or its stockholders) and/or resubmit this Agreement and the transactions contemplated hereby (or as restructured pursuant to this Section 6.16) to its respective stockholders for adoption or approval.

6.17 Takeover Statutes. None of Discover, Capital One, Mergers Sub or their respective Boards of Directors shall take any action that would cause any Takeover Statute to become applicable to this Agreement, the Mergers, or any of the other transactions contemplated hereby, and each shall take all necessary steps to exempt (or ensure the continued exemption of) the Mergers and the other transactions contemplated hereby from any applicable Takeover Statute now or hereafter in effect. If any Takeover Statute may become, or may purport to be, applicable to the transactions contemplated hereby, each party and the members of their respective Boards of Directors will grant such approvals and take such actions as are necessary so that the transactions contemplated by this Agreement may be consummated as promptly as practicable on the terms contemplated hereby and otherwise act to eliminate or minimize the effects of any Takeover Statute on any of the transactions contemplated by this Agreement, including, if necessary, challenging the validity or applicability of any such Takeover Statute.

6.18 Treatment of Discover Indebtedness. Upon the Second Effective Time, Capital One and/or its Subsidiaries shall assume the due and punctual performance and observance of the covenants and other obligations to be performed by Discover and/or its Subsidiaries under the definitive documents governing the indebtedness and other instruments related thereto of Discover and/or its Subsidiaries, and the due and punctual payment of the principal of (and premium, if any) and interest on the notes or other instruments governed thereby. In connection therewith, Capital One and Discover shall cooperate and use reasonable best efforts to execute and deliver (and cause their respective Subsidiaries to execute and deliver, if applicable) any supplemental indentures, officer's certificates or other documents, and the parties hereto shall cooperate and use reasonable best efforts to provide any opinion of counsel required to make such assumption effective as of the Second Effective Time.

6.19 Exemption from Liability Under Section 16(b). Discover and Capital One agree that, in order to most effectively compensate and retain Discover Insiders, both prior to and after the Effective Time, it is desirable that Discover Insiders not be subject to a risk of liability under Section 16(b) of the Exchange Act to the fullest extent permitted by applicable law in connection with the conversion of shares of Discover Common Stock and Discover Preferred Stock into shares of Capital One Common Stock and New Capital One Preferred Stock in the Mergers and the conversion of Discover Equity Awards into corresponding Capital One Equity Awards in the Merger, and for that compensatory and retentive purpose agree to the provisions of this Section 6.19. Discover shall deliver to Capital One in a reasonably timely fashion prior to the Effective Time accurate information regarding those officers and directors of Discover subject to the reporting requirements of Section 16(a) of the Exchange Act (the "Discover Insiders"), and the Board of Directors of Capital One and of Discover, or a committee of non-employee directors thereof (as such term is defined for purposes of Rule 16b-3(d) under the Exchange Act), shall reasonably promptly thereafter, and in any event prior to the Effective Time, take all such steps as may be required to cause (in the case of Discover) any dispositions of Discover Common Stock, Discover Preferred Stock or Discover Equity Awards by the Discover Insiders, and (in the case of Capital One) any acquisitions of Capital One Common Stock, New Capital One Preferred Stock, or Capital One Equity Awards by any Discover Insiders who, immediately following the Mergers, will be officers or directors of the Surviving Entity subject to the reporting requirements of Section 16(a) of the Exchange Act, in each case pursuant to the transactions contemplated by this Agreement, to be exempt from liability pursuant to Rule 16b-3 under the Exchange Act to the fullest extent permitted by applicable law.

6.20 Conduct of Merger Sub. Capital One shall take all actions necessary to cause Merger Sub to perform its obligations under this Agreement.

ARTICLE VII

CONDITIONS PRECEDENT

7.1 Conditions to Each Party's Obligation to Effect the Merger. The respective obligations of the parties to effect the Merger shall be subject to the satisfaction at or prior to the Effective Time of the following conditions:

(a) Stockholder Approvals. (i) The Capital One Share Issuance shall have been approved by the stockholders of Capital One by the Requisite Capital One Vote and (ii) this Agreement shall have been adopted by the stockholders of Discover by the Requisite Discover Vote.

(b) NYSE Listing. The shares of Capital One Common Stock that shall be issuable pursuant to this Agreement shall have been authorized for listing on the NYSE, subject to official notice of issuance.

(c) Regulatory Approvals. (i) All Requisite Regulatory Approvals shall have been obtained and shall remain in full force and effect and all statutory waiting periods in respect thereof shall have expired or been terminated and (ii) no such Requisite Regulatory Approval shall have resulted in the imposition of any Materially Burdensome Regulatory Condition.

(d) S-4. The S-4 shall have become effective under the Securities Act and no stop order suspending the effectiveness of the S-4 shall have been issued, and no proceedings for such purpose shall have been initiated or threatened by the SEC and not withdrawn.

(e) No Injunctions or Restraints; Illegality. No order, injunction or decree issued by any court or Governmental Entity of competent jurisdiction or other legal restraint or prohibition preventing the consummation of the Mergers, the Bank Merger or any of the other transactions contemplated by this Agreement shall be in effect. No law, statute, rule, regulation, order, injunction or decree shall have been enacted, entered, promulgated or enforced by any Governmental Entity which prohibits or makes illegal consummation of the Mergers, the Bank Merger or any of the other transactions contemplated by this Agreement.

7.2 Conditions to Obligations of Capital One and Merger Sub. The obligation of Capital One and Merger Sub to effect the Merger is also subject to the satisfaction, or waiver by Capital One, at or prior to the Effective Time, of the following conditions:

(a) Representations and Warranties. The representations and warranties of Discover set forth in Section 3.2(a) and Section 3.8(a) (in each case after giving effect to the lead-in to Article III) shall be true and correct (other than, in the case of Section 3.2(a), such failures to be true and correct as are *de minimis*) in each case as of the date of this Agreement and as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties speak as of an earlier date, in which case as of such earlier date), and the representations and warranties of Discover set forth in Section 3.1(a), Section 3.1(b) (but only with respect to Discover Bank), Section 3.2(b) (but only with respect to the Discover Subsidiaries set forth on 7.2(a) of the Discover Disclosure Schedule), Section 3.3(a) and Section 3.7 (read without giving effect to any qualification as to materiality or Material

Adverse Effect set forth in such representations or warranties but, in each case, after giving effect to the lead-in to Article III) shall be true and correct in all material respects as of the date of this Agreement and as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties speak as of an earlier date, in which case as of such earlier date). All other representations and warranties of Discover set forth in this Agreement (read without giving effect to any qualification as to materiality or Material Adverse Effect set forth in such representations or warranties but, in each case, after giving effect to the lead-in to Article III) shall be true and correct in all respects as of the date of this Agreement and as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties speak as of an earlier date, in which case as of such earlier date); provided, however, that for purposes of this sentence, such representations and warranties shall be deemed to be true and correct unless the failure or failures of such representations and warranties to be so true and correct, either individually or in the aggregate, and without giving effect to any qualification as to materiality or Material Adverse Effect set forth in such representations or warranties, has had or would reasonably be expected to have a Material Adverse Effect on Discover or the Surviving Entity. Capital One shall have received a certificate dated as of the Closing Date and signed on behalf of Discover by the Chief Executive Officer or the Chief Financial Officer of Discover to the foregoing effect.

(b) Performance of Obligations of Discover. Discover shall have performed in all material respects the obligations, covenants and agreements required to be performed by it under this Agreement at or prior to the Closing Date, and Capital One shall have received a certificate dated as of the Closing Date and signed on behalf of Discover by the Chief Executive Officer or the Chief Financial Officer of Discover to such effect.

(c) Federal Tax Opinion. Capital One shall have received the opinion of Wachtell, Lipton, Rosen & Katz, in form and substance reasonably satisfactory to Capital One, dated as of the Closing Date, to the effect that, on the basis of facts, representations and assumptions set forth or referred to in such opinion, the Mergers, taken together, will qualify as a "reorganization" within the meaning of Section 368(a) of the Code. In rendering such opinion, counsel may require and rely upon representations contained in certificates of officers of Capital One, Discover and Merger Sub, reasonably satisfactory in form and substance to such counsel.

7.3 Conditions to Obligations of Discover. The obligation of Discover to effect the Merger is also subject to the satisfaction, or waiver by Discover, at or prior to the Effective Time of the following conditions:

(a) Representations and Warranties. The representations and warranties of Capital One and Merger Sub set forth in Section 4.2(a) and Section 4.8(a) (in each case, after giving effect to the lead-in to Article IV) shall be true and correct (other than, in the case of Section 4.2(a), such failures to be true and correct as are *de minimis*) in each case as of the date of this Agreement and as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties speak as of an earlier date, in which case as of such earlier date), and the representations and warranties of Capital One and Merger Sub set forth in Section 4.1(a), Section 4.1(b) (but only with respect to Capital One Bank), Section 4.2(b) (but only with respect to Capital One Bank), Section 4.3(a) and Section 4.7 (read without giving effect to any qualification as to materiality or Material Adverse Effect set forth in

such representations or warranties but, in each case, after giving effect to the lead-in to Article IV) shall be true and correct in all material respects as of the date of this Agreement and as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties speak as of an earlier date, in which case as of such earlier date). All other representations and warranties of Capital One and Merger Sub set forth in this Agreement (read without giving effect to any qualification as to materiality or Material Adverse Effect set forth in such representations or warranties but, in each case, after giving effect to the lead-in to Article IV) shall be true and correct in all respects as of the date of this Agreement and as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties speak as of an earlier date, in which case as of such earlier date), provided, however, that for purposes of this sentence, such representations and warranties shall be deemed to be true and correct unless the failure or failures of such representations and warranties to be so true and correct, either individually or in the aggregate, and without giving effect to any qualification as to materiality or Material Adverse Effect set forth in such representations or warranties, has had or would reasonably be expected to have a Material Adverse Effect on Capital One. Discover shall have received a certificate dated as of the Closing Date and signed on behalf of Capital One by the Chief Executive Officer or the Chief Financial Officer of Capital One to the foregoing effect.

(b) Performance of Obligations of Capital One and Merger Sub. Capital One and Merger Sub shall have performed in all material respects the obligations, covenants and agreements required to be performed by it under this Agreement at or prior to the Closing Date, and Discover shall have received a certificate dated as of the Closing Date and signed on behalf of Capital One by the Chief Executive Officer or the Chief Financial Officer of Capital One to such effect.

(c) Federal Tax Opinion. Discover shall have received the opinion of Sullivan & Cromwell LLP, in form and substance reasonably satisfactory to Discover, dated as of the Closing Date, to the effect that, on the basis of facts, representations and assumptions set forth or referred to in such opinion, the Mergers, taken together, will qualify as a "reorganization" within the meaning of Section 368(a) of the Code. In rendering such opinion, counsel may require and rely upon representations contained in certificates of officers of Capital One, Discover and Merger Sub, reasonably satisfactory in form and substance to such counsel.

ARTICLE VIII

TERMINATION AND AMENDMENT

8.1 Termination. This Agreement may be terminated at any time prior to the Effective Time, whether before or after receipt of the Requisite Discover Vote or the Requisite Capital One Vote:

(a) by mutual written consent of Capital One and Discover;

(b) by either Capital One or Discover if any Governmental Entity that must grant a Requisite Regulatory Approval has denied approval of the Mergers or the Bank Merger and such denial has become final and nonappealable or any Governmental Entity of competent

jurisdiction shall have issued a final and nonappealable order, injunction, decree or other legal restraint or prohibition permanently enjoining or otherwise prohibiting or making illegal the consummation of the Mergers or the Bank Merger, unless the failure to obtain a Requisite Regulatory Approval shall be due to the failure of the party seeking to terminate this Agreement to perform or observe the obligations, covenants and agreements of such party set forth herein;

(c) by either Capital One or Discover if the Merger shall not have been consummated on or before February 19, 2025 (as it may be extended pursuant to this Section 8.1(c), the "Termination Date"), unless the failure of the Closing to occur by such date shall be due to the failure of the party seeking to terminate this Agreement to perform or observe the obligations, covenants and agreements of such party set forth herein; provided, that, if on such date, any of the conditions to the Closing set forth in (A) Section 7.1(c) or (B) Section 7.1(e) (in the case of clause (B), to the extent related to a Requisite Regulatory Approval) shall not have been satisfied or waived on or prior to such date, but all other conditions set forth in Article VII shall have been satisfied or waived (or in the case of conditions that by their nature can only be satisfied at the Closing, shall then be capable of being satisfied if the Closing were to take place on such date), then the Termination Date shall be automatically extended to May 19, 2025, and such date shall become the Termination Date for purposes of this Agreement;

(d) by either Capital One or Discover (provided, that the terminating party is not then in material breach of any representation, warranty, obligation, covenant or other agreement contained herein) if there shall have been a breach of any of the obligations, covenants or agreements or any of the representations or warranties (or any such representation or warranty shall cease to be true) set forth in this Agreement on the part of Discover, in the case of a termination by Capital One, or Capital One or Merger Sub, in the case of a termination by Discover, which breach or failure to be true, either individually or in the aggregate with all other breaches by such party (or failures of such representations or warranties to be true), would constitute, if occurring or continuing on the Closing Date, the failure of a condition set forth in Section 7.2, in the case of a termination by Capital One, or Section 7.3, in the case of a termination by Discover, and which is not cured within forty-five (45) days following written notice to Discover, in the case of a termination by Capital One, or Capital One, in the case of a termination by Discover, or by its nature or timing cannot be cured during such period (or such fewer days as remain prior to the Termination Date);

(e) by Discover, if (i) Capital One or the Board of Directors of Capital One shall have made a Recommendation Change or (ii) Capital One or the Board of Directors of Capital One shall have breached its obligations under Section 6.3 or 6.13 in any material respect; or

(f) by Capital One, if (i) Discover or the Board of Directors of Discover shall have made a Recommendation Change or (ii) Discover or the Board of Directors of Discover shall have breached its obligations under Section 6.3 or 6.13 in any material respect.

8.2 Effect of Termination.

(a) In the event of termination of this Agreement by either Capital One or Discover as provided in Section 8.1, this Agreement shall forthwith become void and have no

effect, and none of Capital One, Discover, any of their respective Subsidiaries or any of the officers or directors of any of them shall have any liability of any nature whatsoever hereunder, or in connection with the transactions contemplated hereby, except that (i) Section 6.2(b) (Access to Information; Confidentiality), Section 6.14 (Public Announcements), this Section 8.2 and Article IX shall survive any termination of this Agreement, and (ii) notwithstanding anything to the contrary contained in this Agreement, none of Capital One nor Merger Sub nor Discover shall be relieved or released from any liabilities or damages arising out of its willful and material breach of any provision of this Agreement.

(b) (i) In the event that after the date of this Agreement and prior to the termination of this Agreement, a *bona fide* Acquisition Proposal shall have been communicated to or otherwise made known to the Board of Directors or senior management of Discover or shall have been made directly to the stockholders of Discover or any person shall have publicly announced (and not withdrawn at least two (2) business days prior to the Discover Meeting) an Acquisition Proposal, in each case with respect to Discover and (A) (x) thereafter this Agreement is terminated by either Capital One or Discover pursuant to Section 8.1(c) without the Requisite Discover Vote having been obtained (and all other conditions set forth in Section 7.1 and Section 7.3 were satisfied or were capable of being satisfied prior to such termination) or (y) thereafter this Agreement is terminated by Capital One pursuant to Section 8.1(d) as a result of a willful breach, and (B) prior to the date that is twelve (12) months after the date of such termination, Discover enters into a definitive agreement or consummates a transaction with respect to an Acquisition Proposal (whether or not the same Acquisition Proposal as that referred to above), then Discover shall, on the earlier of the date it enters into such definitive agreement and the date of consummation of such transaction, pay Capital One, by wire transfer of same-day funds, a fee equal to $1,380,000,000 (the "Termination Fee"); provided, that for purposes of this Section 8.2(b)(i), all references in the definition of Acquisition Proposal to "twenty-five percent (25%)" shall instead refer to "fifty percent (50%)."

(ii) In the event that this Agreement is terminated by Capital One pursuant to Section 8.1(f), then Discover shall pay Capital One, by wire transfer of same-day funds, the Termination Fee within two (2) business days of the date of termination.

(c) (i) In the event that after the date of this Agreement and prior to the termination of this Agreement, a *bona fide* Acquisition Proposal shall have been communicated to or otherwise made known to the Board of Directors or senior management of Capital One or shall have been made directly to the stockholders of Capital One or any person shall have publicly announced (and not withdrawn at least two (2) business days prior to the Capital One Meeting) an Acquisition Proposal, in each case with respect to Capital One and (A) (x) thereafter this Agreement is terminated by either Capital One or Discover pursuant to Section 8.1(c) without the Requisite Capital One Vote having been obtained (and all other conditions set forth in Section 7.1 and Section 7.2 were satisfied or were capable of being satisfied prior to such termination) or (y) thereafter this Agreement is terminated by Discover pursuant to Section 8.1(d) as a result of a willful breach, and (B) prior to the date that is twelve (12) months after the date of such termination, Capital One enters into a definitive agreement or consummates a transaction with respect to an Acquisition Proposal (whether or not the same Acquisition Proposal as that referred to above), then Capital One shall, on the earlier of the date it enters into such definitive agreement and the date of consummation of such transaction, pay Discover the

Termination Fee by wire transfer of same-day funds; provided, that for purposes of this Section 8.2(c)(i), all references in the definition of Acquisition Proposal to "twenty-five percent (25%)" shall instead refer to "fifty percent (50%)."

(ii) In the event that this Agreement is terminated by Discover pursuant to Section 8.1(e), then Capital One shall pay Discover, by wire transfer of same-day funds, the Termination Fee within two (2) business days of the date of termination.

(d) Notwithstanding anything to the contrary herein, but without limiting the right of any party to recover liabilities or damages to the extent permitted herein, in no event shall either party be required to pay the Termination Fee more than once.

(e) Each of Capital One and Discover acknowledges that the agreements contained in this Section 8.2 are an integral part of the transactions contemplated by this Agreement, and that, without these agreements, the other party would not enter into this Agreement; accordingly, if Capital One or Discover, as the case may be, fails promptly to pay the amount due pursuant to this Section 8.2, and, in order to obtain such payment, the other party commences a suit which results in a judgment against the non-paying party for the Termination Fee or any portion thereof, such non-paying party shall pay the costs and expenses of the other party (including attorneys' fees and expenses) in connection with such suit. In addition, if Capital One or Discover, as the case may be, fails to pay the amounts payable pursuant to this Section 8.2, then such party shall pay interest on such overdue amounts (for the period commencing as of the date that such overdue amount was originally required to be paid and ending on the date that such overdue amount is actually paid in full) at a rate per annum equal to the "prime rate" published in *The Wall Street Journal* on the date on which such payment was required to be made for the period commencing as of the date that such overdue amount was originally required to be paid and ending on the date that such overdue amount is actually paid in full.

ARTICLE IX

GENERAL PROVISIONS

9.1 Amendment. Subject to compliance with applicable law, this Agreement may be amended by the parties hereto at any time before or after the receipt of the Requisite Capital One Vote or the Requisite Discover Vote; provided, however, that after the receipt of the Requisite Capital One Vote or the Requisite Discover Vote, there may not be, without further approval of the stockholders of Capital One or Discover, as applicable, any amendment of this Agreement that requires such further approval under applicable law. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto.

9.2 Extension; Waiver. At any time prior to the Effective Time, each of the parties hereto may, to the extent legally allowed, (a) extend the time for the performance of any of the obligations or other acts of Capital One or Merger Sub, in the case of Discover, or Discover, in the case of Capital One, (b) waive any inaccuracies in the representations and warranties contained herein or in any document delivered pursuant hereto on the part of Capital One or Merger Sub, in the case of Discover, or Discover, in the case of Capital One, and (c)

waive compliance with any of the agreements or satisfaction of any conditions for its benefit contained herein; provided, however, that after the receipt of the Requisite Capital One Vote or the Requisite Discover Vote, there may not be, without further approval of the stockholders of Capital One or Discover, as applicable, any extension or waiver of this Agreement or any portion thereof that requires such further approval under applicable law. Any agreement on the part of a party hereto to any such extension or waiver shall be valid only if set forth in a written instrument signed on behalf of such party, but such extension or waiver or failure to insist on strict compliance with an obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

9.3 Nonsurvival of Representations, Warranties and Agreements. None of the representations, warranties, obligations, covenants and agreements in this Agreement (or in any certificate delivered pursuant to this Agreement) shall survive the Effective Time, except for those set forth in Section 6.7 and for those other obligations, covenants and agreements contained herein which by their terms apply in whole or in part after the Effective Time.

9.4 Expenses. Except as otherwise expressly provided in this Agreement, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such expense; provided, however, that the costs and expenses of printing and mailing the Joint Proxy Statement and all filing and other fees paid to Governmental Entities in connection with the Merger and the other transactions contemplated hereby shall be borne equally by Capital One and Discover.

9.5 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (a) on the date of delivery if delivered personally, or if by e-mail transmission (with confirmation of receipt requested), (b) on the earlier of confirmed receipt or the fifth (5th) business day following the date of mailing if mailed by registered or certified mail (return receipt requested) or (c) on the first (1st) business day following the date of dispatch if delivered utilizing a next-day service by a recognized next-day courier (with confirmation) to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

(a) if to Discover, to:

2500 Lake Cook Road
Riverwoods, Illinois 60015

Attention: Chief Executive Officer and President
Executive Vice President, Chief Legal Officer, General Counsel and Secretary

With a copy (which shall not constitute notice) to:

Sullivan & Cromwell LLP
125 Broad Street
New York, New York 10004
Attention: H. Rodgin Cohen

Mitchell S. Eitel
Jared M. Fishman
Email: cohenhr@sullcrom.com
eitelm@sullcrom.com
fishmanj@sullcrom.com

and

(b) if to Capital One or Merger Sub, to:

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

Attention: Executive Vice President, Corporate Development
Chief Counsel, Corporate and Strategic Transactions

With a copy (which shall not constitute notice) to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, NY 10019
Attention: Edward D. Herlihy
Matthew M. Guest
Brandon C. Price
E-mail: EDHerlihy@wlrk.com
MGuest@wlrk.com
BCPrice@wlrk.com

9.6 Interpretation. The parties have participated jointly in negotiating and drafting this Agreement. In the event that an ambiguity or a question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement. When a reference is made in this Agreement to Articles, Sections, Exhibits or Schedules, such reference shall be to an Article or Section of or Exhibit or Schedule to this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation." The word "or" shall not be exclusive. References to "the date hereof" shall mean the date of this Agreement. As used in this Agreement, the "knowledge" of Discover means the actual knowledge of any of the representatives of Discover listed on Section 9.6 of the Discover Disclosure Schedule, and the "knowledge" of Capital One means the actual knowledge of any of the representatives of Capital One listed on Section 9.6 of the Capital One Disclosure Schedule. As used herein, (a) the term "person" means any individual, corporation (including not-for-profit), general or limited partnership, limited liability company, joint venture, estate,

trust, association, organization, Governmental Entity or other entity of any kind or nature, (b) an "Affiliate" of a specified person is any person that directly or indirectly controls, is controlled by, or is under common control with, such specified person, (c) the term "made available" means any document or other information that was (i) provided by one party or its representatives to the other party and its representatives prior to the date hereof, (ii) included in the virtual data room of a party prior to the date hereof or (iii) filed by a party with the SEC and publicly available on EDGAR prior to the date hereof and (d) the "transactions contemplated hereby" and "transactions contemplated by this Agreement" shall include the Mergers and the Bank Merger. The Discover Disclosure Schedule and the Capital One Disclosure Schedule, as well as all other schedules and all exhibits hereto, shall be deemed part of this Agreement and included in any reference to this Agreement. Nothing contained herein shall require any party or person to take any action in violation of applicable law.

9.7 Counterparts. This Agreement may be executed in counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each of the parties and delivered to the other parties, it being understood that all parties need not sign the same counterpart.

9.8 Entire Agreement. This Agreement (including the documents and instruments referred to herein) together with the Confidentiality Agreement constitutes the entire agreement among the parties and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof.

9.9 Governing Law; Jurisdiction.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to any applicable conflicts of law principles.

(b) Each party agrees that it will bring any action or proceeding in respect of any claim arising out of or related to this Agreement or the transactions contemplated hereby exclusively in the Delaware Court of Chancery and any state appellate court therefrom within the State of Delaware or, if the Delaware Court of Chancery declines to accept jurisdiction over a particular matter, any federal or state court of competent jurisdiction located in the State of Delaware (the "Chosen Courts"), and, solely in connection with claims arising under this Agreement or the transactions that are the subject of this Agreement, (i) irrevocably submits to the exclusive jurisdiction of the Chosen Courts, (ii) waives any objection to laying venue in any such action or proceeding in the Chosen Courts, (iii) waives any objection that the Chosen Courts are an inconvenient forum or do not have jurisdiction over any party and (iv) agrees that service of process upon such party in any such action or proceeding will be effective if notice is given in accordance with Section 9.5.

9.10 Waiver of Jury Trial. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE EXTENT PERMITTED BY LAW AT THE TIME OF INSTITUTION OF THE APPLICABLE LITIGATION, ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY

JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT: (I) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (II) EACH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (III) EACH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (IV) EACH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 9.10.

9.11 Assignment; Third-Party Beneficiaries. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto (whether by operation of law or otherwise) without the prior written consent of Discover, in the case of Capital One or Merger Sub, or Capital One, in the case of Discover. Any purported assignment in contravention hereof shall be null and void. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns. Except as otherwise specifically provided in Section 6.7, this Agreement (including the documents and instruments referred to herein) is not intended to, and does not, confer upon any person other than the parties hereto any rights or remedies hereunder, including the right to rely upon the representations and warranties set forth herein. The representations and warranties in this Agreement are the product of negotiations among the parties hereto and are for the sole benefit of the parties. Any inaccuracies in such representations and warranties are subject to waiver by the parties hereto in accordance herewith without notice or liability to any other person. In some instances, the representations and warranties in this Agreement may represent an allocation among the parties hereto of risks associated with particular matters regardless of the knowledge of any of the parties hereto. Consequently, persons other than the parties may not rely upon the representations and warranties in this Agreement as characterizations of actual facts or circumstances as of the date of this Agreement or as of any other date.

9.12 Specific Performance. The parties hereto agree that irreparable damage, for which monetary damages (even if available) would not be an adequate remedy, would occur if any provision of this Agreement were not performed in accordance with the terms hereof and, accordingly, that the parties shall be entitled to specific performance of the terms hereof, including an injunction or injunctions to prevent breaches or threatened breaches of this Agreement or to enforce specifically the performance of the terms and provisions hereof (including the parties' obligation to consummate the Merger), in addition to any other remedy to which they are entitled at law or in equity. Each of the parties hereby further waives (a) any defense in any action for specific performance that a remedy at law would be adequate and (b) any requirement under any law to post security or a bond as a prerequisite to obtaining equitable relief.

9.13 Severability. Whenever possible, each provision or portion of any provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision or portion of any provision of this Agreement is held

to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or portion of any provision in such jurisdiction, and this Agreement shall be reformed, construed and enforced in such jurisdiction such that the invalid, illegal or unenforceable provision or portion thereof shall be interpreted to be only so broad as is enforceable.

9.14 Confidential Supervisory Information. Notwithstanding any other provision of this Agreement, no provision of this Agreement shall require or be interpreted to require, and no disclosure, representation or warranty shall be made (or other action taken) pursuant to this Agreement that would involve, the disclosure of confidential supervisory information (including confidential supervisory information as defined in 12 C.F.R. § 261.2(b) and as identified in 12 C.F.R. § 309.5(g)(8) or any similar state law) of a Governmental Entity by any party to this Agreement to the extent prohibited by applicable law; provided that, to the extent legally permissible, appropriate substitute disclosures or actions shall be made or taken under circumstances in which the limitations of the preceding sentence apply.

9.15 Delivery by Facsimile or Electronic Transmission. This Agreement and any signed agreement or instrument entered into in connection with this Agreement, and any amendments or waivers hereto or thereto, to the extent signed and delivered by means of a facsimile machine or by e-mail delivery of a ".pdf" format data file, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. No party hereto or to any such agreement or instrument shall raise the use of a facsimile machine or e-mail delivery of a ".pdf" format data file to deliver a signature to this Agreement or any amendment hereto or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or e-mail delivery of a ".pdf" format data file as a defense to the formation of a contract and each party hereto forever waives any such defense.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the date first above written.

DISCOVER FINANCIAL SERVICES

By: _____
Name: Michael G. Rhodes
Title: Chief Executive Officer and President

VEGA MERGER SUB, INC.

By: _____
Name: Daniel Mouadeb
Title: President

CAPITAL ONE FINANCIAL CORPORATION

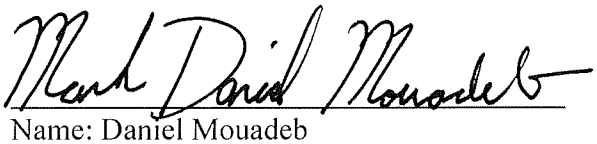
By: _____
Name: Richard D. Fairbank
Title: Chief Executive Officer

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the date first above written.

DISCOVER FINANCIAL SERVICES

By: _____
Name: Michael G. Rhodes
Title. Chief Executive Officer and President

VEGA MERGER SUB, INC.

By: 
Name: Daniel Mouadeb
Title: President

CAPITAL ONE FINANCIAL CORPORATION

By: _____
Name: Richard D. Fairbank
Title: Chief Executive Officer

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the date first above written

DISCOVER FINANCIAL SERVICES

By: _____
Name: Michael G. Rhodes
Title: Chief Executive Officer and President

VEGA MERGER SUB, INC.

By: _____
Name: Daniel Mouadeb
Title: President

CAPITAL ONE FINANCIAL CORPORATION

By: _____
Name: Richard D. Fairbank
Title: Chief Executive Officer

Exhibit A

Form of Bank Merger Agreement

AGREEMENT AND PLAN OF MERGER

Discover Bank
with and into
Capital One, National Association

under the charter of

Capital One, National Association
under the title of
"Capital One, National Association"

THIS AGREEMENT AND PLAN OF MERGER (this "***Agreement***") is made on this 19th day of February, 2024, between Capital One, National Association ("***Capital One Bank***" or the "***Resulting Bank***"), a national banking association, with its main office located at 1680 Capital One Drive, McLean, Virginia 22102, and Discover Bank ("***Discover Bank***"), a Delaware-chartered bank, with its main office located at 502 East Market Street, Greenwood, DE 19950. Collectively, Capital One Bank and Discover Bank are referred to as the "***Banks***."

WHEREAS, the Board of Directors of Capital One Bank has unanimously approved this Agreement and authorized its execution pursuant to the authority given by and in accordance with the provisions of the National Bank Act (the "***Act***");

WHEREAS, the Board of Directors of Discover Bank has unanimously approved this Agreement and authorized its execution pursuant to the authority given by and in accordance with the laws of the State of Delaware;

WHEREAS, Capital One Financial Corporation ("***Capital One***"), which owns all of the outstanding shares of Capital One Bank, Vega Merger Sub, Inc. ("***Merger Sub***"), a Delaware corporation and a direct, wholly owned subsidiary of Capital One, and Discover Financial Services ("***Discover***"), which owns all of the outstanding shares of Discover Bank, have entered into an Agreement and Plan of Merger (the "***Holding Company Agreement***"), which, among other things, provides for (i) the merger of Merger Sub with and into Discover ("***First Merger***"), with Discover continuing as the surviving corporation (the "***Surviving Company***"), and (ii) immediately after the First Merger and as part of a single, integrated transaction, Capital One shall cause the Surviving Company to be merged with and into Capital One (the "***Second Step Merger***"), all subject to the terms and conditions of such Holding Company Agreement;

WHEREAS, Capital One, as the sole shareholder of Capital One Bank, and Discover, as the sole stockholder of Discover Bank, have approved this Agreement; and

WHEREAS, each of the Banks is entering into this Agreement to provide for the merger of Discover Bank with and into Capital One Bank, with Capital One Bank being the surviving bank of such merger transaction (the "***Bank Merger***") under the name of Capital One Bank, National Association, pursuant to the provisions of, and with the effect provided in, 12 U.S.C. § 215a, 12 U.S.C. § 1828(c), the regulations of the Office of the Comptroller of the Currency (the "***OCC***") and, to the extent applicable, the relevant banking statutes of the State of Delaware and the regulations of the Office of the State Bank Commissioner of the State of Delaware and subject to, and immediately following, the closing of the Second Step Merger.

NOW, **THEREFORE**, for and in consideration of the premises and the mutual promises and agreements herein contained, the parties hereto agree as follows:

SECTION 1

Subject to the terms and conditions of this Agreement and those set forth in the Holding Company Agreement, at the Effective Time (as defined below) and pursuant to the Act, Discover Bank shall be merged with and into Capital One Bank in the Bank Merger. Capital One Bank shall continue its existence as the Resulting Bank under the charter of Capital One Bank, and the separate corporate existence of Discover Bank shall cease. The closing of the Bank Merger shall become effective following the satisfaction or effective waiver of all of the conditions precedent to the consummation of the Bank Merger specified in this Agreement and at the time specified in the letter issued by the OCC in connection with the Bank Merger (such time when the Bank Merger becomes effective, the "***Effective Time***").

It is intended that the Bank Merger shall qualify as a "reorganization" within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (the "***Code***"), and that this Agreement is intended to be and is adopted as a plan of reorganization for the purposes of Sections 354 and 361 of the Code.

SECTION 2

The name of the Resulting Bank at the Effective Time shall be "Capital One, National Association" The Resulting Bank will exercise trust powers.

SECTION 3

The business of the Resulting Bank from and after the Effective Time shall be that of a national banking association. This business of the Resulting Bank shall be conducted at its main office, which shall be located at 1680 Capital One Drive, McLean, Virginia 22102, as well as at its legally established branches and at the banking offices of Discover Bank, all of which shall be acquired in the Bank Merger, in each case without limiting the authority under applicable law of the Resulting Bank to close, relocate, or otherwise make any changes regarding any such branch. The deposit accounts of the Resulting Bank will be insured by the Federal Deposit Insurance Corporation in accordance with the Federal Deposit Insurance Act.

SECTION 4

At the Effective Time, the amount of issued and outstanding capital stock of the Resulting Bank shall be the amount of capital stock of Capital One Bank issued and outstanding immediately before the Effective Time.

SECTION 5

All assets of Discover Bank and Capital One Bank, as they exist at the Effective Time, shall pass to and vest in the Resulting Bank without any conveyance or other transfer; the Resulting Bank shall be considered the same business and corporate entity as each constituent bank with all the rights, powers and duties of each constituent bank; and the Resulting Bank shall be responsible for all of the liabilities of every kind and description, of Discover Bank and Capital One Bank existing as of the Effective Time, all in accordance with the provisions of the Act.

SECTION 6

At the Effective Time, each outstanding share of common stock of Discover Bank shall be canceled with no cash, shares of common stock or other property being paid therefor.

Outstanding certificates representing shares of the common stock of Discover Bank shall, at the Effective Time, be canceled.

SECTION 7

Upon the Effective Time, the then-outstanding shares of Capital One Bank's common stock shall continue to remain outstanding shares of Capital One Bank's common stock, all of which shall continue to be owned by Capital One.

SECTION 8

Effective as of the Effective Time: (i) the directors of the Resulting Bank shall be the persons serving as directors of Capital One Bank immediately before the Effective Time as well as any persons duly appointed as directors by Capital One as set forth in Section 6.12 of the Holding Company Agreement; and (ii) the officers of the Resulting Bank shall be the persons serving as officers of Capital One Bank immediately before the Effective Time as well any persons duly appointed as officers by Capital One Bank.

SECTION 9

This Agreement has been approved by Capital One, which owns all of the outstanding shares of Capital One Bank, and by Discover, which owns all of the outstanding shares of Discover Bank.

SECTION 10

The Bank Merger and the respective obligations of each party hereto to consummate the Bank Merger are subject to the fulfillment or effective waiver of each of the following conditions:

(a) Each of the First Merger and the Second Step Merger shall have become effective.

(b) The OCC shall have approved the Bank Merger and shall have issued all other necessary authorizations and approvals for the Bank Merger, and any statutory waiting period shall have expired or been terminated.

This Agreement may be amended or terminated, and the Bank Merger may be abandoned, only by the mutual written agreement of Capital One Bank and Discover Bank at any time, whether before or after filings are made for regulatory approval of the Bank Merger and notwithstanding the prior approval of this Agreement and the Bank Merger by the sole shareholder of Capital One Bank or Discover Bank.

SECTION 11

Effective as of the Effective Time, the Articles of Association and Bylaws of the Resulting Bank shall consist of the Articles of Association and Bylaws of Capital One Bank as in effect immediately before the Effective Time.

SECTION 12

This Agreement shall automatically terminate in the event and at the time of any termination of the Holding Company Agreement.

SECTION 13

Each of the parties hereto represents and warrants that this Agreement has been duly authorized, executed and delivered by such party and (assuming due authorization, execution and delivery by the other party) constitutes a valid and binding obligation of such party, enforceable against it in accordance with the terms hereof (except in all cases as such enforceability may be limited by bankruptcy, insolvency, fraudulent transfer, moratorium, reorganization or similar laws of general applicability affecting the rights of creditors generally and the availability of equitable remedies).

Subject in all respects to Section 6.1 of the Holding Company Agreement, each of the parties shall use its reasonable best efforts to take, or cause to be taken, all actions necessary, proper or advisable to comply promptly with all legal requirements that may be imposed on such party or its Subsidiaries with respect to the Bank Merger and, subject to the conditions set forth in Section 10 hereof, to consummate the transactions contemplated by this Agreement.

None of the representations, warranties or agreements in this Agreement, or in any instrument delivered pursuant to this Agreement, shall survive the Effective Time or valid termination of this Agreement.

This Agreement embodies the entire agreement and understanding of the Banks with respect to the transactions contemplated hereby, and supersedes all other prior commitments, arrangements or understandings, both oral and written, among the Banks with respect to the subject matter hereof, other than the Holding Company Agreement.

The provisions of this Agreement are intended to be interpreted and construed in a manner so as to make such provisions valid, binding and enforceable. If any provision of this Agreement is determined to be partially or wholly invalid, illegal or unenforceable, then such provision shall be deemed to be modified or restricted to the extent necessary to make such provision valid, binding and enforceable; or, if such provision cannot be modified or restricted in a manner so as to make such provision valid, binding and enforceable, then such provision shall be deemed to be excised from this Agreement and the validity, binding effect and enforceability of the remaining provisions of this Agreement shall not be affected or impaired in any manner.

No waiver, amendment, modification or change of any provision of this Agreement shall be effective unless and until made in writing and signed by the Banks. No waiver, forbearance or failure by any Bank of its rights to enforce any provision of this Agreement shall constitute a waiver or estoppel of such Bank's right to enforce any other provision of this Agreement or a continuing waiver by such Bank of compliance with any provision hereof.

All notices and other communications hereunder shall be in writing and shall be deemed given (a) on the date of delivery if delivered personally, or if by e-mail transmission (with confirmation of receipt requested), (b) on the earlier of confirmed receipt or the fifth (5th) business day following the date of mailing if mailed by registered or certified mail (return receipt requested) or (c) on the first (1st) business day following the date of dispatch if delivered utilizing a next-day service by a recognized next-day courier (with confirmation) to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

(a) if to Discover Bank, to:

Discover Bank
2500 Lake Cook Road
Riverwoods, Illinois 60015

Attention: Chief Executive Officer and President
Executive Vice President, Chief Legal Officer, General Counsel and Secretary

With a copy (which shall not constitute notice) to:

Sullivan & Cromwell LLP
125 Broad Street
New York, New York 10004

Attention: H. Rodgin Cohen
Mitchell S. Eitel
Jared M. Fishman
Email: cohenhr@sullcrom.com
eitelm@sullcrom.com
fishmanj@sullcrom.com

and

(b) if to Capital One Bank, to:

Capital One, National Association
1680 Capital One Drive
McLean, VA 22102

Attention: Executive Vice President, Corporate Development
Chief Counsel, Corporate and Strategic Transactions

With a copy (which shall not constitute notice) to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, NY 10019

Attention: Edward D. Herlihy
Matthew M. Guest
Brandon C. Price
E-mail: EDHerlihy@wlrk.com
MGuest@wlrk.com
BCPrice@wlrk.com

Each Bank agrees that it will bring any action or proceeding in respect of any claim arising out of or related to this Agreement or the transactions contemplated hereby exclusively in the Delaware Court of Chancery and any state appellate court therefrom within the State of Delaware or, if the Delaware Court of Chancery declines to accept jurisdiction over a particular matter, any federal or state court of competent

jurisdiction located in the State of Delaware (the "***Chosen Courts***"), and, solely in connection with claims arising under this Agreement or the transactions that are the subject of this Agreement, (i) irrevocably submits to the exclusive jurisdiction of the Chosen Courts, (ii) waives any objection to laying venue in any such action or proceeding in the Chosen Courts, (iii) waives any objection that the Chosen Courts are an inconvenient forum or do not have jurisdiction over any party and (iv) agrees that service of process upon such party in any such action or proceeding will be effective if notice is given in accordance with this Section 13.

Except to the extent federal law is applicable, this Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Delaware without regard to conflicts of laws principles. EACH OF THE PARTIES HERETO WAIVES ANY RIGHT TO REQUEST A TRIAL BY JURY IN ANY LITIGATION WITH RESPECT TO THIS AGREEMENT AND REPRESENTS THAT COUNSEL HAS BEEN CONSULTED SPECIFICALLY AS TO THIS WAIVER.

Neither this Agreement nor any of the rights, interests or obligations may be assigned by any of the parties hereto (whether by operation of law or otherwise) and any attempted assignment in contravention hereof shall be null and void. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of, and be enforceable by, the Banks' respective successors and permitted assigns. Unless otherwise expressly stated herein, this Agreement shall not benefit or create any right of action in or on behalf of any person or entity other than the Banks.

This Agreement may be executed in counterparts (including by facsimile or optically scanned electronic mail attachment), each of which shall be deemed to be original, but all of which together shall constitute one and the same instrument.

[*Signature page follows*]

IN WITNESS WHEREOF, Capital One, National Association and Discover Bank have entered into this Agreement as of the date and year first set forth above.

Capital One, National Association

By: _____
Name:
Title:

Discover Bank

By: _____
Name:
Title:

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

(Mark One)

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the year ended December 31, 2023

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the transition period from to

Commission File Number 001-33378

DISCOVER FINANCIAL SERVICES

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

36-2517428
(I.R.S. Employer Identification No.)

2500 Lake Cook Road, Riverwoods, Illinois 60015
(Address of principal executive offices, including zip code)

(224) 405-0900
(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value $0.01 per share	DFS	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. **Yes** ☒ **No** ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Exchange Act. **Yes** ☐ **No** ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. **Yes** ☒ **No** ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). **Yes** ☒ **No** ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large Accelerated Filer	☒	Accelerated Filer	☐	Smaller Reporting Company	☐
Non-accelerated Filer	☐			Emerging Growth Company	☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant has filed a report on and attestation of the effectiveness of its internal control over financial reporting under Section 404(b) of Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☒

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. ☒

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b). ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). **Yes** ☐ **No** ☒

The aggregate market value of the common equity held by non-affiliates of the registrant on the last business day of the registrant's most recently completed second fiscal quarter was approximately $29,097,770,033.

As of February 16, 2024, there were 250,555,294 shares of the registrant's Common Stock, par value $0.01 per share, outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's definitive proxy statement for its annual stockholders' meeting to be held on May 09, 2024 are incorporated by reference in Part III of this Form 10-K.

DISCOVER FINANCIAL SERVICES

Annual Report on Form 10-K for the year ended December 31, 2023

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Except as otherwise indicated or unless the context otherwise requires, "Discover Financial Services," "Discover," "DFS," "we," "us," "our," and "the Company" refer to Discover Financial Services and its subsidiaries. See "Item 8 - Financial Statements and Supplementary Data - Glossary of Acronyms" for terms and abbreviations used throughout the annual report.

We own or have rights to use the trademarks, trade names and service marks that we use in conjunction with the operation of our business, including, but not limited to: Discover®, PULSE®, Cashback Bonus®, Discover Cashback Checking®, Discover it®, Freeze it®, College Covered® and Diners Club International®. All other trademarks, trade names and service marks included in this annual report on Form 10-K are the property of their respective owners.

Part I.

Part I | Item 1. Business

Introduction

Discover Financial Services (the "Company") is a digital banking and payment services company. We were incorporated in Delaware in 1960. We are a bank holding company under the Bank Holding Company Act of 1956 as well as a financial holding company under the Gramm-Leach-Bliley Act ("GLBA") and therefore are subject to oversight, regulation and examination by the Board of Governors of the Federal Reserve System (the "FRB" or "Federal Reserve"). We provide digital banking products and services and payment services through our subsidiaries. We offer our customers credit card loans, personal loans, home loans and deposit products. We had $128.4 billion in loan receivables and $84.0 billion in deposits issued through direct-to-consumer channels and affinity relationships at December 31, 2023. We also operate the Discover Network, the PULSE network ("PULSE") and Diners Club International ("Diners Club"), collectively known as the Discover Global Network. The Discover Network processes transactions for Discover-branded credit and debit cards and provides payment transaction processing and settlement services. PULSE operates an electronic funds transfer network, providing financial institutions issuing debit cards on the PULSE network with access to automated teller machines ("ATMs") domestically and internationally, as well as merchant acceptance throughout the United States of America ("U.S.") for debit card transactions. Diners Club is a global payments network of licensees, which are generally financial institutions, that issue Diners Club branded charge cards and/or provide card acceptance services.

On November 29, 2023, we announced our Board of Directors had authorized management to explore the sale of our private student loan portfolio. We stopped accepting new applications for private student loans February 1, 2024. See "- Operating Model - Digital Banking - Private Student Loans" for more information.

Pending Merger with Capital One Financial Corporation

On February 19, 2024, Discover and Capital One Financial Corporation ("Capital One") jointly announced that they entered into an agreement and plan of merger (the "Merger Agreement"), under which the companies will combine in an all-stock merger, which values Discover at $35.3 billion. Under the terms of the Merger Agreement, holders of Discover common stock will receive 1.0192 shares of Capital One common stock for each share of Discover common stock they own. Capital One shareholders will own approximately 60% of the combined company and Discover shareholders will own approximately 40% of the combined company. The Merger Agreement contains customary representations and warranties, covenants and closing conditions. The Board of Directors of the combined company will have fifteen directors, consisting of the current twelve Capital One Board members and three Discover Board members to be named at a later date. For more information, see Discover's Current Report on Form 8-K filed with the Securities and Exchange Commission (the "SEC") on February 22, 2024.

Completion of the proposed merger remains subject to approval by the FRB and the Office of the Comptroller of the Currency ("OCC") and other customary closing conditions, including the approval of both companies' shareholders.

Available Information

We make available, free of charge through the investor relations page of our internet site *www.discover.com*, our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, proxy statements, Forms 3, 4 and 5 filed by or on behalf of our directors and executive officers, and any amendments to those documents filed with or furnished to the SEC pursuant to the Securities Exchange Act of 1934. These filings are available as soon as reasonably practicable after they are filed with or furnished to the SEC.

In addition, the following information is available on the investor relations page of our internet site: (i) our Corporate Governance Guidelines; (ii) our Code of Conduct and Business Ethics; and (iii) the charters of the Audit, Compensation and Leadership Development, Nominating, Governance and Public Responsibility and Risk Oversight Committees of our Board of Directors. These documents are also available in print without charge to any person who requests them by writing or telephoning our principal executive offices: Discover Financial Services, Office of the Corporate Secretary, 2500 Lake Cook Road, Riverwoods, Illinois 60015, United States of America, telephone number (224) 405-0900.

Operating Model

We manage our business activities in two segments: Digital Banking and Payment Services. Our Digital Banking segment includes consumer banking and lending products, specifically Discover-branded credit cards issued to

individuals on the Discover Network and other consumer banking products and services, including private student loans, personal loans, home loans and deposit products. Our Payment Services segment includes PULSE, Diners Club and our Network Partners business, which provides payment transaction processing and settlement services on the Discover Global Network.

We are principally engaged in providing products and services to customers in the U.S. However, we also receive revenue from sources outside of the U.S., including royalty and licensee revenue from our Diners Club licensees and network assessment, discount and interchange fees from our network-to-network partners ("Network Alliances"). For quantitative information concerning our geographic distribution, see Note 4: Loan Receivables to our consolidated financial statements.

Below are descriptions of the principal products and services of each of our reportable segments. For additional financial information relating to our business and our operating segments, see Note 22: Segment Disclosures to our consolidated financial statements.

Digital Banking

Set forth below are descriptions of the credit cards, private student loans, personal loans, home loans and deposit products issued by our bank subsidiary, Discover Bank.

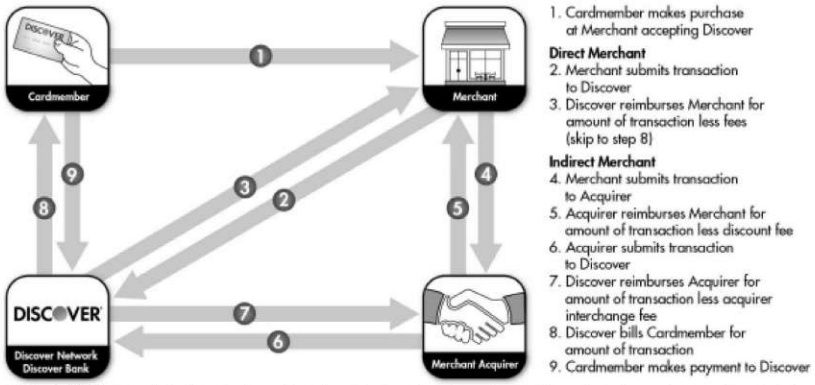
Credit Cards

We currently offer and issue credit cards to consumers. Our credit card customers are permitted to "revolve" their balances and repay their obligations over a period of time and at an interest rate set forth in their cardmember agreements, which may be either fixed or variable. The interest that we earned on revolving credit card balances comprised approximately 81% of our total interest income for the year ended December 31, 2023. We also charge customers other fees as specified in the cardmember agreements. These may include fees for late payments, returned checks, balance transfer transactions and cash advance transactions.

Our credit card customers' transactions in the U.S. are processed over the Discover Network. We receive discount and fee revenue from merchants with whom we have a direct relationship. Where we do not have a direct relationship with a merchant, we receive interchange and assessment fees from acquirers.

All of our cards offer rewards programs, the costs of which are generally recorded as a reduction of discount and interchange revenue. See "- Marketing - Rewards / Cashback Bonus" for further discussion of our programs offered.

The following chart* shows the Discover card transaction cycle as processed on the Discover Network:



*This is a simplified illustration of a typical credit card transaction. It does not reflect certain operations and assessment fees, cash or balance transfer transactions, authorizations, disputes or other specifics.

For information on how we market our credit card loans, see "- Credit Risk Management - Account Acquisition (New Customers)" and "- Marketing."

Private Student Loans

On November 29, 2023, we announced our Board of Directors had authorized management to explore the sale of the private student loan portfolio and transfer servicing of these loans to a third-party servicer. We stopped accepting new applications for private student loans February 1, 2024. Applications received prior to this date will continue to be processed, and pending approval, disbursed under the terms and conditions laid out below. Generally, final disbursements of funds will be completed by December 31, 2024.

All of our private student loans are unsecured and have terms and conditions that vary by type of student loan, and feature fixed or variable interest rates with zero origination fees. Customers can elect to make extra payments to pay their loans off earlier than contractually scheduled without penalty. The loans can feature potential rewards, such as for earning good grades, and we also offer optional in-school payment features where students make payments while in school. The standard repayment period is 15 to 20 years, depending on the type of student loan. Private student loans may include a deferment period, during which interest continues to accrue and customers are not required to make payments while enrolled in school at least half time as determined by the school. This period begins on the date the loan is first disbursed and ends six to nine months (depending on loan type) after the student ceases to be enrolled in school at least half time. As part of the loan approval process, all of our private student loans, except for bar study, residency and private consolidation loans, are certified by and disbursed through the school to ensure students do not borrow more than the cost of attendance less other financial aid.

Personal Loans

Our personal loans are primarily intended to help customers consolidate existing debt, although they can be used for other purposes. These loans are unsecured with fixed interest rates, terms and payments, and have zero origination fees. The repayment period for personal loans is 3 to 7 years and there is no penalty for prepaying any portion of a personal loan balance. Customers may be subject to late fees if they have not made a minimum payment by the contractual due date.

We market personal loans primarily through direct mail, digital channels and email. Prospective applicants can obtain information regarding Discover Personal Loans and complete an application either online or by telephone.

Home Loans

Our home loans are intended for multiple purposes, including mortgage refinance, debt consolidation, home improvement and other major expenses. These loans are closed-end with fixed interest rates, terms and payments, and are secured by a first or second lien on a customer's home. These loans require monthly payment over a 10 to 30-year term. Customers may elect to make larger than minimum payments without being subject to a prepayment penalty. Customers do not pay origination fees or third-party costs during the application process or at closing, but they may be required to reimburse certain third-party costs if the loan is repaid in full within three years. Customers may also be subject to additional charges, including late fees and returned payment charges.

We market home loans primarily through direct mail, digital channels and email. Prospective applicants can obtain information and apply online or by telephone.

Deposits

We obtain deposits from consumers directly or through affinity relationships ("direct-to-consumer deposits"). Additionally, we obtain deposits through third-party securities brokerage firms that offer our deposits to their customers ("brokered deposits"). Our direct-to-consumer deposit products include savings accounts, certificates of deposit, money market accounts, IRA savings accounts, IRA certificates of deposit and checking accounts, while our brokered deposit products include certificates of deposit and sweep accounts. All of our deposits are insured by the Federal Deposit Insurance Corporation (the "FDIC") to the maximum permitted by law. We do not pay interest on checking account balances and instead offer cashback rewards for certain debit card purchases. Certificates of deposit are offered on a range of tenors from three months through ten years with interest rates that are fixed for the full period. There are minimum balance requirements to open certificates of deposit and penalties for early withdrawals. There are no minimum balance requirements to open money market accounts and savings accounts. Interest rates on money market accounts and savings accounts are subject to change at any time. Service charges apply to outgoing wire transfers only and availability of funds varies based on type and method of deposit and other factors.

We market our direct-to-consumer deposit products through the use of digital channels, direct mail, print materials, email and arrangements with third parties. Customers can generally apply for deposit accounts online or by telephone. Cashback Debit checking account applications can only be initiated online. For more information regarding our deposit products, see "Management's Discussion and Analysis of Financial Condition and Results of Operations - Liquidity and Capital Resources - Funding Sources - Deposits."

Payment Services

Set forth below are descriptions of PULSE, Diners Club and our Network Partners business, which provides payment transaction processing and settlement services, among other services.

PULSE

Our PULSE network is a leader in debit payments, cash access and account transfers. PULSE links cardholders served by financial institutions to ATMs and point-of-sale ("POS") terminals located throughout the U.S., including cardholders at financial institutions with which PULSE has direct relationships and through agreements PULSE has with other debit networks. PULSE also provides cash access at ATMs internationally.

PULSE's primary source of revenue is transaction fees charged for switching and settling ATM and debit transactions initiated through the use of debit cards issued by participating financial institutions. In addition, PULSE offers a variety of optional products and services that produce income for the network, including signature debit transaction processing, debit card fraud detection and risk mitigation services and connections to other regional and national electronic funds transfer networks.

When a financial institution joins the PULSE network, debit cards issued by that institution are eligible to be used at all of the ATMs and POS debit terminals that participate in the PULSE network and the PULSE mark can be used on that institution's debit cards and ATMs. In addition, financial institution participants may sponsor merchants, direct processors and independent sales organizations to participate in the PULSE POS and ATM debit service. A participating financial institution assumes liability for transactions initiated through the use of debit cards issued by that institution, as well as for ensuring compliance with PULSE's operating rules and policies applicable to that institution's debit cards, ATMs and, if applicable, sponsored merchants, direct processors and independent sales organizations.

When PULSE enters into a network-to-network agreement with another debit network, the other network's participating financial institutions' debit cards can be used at terminals in the PULSE network. PULSE does not have a direct relationship with these financial institutions and the other network bears the financial responsibility for transactions of those financial institutions' cardholders and for ensuring compliance with PULSE's operating rules.

Diners Club

Our Diners Club business maintains a global acceptance network through its relationships with licensees, which are generally financial institutions. We do not directly issue Diners Club cards to consumers, but grant our licensees the right to issue Diners Club-branded cards and/or provide card acceptance services. Our licensees pay us royalties for the right to use the Diners Club brand, which is our primary source of Diners Club revenues. We also earn revenue from providing various support services to our Diners Club licensees, including processing and settlement of cross-border transactions. We also provide a centralized service center and technological services to our licensees.

When Diners Club cardholders use their cards outside the host country or territory of the issuing licensee, transactions are routed and settled over the Diners Club network through its centralized service center. In order to increase merchant acceptance in certain targeted countries and territories, we work with merchant acquirers to offer Diners Club and Discover acceptance to their merchants. These acquirers are granted licenses to market the Diners Club and Discover brands to existing and new merchants. Diners Club cardholders with cards issued by licensees outside of North America continue to use their cards on the Discover Network in North America and on the PULSE and Diners Club networks in their card-issuing territory and abroad.

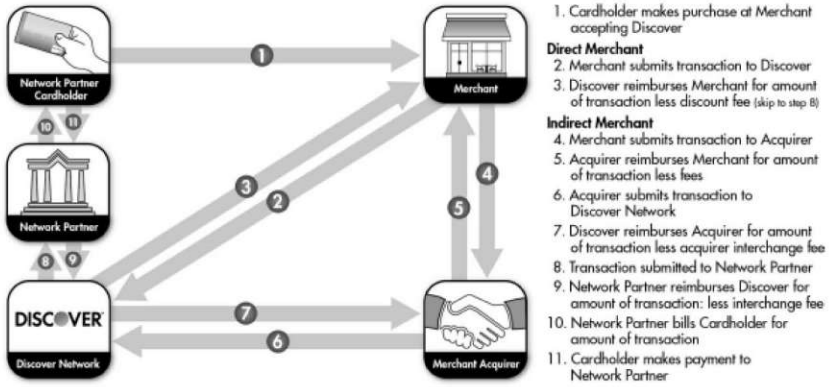
Network Partners Business

We have agreements with a number of financial institutions including financial technology firms, networks or Network Alliances and commercial service providers for issuance of products or processing of payments on the Discover Global Network. We refer to these financial institutions, networks and commercial service providers as "Network Partners." We may earn merchant discount and acquirer assessments net of issuer fees paid, in addition to

other fees, for processing transactions for Network Partners. We also leverage our payments infrastructure in other ways, such as business-to-business payment processing.

Our Network Partners business is composed of Network Alliances, technology-enabled partners and our commercial payments network. Network Alliances allow Discover-enabled cards to be used at other networks' participating merchants and allow other networks' participating issuers' cards to be used at Discover Network merchants. Our commercial payments network facilitates transactions and business-to-business payments between buyers and suppliers using the existing payment infrastructure of Discover Network.

The following chart* shows an example of a Network Partners transaction cycle:



*This is a simplified illustration of a typical credit card transaction. It does not reflect certain operations and assessment fees, cash or balance transfer transactions, authorizations, disputes or other specifics.

* * *

The discussion below provides additional detail concerning the supporting functions of our two segments. The credit card, private student loan, personal loan, home loan and deposit products issued through our Digital Banking segment require significant investments in consumer portfolio risk management, marketing, customer service and related technology. The operation of our Payment Services segment requires that we invest in the technology to manage risk and service network partners, merchants and merchant acquirer relationships. We also make strategic investments in payment services entities to support our Payment Services segment.

Credit Risk Management

Credit risk refers to the risk of loss arising from borrower default when borrowers are unable or unwilling to meet their financial obligations to us. For all loan types, we have established a credit policy and limits that are designed to manage our exposure to credit risk. Our credit risk arising from consumer lending products is generally highly diversified across millions of accounts without significant individual exposures. We manage credit risk primarily based on customer segments and product types. See "- Risk Management" for more information regarding how we define and manage our credit and other risks.

Account Acquisition (New Customers)

We acquire new credit card customers through direct mail, internet, media advertising, merchant or partner relationships, or through unsolicited individual applications. We also acquire new personal loan and home loan customers through similar channels. In all cases we have a rigorous process for screening applicants.

Our credit risk management and marketing teams use proprietary analytical tools to match our product offerings with customer needs and identify creditworthy prospective customers. We consider the prospective customer's financial condition and stability, as well as ability and willingness to pay.

We assess the creditworthiness of each consumer loan applicant by evaluating an applicant's credit information provided by credit bureaus and information from other sources. The assessment is performed using our credit scoring systems, both externally developed and proprietary. For our unsecured lending products, we also use experienced credit underwriters to supplement our automated decision-making processes. For our home loan products, experienced credit underwriters must review and approve each application.

Upon approval of a customer's application for one of our lending products, we assign a specific annual percentage rate using an analytically driven pricing framework that simultaneously provides competitive pricing for customers and seeks to maximize revenue on a risk-adjusted basis. For our credit card loans, we also assign a credit line based on risk level and expected return.

Portfolio Management (Existing Customers)

The revolving nature of our credit card loans requires that we regularly assess the credit risk exposure of such accounts. This assessment uses the individual's Discover account performance information as well as information from credit bureaus. We utilize statistical evaluation models to support the measurement and management of credit risk. At the individual customer level, we use custom risk models together with more generally available industry models as an integral part of the credit decision-making process. Depending on the duration of the customer's account, risk profile and other performance metrics, the account may be subject to a range of account management treatments, including transaction authorization limits and increases or decreases on credit limits.

Customer Assistance

We provide our customers with a variety of tools to proactively manage their accounts, including email, text message, push reminders and publicly accessible web pages dedicated to customer education, as further discussed under the heading "- Customer Service." These tools are designed to limit a customer's risk of becoming delinquent. When a customer's account becomes delinquent or is at risk of becoming delinquent, we employ a variety of strategies to assist customers in preventing delinquency or returning delinquent accounts to current status.

All monthly billing statements of accounts with past due amounts include a request for payment of such amounts. Customer assistance personnel generally initiate contact with customers within 30 days after any portion of their balance becomes past due. The nature and the timing of the initial contact are determined by a review of the customer's prior account activity and payment habits.

We reevaluate our collection efforts and consider the implementation of other techniques as a customer becomes increasingly delinquent. We limit our exposure to delinquencies through controls within our process for authorizing transactions and credit limits and criteria-based account suspension and revocation. In situations involving customers with financial difficulties, we may enter into arrangements to extend or otherwise change payment schedules, lower interest rates and/or waive fees to aid customers in returning to current status on their obligations to us. For more information see Note 4: Loan Receivables to our consolidated financial statements.

Marketing

Our marketing group works closely with credit risk management to provide key functions to acquire new customers and enhance our relationships with existing customers. These key functions include product development, Cashback Bonus and other rewards programs management, protection product management, and brand and advertising management.

Product Development

To attract and retain customers and merchants, we continue to develop new programs, features and benefits and market them through various channels, including television, radio, mail and digital. Marketing efforts may promote various features including, but not limited to, no annual fee, Cashback Bonus and promotional offers, as well as various free benefits such as Online Privacy Protection, FICO Credit Score, Freeze it, Spend Analyzer and Social Security Number Alerts. By developing an extensive prospect database, using credit bureau data and using a customer contact strategy and management system, we continuously develop our modeling and customer engagement capabilities that help optimize the product, pricing and channel selection.

Rewards / Cashback Bonus

Our cardmembers use several card products, all with no annual fee, that allow them to earn their rewards based on their purchases, which can be redeemed in any amount at any time, in general as set forth below.

- *Discover it* card offers a 5% Cashback Bonus in categories that change each quarter, which customers must activate each quarter, up to a quarterly maximum and a 1% Cashback Bonus on all other purchases.
- *Discover it Chrome* card offers a 2% Cashback Bonus at gas stations and restaurants on up to $1,000 in combined purchases each quarter and a 1% Cashback Bonus on all other purchases.
- *Discover it Miles* card offers 1.5 miles for every dollar spent on purchases.
- *Discover it Business* card, which we no longer offer for new accounts, offers a 1.5% Cashback Bonus on all purchases.

Protection Products

We currently sell Identity Theft Protection and we service and maintain existing enrollments of the Payment and Wallet Protection products detailed below for our credit card customers.

- *Identity Theft Protection* includes an initial credit report, credit bureau report monitoring at the three major credit bureaus, alerts to customers when key changes to their credit bureau files are made, provides their credit bureau snapshot, monitoring that notifies a customer if their personal identifying information is shared on the dark web, identity theft insurance of up to $1,000,000 to cover certain expenses due to identity theft and access to knowledgeable professionals who can help resolve issues.
- *Payment Protection* allows customers to suspend their minimum payments due for up to two years, depending on the qualifying event and product level, when certain qualifying life events occur. While on this benefit, customers have no minimum monthly payment and are not charged interest, late fees or other product fees. This product covers various events, such as unemployment, disability, Federal or State disasters and other life events, such as marriage or the birth of a child. Depending on the product level and availability under state laws, outstanding balances up to $10,000 or $25,000, are cancelled in the event of death.
- *Wallet Protection* offers convenience if a customer's wallet is lost or stolen, including requesting cancellation and replacement of the customer's credit and debit cards, monitoring the customer's credit bureau reports at the three major credit bureaus for 180 days and alerting them to key changes to their credit files, and providing up to $100 to replace the customer's wallet or purse.

Brand and Advertising Management

We maintain a full-service marketing department charged with delivering integrated mass and direct communications to foster customer engagement with our products and services. We also leverage strategic partnerships and sponsorship properties such as the NHL and the Big Ten Conference to help drive loan growth. Our brand team utilizes consumer insights and market intelligence to define our mass communication strategy, create multi-channel advertising messages and develop marketing partnerships with sponsorship properties. This work is performed in-house as well as with a variety of external agencies and vendors.

Customer Service

Our credit card customers have the option to manage their accounts online via Discover.com, through Discover Mobile applications and by calling our U.S.-based customer service personnel. Our digital solutions offer a range of benefits, which includes, but is not limited to, the following:

- Access to overall credit health tools such as Credit Scorecard, Freeze it, Social Security Number Alerts and New Account Alerts;
- Customer service via multiple communication channels, including messaging and 24/7 telephone customer service; and
- Proactive notifications via email, text messaging and in-app messaging for monitoring transaction activity and account security.

Our private student loan, personal loan, home loan and deposit product customers can utilize our online account services to manage their accounts and to use interactive tools and calculators. Additionally, our card, personal loan and deposit product customers have access to Discover's Mobile application. Card and deposit product customers that use the mobile application have access to benefits, including Online Privacy Protection. This benefit helps customers to have more control over their personal information online by regularly helping to remove it from select people-search sites that could sell their data.

Processing Services

Our processing services cover four functional areas: card personalization, print/mail, remittance processing and item processing. Card personalization is responsible for the mailing of credit and debit cards for new accounts, replacements and reissues. Print/mail specializes in statement and letter printing and mailing. Remittance processing handles account payments and physical check processing. Item processing handles hard-copy forms and electronic documents, including bank deposits, credit disputes and general correspondence, among other items.

Fraud Prevention

We monitor our customers' accounts to help prevent, detect, investigate and resolve fraud. Our fraud prevention processes are designed to protect the security of cards, applications and accounts in a manner consistent with our customers' needs to easily acquire and use our products. Prevention systems monitor the authorization of application information, verification of customer identity, sales, processing of convenience and balance transfer checks and electronic transactions.

Each credit and debit card transaction is subject to screening, authorization and approval through externally developed and proprietary POS decision systems. We use a variety of techniques that help identify and halt fraudulent transactions, including machine-learning models, rules-based decision-making logic, report analysis, data integrity checks and manual account reviews. We manage accounts identified by the fraud detection system through technology that integrates fraud prevention and customer service. Strategies are subject to regular review and enhancement to enable us to respond quickly to changing conditions as well as to protect our customers and our business from emerging fraud activity.

Discover Global Network Operations

We support our merchants through a merchant acquiring model that includes direct relationships with large merchants in the U.S. and arrangements with merchant acquirers generally for small- and mid-size merchants. Additionally, Discover Network cards are widely accepted, and acceptance continues to grow in a number of countries around the world on the Diners Club network or through reciprocal acceptance arrangements made with international payment networks (i.e., Network Alliances).

We maintain direct relationships with most of our large merchant accounts, which enables us to benefit from joint marketing programs and opportunities and to retain the entire discount revenue from the merchants. The terms of our direct merchant relationships are governed by merchant services agreements. These agreements are also accompanied by additional program documents that further define our network functionality and requirements, including operating regulations, technical specifications and dispute rules. To enable ongoing improvements in our network's functionality and in accordance with industry convention, we publish updates to our program documents on a semi-annual basis.

Discover Global Network services the majority of its small- and mid-size merchant portfolios through third-party merchant acquirers to allow such acquirers to offer a comprehensive payments processing package to such merchants. Merchants also can apply to our merchant acquirer partners directly to accept Discover Global Network cards through the acquirers' integrated payments solutions. Merchant acquirers provide merchants with consolidated servicing for Discover, Visa and MasterCard transactions, resulting in streamlined statements and customer service for merchants and reduced costs for us. These acquirer partners also perform credit evaluations and screen applications against unacceptable business types and the Office of Foreign Asset Control Specifically Designated Nationals list.

The Discover Global Network operates systems and processes that seek to ensure data integrity, prevent fraud and ensure compliance with our operating regulations. Our systems evaluate incoming transaction activity to identify abnormalities that require investigation and fraud mitigation. Designated Discover Global Network personnel are responsible for validating compliance with our operating regulations and law, including enforcing our data security standards and prohibitions against illegal or otherwise unacceptable activities. Discover Global Network is a founding and current member of the Payment Card Industry Security Standards Council, LLC (the "Council") and is working to

expand the adoption of the Council's security standards globally for merchants and service providers that store, transmit or process cardholder data.

Technology

We provide technology systems processing through a combination of owned and hosted data centers and the use of third-party vendors. These data centers support our payment networks, provide customers with access to their accounts and manage transaction authorization and settlement, among other functions. The Discover Global Network works with a number of vendors to maintain our connectivity in support of POS authorizations. This connectivity also enables merchants to receive timely payment for their Discover Global Network card transactions.

Our approach to technology development and management involves both third-party and in-house resources. We use third-party vendors for technology services (e.g., cloud, telecommunications, hardware and operating systems) as well as for processing and other services for our digital banking and payment services businesses. We subject each vendor to a formal approval process, which includes, among other things, a security assessment, to ensure that the vendor can assist us in maintaining a cost-effective, reliable and secure technology platform. We use our in-house resources to build, maintain and oversee some of our technology systems. We believe this approach enhances our operations and improves cost efficiencies.

Seasonality

In our credit card business, we experience fluctuations in transaction volumes and the level of loan receivables as a result of higher seasonal consumer spending and payment patterns around the winter holidays, summer vacations and back-to-school periods. Historically, in our private student loan business, our loan disbursements peaked at the beginning of a school's academic semester or quarter; we stopped accepting new applications for private student loans February 1, 2024. Seasonal trends have not caused significant fluctuations in our results of operations or credit quality metrics between quarterly and annual periods.

Revenues in our Diners Club business are generally higher in the first half of the year as a result of Diners Club's tiered pricing system where licensees qualify for lower royalty rate tiers as cumulative volume grows during the course of the year.

Competition

The consumer financial services business is highly competitive. We compete with other consumer financial services providers, including non-traditional providers such as financial technology firms and payment networks, based on several factors, including brand, reputation, customer service, product and service offerings, incentives, pricing, e-commerce and digital wallet participation, and other terms. Our credit card business also competes on the basis of reward programs and merchant acceptance. We compete for accounts and utilization with cards issued by other financial institutions (including American Express, Bank of America, JPMorgan Chase, Capital One and Citibank) and, to a lesser extent, businesses that issue their own private label cards or otherwise extend credit to their customers. In comparison to our largest credit card competitors, our strengths include no annual fees, cash rewards, conservative portfolio management and strong, 100% U.S.-based customer service. Competition based on rewards and other card features and benefits continues to be strong. Our personal loan product competes for customers primarily with financial institutions (including Citibank and American Express) and non-traditional lenders (including SoFi and Lending Club). Our home loan product faces competition primarily from national and regional mortgage lenders.

Our credit card receivables continue to represent a majority of our receivables. The credit card business is highly competitive. Some of our competitors offer a wider variety of financial products than we do, which may position them better among customers who prefer to use a single financial institution to meet all of their financial needs. Some of our competitors enjoy greater financial resources, diversification and scale than we do and are therefore able to invest more in initiatives and technology to attract and retain customers, such as advertising, targeted marketing, account acquisitions and pricing offerings in interest rates, annual fees, reward programs and low-priced balance transfer programs. In addition, some of our competitors have assets such as branch locations and co-brand relationships that may help them compete more effectively. Another competitive factor in the credit card business is the increasing use of debit cards as an alternative to credit cards for purchases.

Merchant acceptance of the Discover card has increased in the past several years to reach near parity in the U.S. for both the number of merchants enabled for acceptance and the number of merchants actively accepting Discover. However, the legacy perception of lower acceptance still presents limitations in attracting new cardholders and debit card issuers. Most domestically-issued credit cards, other than those issued on the American Express network, are issued on the Visa and MasterCard networks, thus most other card issuers benefit from the dominant market share of Visa and MasterCard. We continue to make investments in expanding Discover and Diners Club acceptance in key international markets where an acceptance gap exists.

In our payment services business, we compete with other networks for volume and to attract network partners to issue credit, debit and prepaid cards on the Discover, PULSE and Diners Club networks. We generally compete on the basis of customization of services and various pricing strategies, including incentives and rebates. We also compete on the basis of issuer fees, fees paid to networks (including switch fees), merchant acceptance, network functionality, customer perception of service quality, brand image, reputation and market share. The Discover and Diners Club networks' primary competitors are Visa, MasterCard and American Express. PULSE's network competitors include Visa's Interlink, MasterCard's Maestro and First Data's STAR. American Express is a particularly strong competitor to Diners Club as both cards target international business travelers. As the payments industry continues to evolve, we are also facing ongoing competition from financial technology firms and alternative payment solutions, which leverage new technologies and a customer's existing deposit and credit card accounts and bank relationships to create payment or other fee-based solutions.

In our direct-to-consumer deposits business, we have acquisition and servicing capabilities similar to other large banks, including Ally, American Express, Barclays, Capital One, Goldman Sachs, Synchrony and USAA. We compete with banks and credit unions that source deposits through branch locations and direct channels. We seek to differentiate our deposit product offerings on the basis of brand reputation, digital experience, customer service and value.

For more information regarding the nature of the risks we face in connection with the competitive environment for our products and services, see "Risk Factors - Strategic Business Risk."

Intellectual Property

We use a variety of methods, such as trademarks, patents, copyrights and trade secrets, to protect our intellectual property. We also place appropriate restrictions on our proprietary information to control access and prevent unauthorized disclosures. Our Discover, PULSE and Diners Club brands are important assets and we take steps to protect the value of these assets and our reputation.

Human Capital

The success of our business is highly dependent on attracting, retaining and developing employees with the necessary skills and experience to support our customers, our business and our strategy. We employed approximately 21,100 individuals at December 31, 2023, which consisted primarily of full-time employees in the U.S. Additionally, we employ 100% of our customer service agents within the U.S., which we believe offers a distinct competitive advantage.

Our purpose-driven, people-first culture and human capital management strategy is built on a foundational set of core values and Discover Behaviors and powered by significant investments in employee learning and development, market-competitive compensation and benefits and diversity, equity and inclusion ("DE&I"). One place we see the results from our human capital strategy is in our consistently high levels of employee engagement, which we measure through employee surveys.

Employee Learning and Development

Career and skill development are important components of our talent management system. In addition to on-the-job coaching and training, we provide a range of internal professional and leadership development programs that help our employees build better teams and develop the skills to advance their careers. For example, employees can access continuing education courses that cover a variety of subjects through our training and development platform. Additionally, we support our employees' educational goals through programs that can reimburse up to 100% of tuition at certain schools.

Market-Competitive Compensation and Benefits

We offer a market-competitive compensation and benefits package to attract, retain and motivate highly qualified and diverse talent. We designed our compensation and benefits package using a pay-for-performance philosophy to reward the achievement of our financial and strategic performance goals as well as individual performance. Our total compensation and benefits package for U.S. employees includes competitive holiday and flexible paid-time-off; a 401(k) retirement savings plan with matching and company contributions that can total up to 8% of an employee's wages per year; subsidized medical, dental, vision, disability and supplemental life insurance; paid parental and caregiver leave; adoption and surrogacy assistance; and an employee assistance program, among other benefits.

Diversity, Equity and Inclusion

DE&I is a competitive differentiator for companies and something that we continue to advance at Discover. At December 31, 2023, our U.S.-based employee population was composed of 64% Women and 46% People of Color, including 15% who self-identify as Asian, 12% as Hispanic and 15% as Black. Our workforce diversity either meets or exceeds the diversity of the available workforce in each of the metropolitan areas where we have locations.

Our Executive Management Committee and Board of Directors regularly review our DE&I strategy and progress. Our VP, Chief Diversity & Social Impact Officer leads our DE&I office, which manages the development, implementation and monitoring of our enterprise-wide DE&I strategies, programs, initiatives and policies. We strive to incorporate our DE&I principles throughout our human capital management processes, including talent acquisition, learning and development, employee relations, performance management and total rewards (including pay equity).

Pay Equity

We seek to pay our employees fairly for their work and we regularly monitor our performance, addressing pay-equity discrepancies or issues as appropriate. We regularly benchmark roles and compensation data to help ensure internal pay equity. We partner with an independent, third-party consultant to conduct a company-wide pay equity analysis that considers race, ethnicity and gender. We use this analysis to identify groups with pay discrepancies, understand the underlying drivers and implement best practices to address inequity. Based on our most recent review using this approach, women and minorities at Discover earn, on average, between $0.99 and $1.03 for every $1 earned by men and non-minorities after accounting for factors such as role, tenure and geography.

Employee Engagement

Discover is an award-winning workplace, recognized for our inclusive and collaborative culture; examples for 2023 include Fortune's 100 Best Companies to Work For® and the Disability Equality Index's Best Places to Work for Disability Inclusion. Employee engagement and satisfaction is core to our talent attraction and retention strategy, which supports our business success. We consistently leverage employee listening to drive continuous improvement throughout our company. In our most recent employee survey conducted in the fourth quarter of 2023, 82% of employees recommended Discover as a great place to work, which places Discover among the top 25% of all companies surveyed by Glint.

Risk Management

We manage risks that affect our customers, financial performance and ability to meet stakeholder and regulatory expectations. We use an enterprise-wide risk management framework to identify, measure, monitor, manage and report these risks. We have made changes throughout 2023 to better ensure compliance with our risk management framework and supporting governance structure. These enhancements will continue throughout 2024 to further demonstrate strong risk management.

Enterprise Risk Management Framework

Our enterprise risk management principles are executed through a risk management framework that is based on industry standards for managing risk and controls. While the detailed activities vary by risk type, there are common process elements that apply across risk types. We seek to apply these elements consistently in the interest of effective and efficient risk management. This framework seeks to link risk processes and infrastructure with the appropriate risk oversight to create a risk management structure that raises risk awareness, reduces impact of potential risk events, improves business decision-making and increases operational efficiency.

Our enterprise risk management philosophy is expressed through five key principles that guide our approach to risk management: Comprehensiveness, Accountability, Independence, Defined Risk Appetite and Transparency.

Comprehensiveness

We seek to maintain a comprehensive risk management framework for managing risk enterprise-wide, including policies, standards, risk management processes, monitoring and testing and reporting. Our framework is designed to be comprehensive with respect to our business units and their control and support functions, and across all risk types.

Accountability

We structure accountability across the three lines of defense model along the principles of risk management execution, oversight and independent validation. As the first line of defense, our business units seek to achieve business objectives while identifying and managing risks that arise from day-to-day operations as well as those driven by change. The principles apply across all businesses and risk types and guide the definition of specific roles and responsibilities.

Independence

Our second and third lines of defense operate independently of the business units. The second line of defense includes our corporate risk management ("CRM") department, which is led by our Chief Risk Officer ("CRO"), who is appointed by our Board of Directors. The CRM department (i) oversees the establishment of enterprise-level risk management standards and policies; (ii) oversees the processes that are designed to be consistent with the size and complexity of our business, applicable legal and regulatory requirements and industry practices; and (iii) independently tests business units' compliance with applicable regulatory requirements. Our internal audit department, as the third line of defense, performs periodic, independent reviews and tests compliance with risk management policies, procedures and standards across our Company. It also periodically reviews the design and operating effectiveness of our risk management program and processes, including the independence and effectiveness of our CRM function, and reports the results to our Audit Committee of the Board of Directors ("Audit Committee") and, where appropriate, the Risk Oversight Committee of the Board of Directors ("Risk Oversight Committee"). The Chief Audit Executive reports directly to the Audit Committee and administratively to the Chief Executive Officer ("CEO").

Defined Risk Appetite

We operate within a risk appetite framework approved by our Board of Directors, which guides an acceptable level of risk-taking relative to desired financial returns, strategic goals and other stakeholder objectives. To that end, limits and escalation thresholds are set consistent with the risk appetite approved by our Board of Directors.

Transparency

We seek to provide transparency of exposures and outcomes, which is core to our risk culture. We provide this risk transparency through our risk committee structure and standardized processes for escalating issues and reporting. This is accomplished at several levels within the organization, including at least quarterly meetings held by our Management Risk Committee and regular reporting to the Risk Oversight and Audit Committees, as well as regular reporting to our Risk sub-committees commensurate with the needs of our businesses. Further, our CRO is a member of our Executive Management Committee.

The following is a more detailed description of our three lines of defense for managing risk, as described in our Enterprise Risk Management Policy.

First Line of Defense

- *Business Units*: The CEO is ultimately responsible for risk management within our Company. In that capacity, the CEO establishes a risk management culture throughout our Company and ensures that businesses operate in accordance with this risk culture. Our business unit heads are responsible for managing risk associated with their strategic, financial and other business objectives. Business unit heads are responsible for (i) complying with all risk limits and risk policies; (ii) identifying and documenting risks and implementing appropriate controls; (iii) understanding and managing the overall level of risk in their organization, including the impact of the risks being accepted; (iv) explicitly considering risk when developing strategic plans, budgets and new products; (v) implementing appropriate controls when pursuing business strategies

and objectives; (vi) ensuring business units test and implement business unit processes, controls and monitoring to support corporate model risk management standards such as documentation standards and reporting standards; (vii) coordinating with CRM to produce relevant, sufficient, accurate and timely risk reporting that is consistent with the processes and methodology established by CRM; (viii) ensuring sufficient resources and qualified personnel are deployed to control the risks inherent in the business activities; and (ix) designating, in consultation with the CRO, a Business Risk Officer to assist with the above.

- *Credit Risk Management* is responsible for (i) developing, validating and implementing credit policy criteria and predictive loan origination and servicing models in order to optimize the profitability of our lending activities; (ii) ensuring adherence to our credit risk policies and approval limits and that departmental policies, procedures and internal controls are consistent with our defined standards; (iii) ensuring that we manage credit risk within approved limits; and (iv) monitoring performance for both new and existing consumer loan products and portfolios.

Second Line of Defense

- *Corporate Risk Management* is led by the CRO and supports business units by providing objective oversight of our risk profile. As a member of our senior management team, the CRO chairs our Management Risk Committee. In addition, the CRO has oversight responsibility to establish the CRM function with capabilities to exercise its mandate across all risk categories. Our CRO reports directly to our Risk Oversight Committee and administratively to the CEO. Our CRO provides our Board of Directors and executive management with an independent perspective on (i) the risks to which we are exposed; (ii) how well management is identifying, assessing and managing risk; and (iii) the capabilities we have in place to manage risk across the enterprise. The CRM department participates in our Management Risk Committee and sub-committee meetings to provide an enterprise-wide perspective on risk, governance matters, policies and risk thresholds. The CRM department includes, but is not limited to, teams that are responsible for oversight of enterprise, operational, consumer credit, counterparty credit, market, liquidity, compliance, Bank Secrecy Act/anti-money laundering, third-party and business technology and information security risks, as well as model validation and risk testing functions.

Third Line of Defense

- *Internal Audit Department* performs periodic, independent reviews and testing of compliance with risk management policies and standards across our Company, as well as assessments of the design and operating effectiveness of these policies and standards. The internal audit department also validates that risk management controls are functioning as intended by reviewing and evaluating the design and operating effectiveness of the CRM program and processes, including the effectiveness of the CRM function. The results of such reviews are reported to our Audit Committee and Risk Oversight Committee. In addition, our Chief Audit Executive is a non-voting member of our Executive Management Committee.

Legal

In addition to the three lines of defense, our legal department plays a significant role in managing our legal risk by, among other things, identifying, interpreting and advising on legal and regulatory risks. The legal department collaborates and coordinates closely with the CRM department and business units. Our legal department also participates in meetings of the Management Risk Committee and the sub-committees of the Management Risk Committee in order to advise on legal and compliance risks and to inform the committees of any relevant legislative and regulatory developments. Further, our Chief Legal Officer is a member of our Executive Management Committee.

Risk Types

We are exposed to a broad set of risks in the course of our business activities due to both internal and external factors, which we segment into seven major risk categories. The first six are defined to be broadly consistent with guidance published by the Federal Reserve and the Basel Committee on Banking Supervision ("BCBS"): credit (consumer and counterparty), market, liquidity, operational, compliance and legal risk. We recognize the seventh, strategic risk, as a separate risk type. We evaluate the potential impact of a risk event on our Company by assessing the financial impact, the impact to our reputation, the legal and regulatory impact and the client/customer impact. In addition, we have established various policies to help govern these risks.

Credit Risk

Our credit risk arises from the potential that a borrower or counterparty will fail to perform on an obligation. Our credit risk includes consumer credit risk and counterparty credit risk. Consumer credit risk is primarily incurred by Discover Bank through the issuance of (i) unsecured credit including credit cards, private student loans and personal loans and (ii) secured credit including deposit secured credit cards and home equity loans. Counterparty credit risk is incurred through a number of business-facing activities including payment network settlement, certain marketing and incentive programs, asset/liability management, guarantor and insurance relationships and strategic investments.

Market Risk

Market risk is the risk to our financial condition resulting from adverse movements in market rates or prices, such as interest rates, foreign exchange rates, credit spreads or equity prices. Given the nature of our business activities, we are exposed to various types of market risk; in particular interest rate risk, foreign exchange risk and other risks that arise through the management of our investment portfolio. Interest rate risk is more significant relative to other market risk exposures and results from potential mismatches in the repricing term of assets and liabilities (yield curve risk) and volatility in reference rates used to reprice floating-rate instruments (basis risk). Foreign exchange risk is primarily incurred through exposure to currency movements across a variety of business activities and is derived, specifically, from the timing differences between transaction authorizations and settlement.

Liquidity Risk

Liquidity risk is the risk that we will be unable to meet our obligations as they become due because of an inability to liquidate assets or obtain adequate funding, or an inability to easily unwind or offset specific exposures without significantly lowering market prices because of inadequate market depth or market disruptions.

Operational Risk

Operational risk is defined as the risk of loss resulting from inadequate or failed internal processes, people and systems or from external events. Operational risk is inherent in all our businesses. Operational risk categories incorporate all of the operational loss event-type categories set forth by the BCBS, which include the following: (i) internal fraud; (ii) external fraud; (iii) employment practices and workplace safety; (iv) clients, products and business practices; (v) damage to physical assets; (vi) business disruption and system failures; and (vii) execution, delivery and process management.

One of our key operational risks is information security, which includes cybersecurity. Our information security program is led by our Chief Information Security Officer ("CISO") and overseen by our Technology and Information Risk Committee ("TIRC"). The program is designed to safeguard the confidentiality, integrity and availability of information assets. We continuously monitor the cyber threat landscape, internal threats and technological changes to ensure controls are in place to mitigate risks to the organization and our customers. In concert with our lines of business and corporate functions, our enterprise-wide incident management framework enables us to manage risk mitigation activities that stem from incidents; these include governance structure and organization, an incident management program, incident management and escalation principles, requirements for testing and exercising the program, risk management principles and external reporting guidance.

Compliance Risk

Compliance risk is the risk of material financial loss, damage to reputation or negative impact on business strategies that Discover Financial Services and its subsidiaries may suffer as a result of its failure to comply with laws, regulations, rules and key internal policies applicable to the activities of our Company. Compliance risk exposures are actively and primarily managed by our business units in conjunction with our compliance department. Our compliance program governs the management of compliance risk and includes oversight by our Management Risk Committee and Compliance Committee. Our Compliance Management System is in place to ensure we are responding in a timely manner to existing and changing laws, regulations and rules.

Legal Risk

Legal risk arises from the potential that unenforceable contracts, lawsuits or adverse judgments can disrupt or otherwise negatively affect our operations or condition. These risks are inherent in all of our businesses. Legal risk exposures are primarily managed by our business units in conjunction with our legal department Management Risk

Committee and Compliance Committee oversee our legal risk management. Specifically, the legal department is responsible for providing advice, interpreting and identifying developments regarding laws, regulations, regulatory guidance and litigation and setting standards for communicating relevant changes to corporate compliance, business units and internal audit. The legal department also identifies and communicates legal risk associated with new products and business practices.

Strategic Risk

Strategic risk is the risk that our strategies and the execution of those strategies do not produce the desired outcome, resulting in a negative impact on our enterprise value. This risk can be driven by internal and external factors, including (i) our business model, market position, selection of strategies and execution of those strategies and (ii) competitor strategies, emergence of new competitors, emergence of new technologies, changing consumer preferences or other market factors.

Our Management Risk Committee actively manages strategic risk by monitoring our risk appetite and key risk indicators ("KRIs"), identifying and providing oversight of key risks associated with our business strategies, and working with our Risk Oversight Committee and Board of Directors to identify and manage top strategic risks. Our business units take on and are accountable for managing strategic risk in pursuit of their objectives.

Enterprise Risk Management Activities

Risk Identification

We seek to identify potential exposures that could adversely affect our ability to successfully implement strategies and achieve objectives. To ensure that the full scale and scope of risk exposures from enterprise-wide activities are identified, we seek to identify risk exposures based on (i) significant enterprise-level risks that are strategic, systemic, or emerging in nature, including Company-specific risks that span across multiple lines of business; (ii) granular risk exposures from on-balance sheet and off-balance sheet positions, including concentrations; and (iii) risk exposures from initiatives focused on new, expanded, customized, or modified products, services and processes.

Risk exposures identified through these three approaches are consolidated to create a comprehensive risk inventory. This inventory is leveraged by a number of processes within our Company including stress scenario design and stress testing, capital planning, risk appetite setting and risk modeling. The risk inventory is reviewed and approved at least annually by the Management Risk Committee while sub-committees review the risks mapped to the relevant risk categories for transparency and comprehensive coverage of risk exposures.

Risk Measurement

Our risk measurement process seeks to ensure that the identified risk exposures are appropriately assessed. Risk measurement techniques appropriate to the risk category, including econometric modeling, statistical analysis, peer benchmarking and qualitative assessments, are employed to measure our material risk exposures.

Risk Monitoring

Our risks are monitored through an integrated monitoring framework consisting of risk appetite metrics and KRIs. These metrics are established to monitor changes in our risk exposures and external environment. Risk appetite metrics are used to monitor the overall risk profile of our Company by setting risk boundaries and expectations through quantitative limits and qualitative expressions. We use KRIs to monitor our risk profile through direct or indirect alignment with the risk appetite limits.

These metrics enable monitoring of risk by business management and by measuring risk and performance data against risk appetite and KRI escalation thresholds that are updated periodically. Escalation procedures are in place to notify the appropriate governance committees in the event of any actual risk limit breaches or potential upcoming breaches. In addition to metrics, independent CRM testing also informs how well risks are managed.

Risk Management

We have policies and a defined governance structure in place to manage risks. In the event of a risk exposure exceeding established thresholds, management determines appropriate response actions. Responses, which may be taken by the Board of Directors, the Risk Oversight Committee, the Audit Committee, the Management Risk Committee, sub-committees or the CRO, or business units, may include (i) actions to directly mitigate or resolve risk; (ii) actions to terminate any activities resulting in an undesired or unintended risk position; or (iii) actions to prevent, avoid, modify, share or accept a risk position (or activity prior to its occurrence).

Risk Reporting

As the constituents primarily responsible for proactively managing the risks to which they are exposed, our business units and risk and control functions periodically report to the governance committees. The CRM function is responsible for independent reporting on risk matters to various constituencies across our Company on a regular basis. The CRM department periodically provides risk management reporting to the Management Risk Committee, the Audit Committee, the Risk Oversight Committee and the Board of Directors.

Stress Testing

We use stress testing to better understand the range of potential risks, their impacts and the extent to which our Company is exposed. A stress testing framework is employed to provide a comprehensive, integrated and forward-looking assessment of material risks and vulnerabilities. Stress test results provide information for business strategy, risk appetite setting and decisions related to capital actions, contingency capital plans, liquidity buffer, contingency funding plans and balance sheet positioning. Our stress testing framework utilizes a risk inventory, which covers our risk exposures across our defined risk categories. The risk inventory provides a comprehensive view of our vulnerabilities capturing significant risks from the Board of Directors' and management's view, granular risks relevant to business units and emerging risks associated with new initiatives.

Risk Appetite and Strategic Limit Structure

Risk appetite is defined as the aggregate level and the type of risks we are willing to accept or avoid in order to achieve our strategic objectives. Risk appetite expressions are consistent with our aspirations, mission statement and core values and also serve as tools to preclude business activities that could have a negative impact on our reputation.

Risk appetite is expressed through both quantitative limits and qualitative expressions to recognize a range of possible outcomes and to help set boundaries for proactive management of risks. Risk appetite measures take into account the risk profile of the businesses, the external macroeconomic environment and stakeholder views, including those of shareholders, regulators, ratings agencies and customers. These limits and expressions are revised at least annually or as warranted by changes in business strategy, risk profile and external environment.

Management and our CRM department monitor approved limits and escalation triggers to ensure that the business is operating within the approved risk appetite. Risk limits are monitored and reported to various risk sub-committees, the Management Risk Committee and our Board of Directors, as appropriate. Through ongoing monitoring of risk exposures, management seeks to be able to identify appropriate risk response and mitigation strategies in order to react dynamically to changing conditions.

Capital Planning

Risk exposures identified through the risk identification process across risk categories and risk types are consolidated to create a comprehensive risk inventory. This inventory is leveraged by a number of processes within our Company including stress scenario design, capital planning, risk appetite setting and risk modeling. The risk inventory is reviewed and approved at least annually by the Capital Planning Committee, the Management Risk Committee and sub-committees to ensure transparency and comprehensive coverage of risk exposures. Our capital planning and management framework encompasses forecasting capital levels, establishing capital targets, monitoring capital adequacy against targets, maintaining appropriate contingency capital plans and identifying strategic options to deploy excess capital.

Risk Management Review of Compensation

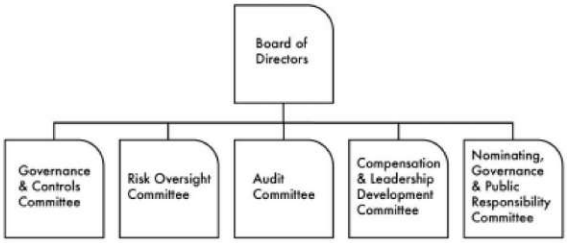
Our compensation program is grounded in a pay-for-performance philosophy, which considers performance across our Company, business segments and individual performance, as appropriate, as well as the long-term interests of our shareholders and the safety and soundness of our Company. We strive to deliver compensation that is competitive relative to our peers, and have designed our program to attract, retain and motivate our employees. In addition to being competitive in the markets that we compete for talent and encouraging employees to achieve objectives set out by our management, our compensation programs are designed to balance an appropriate mix of compensation components to align the interests of employees with the long-term interests of shareholders and the safety and soundness of our business.

The design and administration of our compensation program provides incentives that seek to appropriately balance risk and financial results in a manner that does not incentivize employees to take imprudent risks, is compatible with effective controls and enterprise-wide risk management and is supported by strong corporate governance, including oversight by our Board of Directors and the Compensation and Leadership Development Committee ("CLDC") of our Board of Directors. At least annually, the CLDC meets with the CRO to review and discuss the results of the assessment of whether our compensation plans encourage imprudent risk-taking that could threaten the value of, or have a material adverse effect on, our Company or result in a failure to comply with regulatory requirements.

Enterprise Risk Management Governance Structure

Our governance structure is based on the principle that each line of business is responsible for managing risks inherent in its business with appropriate oversight from our senior management and Board of Directors. Various committees are in place to oversee the management of risks across our business. We seek to apply operating principles consistently to each committee. These operating principles are detailed in each committee's charter, which is approved by its parent committee. Our bank subsidiary has its own risk governance, compliance, auditing and other requirements. Our risk governance framework is designed such that bank-level risk governance requirements are satisfied as well. We are in the process of enhancing and strengthening our management committee structure and risk governance discipline, including the addition, elimination and re-alignment of management committees, to ensure comprehensive coverage.

Board Committee Structure



Board of Directors

Our Board of Directors (i) reviews and approves certain risk management policies; (ii) reviews and approves our capital targets and goals; (iii) reviews and approves our risk appetite framework; (iv) monitors and approves our strategic plan, as appropriate; (v) appoints our CRO and other risk governance function leaders, as appropriate; (vi) receives and reviews reports on any exceptions to the Enterprise Risk Management Policy; and (vii) receives and reviews regulatory examination reports. The Board of Directors receives reports from the Governance and Controls Committee on risks associated with significant regulatory remediation activities, including consent orders, the Audit Committee and Risk Oversight Committee on risk management matters and the CLDC on risks associated with compensation and leadership development.

Governance and Controls Committee of our Board of Directors

Our Governance and Controls Committee was formed in 2023 to assist the Board in fulfilling its respective oversight responsibilities with regard to significant regulatory remediation activities, including consent orders. The committee is responsible for overseeing and monitoring the establishment and timely implementation by management of remediation actions to address specific corrective actions required by the Company's regulators. It is responsible for overseeing the Company's Office of Remediation, approving the head of the Office of Remediation and reviewing that individual's performance. The committee is also responsible for reviewing and approving, or recommending for Board approval, any material amendments to action plans made in response to supervisory feedback, and reviewing and approving any submissions to the Company's regulators related to compliance with consent orders.

Risk Oversight Committee of our Board of Directors

Our Risk Oversight Committee is responsible for overseeing our risk management policies and the operations of our enterprise-wide risk management framework and our capital planning and liquidity risk management activities. The Committee is responsible for, among other things, (i) approving and periodically reviewing our global risk management policies; (ii) overseeing the operation of our policies and procedures for establishing our risk management governance, risk management procedures, risk appetite metrics and key risk indicators and risk-control infrastructure; (iii) overseeing the operation of processes and systems for implementing and monitoring compliance with such policies and procedures; (iv) receiving and reviewing regular reports from management on items related to operational risk; (v) reviewing and making recommendations to the Board of Directors, as appropriate, regarding our risk management framework, key risk management policies and our risk appetite and tolerance; (vi) receiving and reviewing regular reports from management and our CRO on risk management deficiencies and emerging risks, the status of and changes to risk exposures, policies, procedures and practices and the steps management has taken to monitor and control risk exposures; (vii) receiving reports on compliance with our risk appetite and limit structure and risk management policies, procedures and controls; and (viii) sharing information, liaising and meeting in joint session with the Audit Committee (which it may do through the chairs of the committees) as necessary or desirable to help ensure that the committees have received the information necessary to permit them to fulfill their duties and responsibilities with respect to oversight of risk management matters.

Audit Committee of our Board of Directors

With respect to the enterprise risk management framework, our Audit Committee's responsibilities include the following: (i) discussing policies with respect to risk assessment and management; (ii) receiving and reviewing reports from our CRO and other members of management as the Committee deems appropriate on the guidelines and policies for assessing and managing our exposure to risks, the corporation's major financial risk exposures and the steps management has taken to monitor and control such exposures; (iii) receiving and reviewing reports from management with respect to the Company's compliance with applicable legal and regulatory requirements; and (iv) sharing information and liaising with the Risk Oversight Committee as necessary or desirable to help ensure that the committees have received the information necessary to permit them to fulfill their duties and responsibilities with respect to oversight of risk management matters.

Compensation and Leadership Development Committee of our Board of Directors

Our CLDC is responsible for overseeing risk management associated with our compensation and leadership development practices. The Committee receives reporting regarding our compensation practices and evaluates whether these practices encourage excessive risk-taking. As a part of its reviews, the Committee considers input from our CRO and takes into account risk outcomes and the safety and soundness of the Company and Discover Bank. The CLDC receives reporting regarding talent management practices and evaluates risks associated with leadership development and succession planning. With respect to individual performance and compensation oversight, the CLDC's focus is on executive officers.

Nominating, Governance and Public Responsibility Committee of our Board of Directors

Our Nominating, Governance and Public Responsibility Committee is responsible for overseeing risk management with respect to many of the Company's governing documents and Board composition. The Committee is responsible for, among other things, (i) evaluating whether the skills necessary for overseeing management and the Company are present on the Board and consistent with the Company's Corporate Governance Guidelines; (ii) facilitating the Board's self-evaluation process to ensure the right individuals are on the Board; (iii) overseeing the Company's engagement efforts with institutional shareholders, which can highlight current and future risks; (iv)

overseeing the Company's commitment to environmental, social and governance ("ESG") matters and its ESG strategies; and (v) receiving reports from management with respect to ESG risks and reporting.

Management Risk Committee and Sub-committees Structure



Management Risk Committee

Our Management Risk Committee is an executive management-level committee that establishes and oversees a comprehensive enterprise risk management program, which includes (i) providing a regular forum for representatives of our different functional groups to identify and discuss key risk issues and to recommend to senior management actions that should be taken to manage the level of risk taken by the business lines; (ii) establishing and overseeing an enterprise-wide approach to risk management through the development of our Enterprise Risk Management Policy and the associated oversight framework for the identification, measurement, monitoring, management and reporting of enterprise risk; (iii) communicating our risk appetite and philosophy, including establishing limits and thresholds for managing enterprise-wide risks; and (iv) reviewing, on a periodic basis, our aggregate enterprise-wide risk exposures and the effectiveness of risk identification, measurement, monitoring, management and reporting policies and procedures and related controls within the lines of business.

Our Management Risk Committee has formed and designated a number of sub-committees to assist it in carrying out its responsibilities. These sub-committees, made up of representatives from senior levels of management, escalate issues to our Management Risk Committee. As of December 31, 2023, the sub-committees consisted of the following (except where otherwise indicated, all sub-committees cover both the Company and all of its subsidiaries):

- *Credit Committee* oversees lending activities for Discover Bank, providing a regular forum for business units to bring forth and discuss key issues.
- *Asset and Liability Committee* assists in the oversight of the liquidity, funding and market risk management, as well as the execution of strategies to maintain capital adequacy.
- *Capital Planning Committee* provides oversight of capital management and the development of capital plans for the Company and Discover Bank.
- *Challenge Committee* assists in ensuring that supervisory findings and enforcement actions are resolved in a timely and appropriate manner.
- *Compliance Committee* oversees compliance risk management with respect to the business and activities of the Company and its subsidiaries through the Company's Compliance Management System.

- *Counterparty Credit Committee* oversees enterprise-wide counterparty credit risk at the Company and its subsidiaries, establishing an enterprise-wide approach to counterparty risk management through development of the Counterparty Credit Risk Management Policy.
- *Human Resources Risk Committee* assists in the oversight of the Human Resources programs, providing a forum for leaders across the Company's business areas to evaluate key risks associated with Human Resources programs and employment practices.
- *New Initiatives Committee* assists in the oversight of new initiatives including new products, services, systems or business processes.
- *Operational Risk Committee* assists in the oversight of Operational Risk Management, approving and/or overseeing policies, standard, risk appetite and frameworks for operational risk measurement.
- *Technology and Information Risk Committee* provides oversight, leadership and direction setting concerning data risk, technology risk and information security risk management on an enterprise-wide basis.
- *Resolution Planning Committee* oversees all aspects of Discover Bank's resolution planning efforts as defined by the FDIC under the Federal Deposit Insurance Act ("FDIA").
- *Affiliate Transactions Committee* provides oversight of transactions between Discover Bank and its affiliates.

Supervision and Regulation

General

Our operations are subject to extensive regulation, supervision and examination under U.S. federal and state laws and regulations, and under the legal or regulatory frameworks of certain foreign jurisdictions. As a bank holding company under the Bank Holding Company Act of 1956 and a financial holding company under the GLBA, we are subject to supervision, examination and regulation by the Federal Reserve. As a large provider of consumer financial services, we are subject to supervision, examination and regulation of the Consumer Financial Protection Bureau ("CFPB").

Our bank subsidiary, Discover Bank, is located in the U.S. and is chartered and regulated by the Office of the Delaware State Bank Commissioner ("Delaware Commissioner") and is also regulated by the FDIC, which insures its deposits up to applicable limits and serves as the bank's primary federal banking regulator. Discover Bank is also a member of the Federal Home Loan Bank ("FHLB") of Chicago. Discover Bank offers credit card loans, personal loans and home loans as well as certificates of deposit, savings and checking accounts and other types of deposit accounts.

Bank Holding Company Regulation

Permissible activities for a bank holding company include owning a bank as well as those activities that are so closely related to banking as to be a proper incident thereto, such as consumer lending and other activities that have been approved by the Federal Reserve by regulation or order. Certain servicing activities are also permissible for a bank holding company if conducted for or on behalf of the bank holding company or any of its affiliates. Impermissible activities for bank holding companies include non-financial activities that are related to commerce such as manufacturing or retail sales of non-financial products.

A financial holding company and the non-bank companies under its control are permitted to engage in activities considered financial in nature, incidental to financial activities, or complementary to financial activities, if the Federal Reserve determines that such activities pose no risk to the safety or soundness of depository institutions or the financial system in general. Being a financial holding company under the GLBA requires that the depository institution we control meets certain criteria, including capital, management and Community Reinvestment Act requirements. In addition, under the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") we are required to meet certain capital and management criteria to maintain our status as a financial holding company. Failure to meet the criteria for financial holding company status results in restrictions on new financial activities or acquisitions and could require discontinuance of existing activities that are not otherwise generally permissible for bank holding companies.

Federal Reserve regulations and the FDIA require a bank holding company to serve as a source of strength to its subsidiary bank(s) and commit resources to support each subsidiary bank. This support may be required at times when a bank holding company may not be able to provide such support without adversely affecting its ability to meet other obligations.

The Dodd-Frank Act addresses risks to the economy and the payments system, especially those posed by large systemically important financial institutions. When the Dodd-Frank Act was first signed into law, all bank holding companies with $250 billion or more in total consolidated assets became subject to enhanced prudential standards. The Dodd-Frank Act was subsequently amended by the Economic Growth, Regulatory Relief, and Consumer Protection Act to provide the Federal Reserve with the authority to impose certain enhanced prudential standards on bank holding companies with total consolidated assets between $100 billion and $250 billion, including DFS, only after issuing a new regulation or order based on a risk-based determination. In October 2019, the federal banking agencies issued final rules that tailored the regulatory requirements in effect at that time related to capital, liquidity and enhanced prudential standards to align with the risk and complexity profiles of banking institutions with total consolidated assets of $100 billion or more. Under the final rules, which became effective in December 2019, DFS is considered a Category IV institution and therefore subject to the least stringent category of enhanced prudential standards for bank holding companies with at least $100 billion in total assets. Among other things, DFS is required to submit to supervisory stress tests every other year rather than annually, is no longer subject to regulations requiring DFS to submit the results of company-run capital stress tests and is no longer subject to the liquidity coverage ratio. However, DFS is still required to submit annual capital plans to the Federal Reserve and remains subject to other core components of enhanced prudential standards, such as risk-management and risk committee requirements and liquidity risk management regulations.

In January 2021, the Federal Reserve finalized regulatory amendments that made targeted changes to the capital planning, regulatory reporting and stress capital buffer ("SCB") requirements for firms subject to Category IV standards, including DFS, to be consistent with the Federal Reserve's regulatory tailoring framework that became effective in December 2019. Among other things, the amended rules provide Category IV institutions with the option to submit to supervisory stress tests during off years if they wish for the Federal Reserve to reset the stress test portion of their SCB requirement.

On June 23, 2022, the Federal Reserve released results of the 2022 Comprehensive Capital Analysis and Review ("CCAR") exercise. Discover's results showed strong capital levels under stress, well above regulatory minimums. These results were used to set the new SCB effective October 1, 2022. On August 4, 2022, the Federal Reserve disclosed the new SCB for DFS to be 2.5%, the lowest possible requirement. In accordance with the capital plan rule amendments, we elected not to participate in the 2023 supervisory stress tests. Nevertheless, we submitted to the Federal Reserve on April 5, 2023, a capital plan based on a forward-looking assessment of income and capital under baseline and stressful conditions. On July 27, 2023, the Federal Reserve disclosed that Discover's SCB is unchanged at 2.5%, beginning October 1, 2023 through September 30, 2024.

DFS is subject to the Federal Reserve's supervisory rating system for large financial institutions ("LFI Rating System"). The LFI Rating System is intended to align more closely with the Federal Reserve's current supervisory programs for large financial institutions, enhance the clarity and consistency of supervisory assessments and provide greater transparency regarding the consequences of a given rating. Under the LFI Rating System, the Federal Reserve does not provide an institution with an overall composite rating but instead evaluates and assigns ratings for each of the following three components: capital planning and positions; liquidity risk management and positions; and governance and controls. An institution subject to the LFI Rating System, such as DFS, will not be considered "well managed" under applicable regulations if it is assigned a deficient rating in any one component, which could be a barrier for seeking the Federal Reserve's approval to engage in new or expansionary activities.

Regulatory and supervisory developments, findings and ratings could negatively impact our business strategies or require us to limit or change our business practices, restructure our products in ways that we may not currently anticipate, limit our product offerings, invest more management time and resources in compliance efforts, limit the fees we can charge for services or limit our ability to pursue certain business opportunities and obtain related required regulatory approvals. For additional information regarding bank regulatory limitations on acquisitions and investments, see "- Acquisitions and Investments." See Note 19: Litigation and Regulatory Matters to our consolidated financial statements for more information on recent matters affecting us. Regulatory developments could also influence our strategies, impact the value of our assets, or otherwise adversely affect our businesses. For more information regarding the regulatory environment and developments under the Dodd-Frank Act, see "Management's Discussion and Analysis of Financial Condition and Results of Operations - Regulatory Environment and Developments" and "Risk Factors."

Capital, Dividends and Share Repurchases

DFS and Discover Bank are subject to capital adequacy guidelines adopted by federal banking regulators, which include maintaining minimum capital and leverage ratios for capital adequacy and higher ratios to be deemed "well-capitalized" for other regulatory purposes. DFS and Discover Bank are required to maintain Tier 1 and total capital equal to at least 6% and 8% of our total risk-weighted assets, respectively. DFS and Discover Bank are also required to maintain a minimum "leverage ratio" (Tier 1 capital to adjusted total assets) of 4% and a common equity Tier 1 capital ratio (common equity Tier 1 capital to total risk-weighted assets) of 4.5%. Further, under the Federal Reserve's current capital plan requirements, DFS is required to demonstrate that under stress scenarios we will maintain each of the minimum capital ratios on a pro-forma basis throughout the nine-quarter planning horizon.

In addition to the supervisory minimum levels of capital described above, Federal Reserve rules applicable to DFS require maintenance of the following minimum capital ratios to be considered "well-capitalized" for certain purposes under Regulation Y (12 CFR 225): (i) a Tier 1 risk-based capital ratio of 6% and (ii) a total risk-based capital ratio of 10%. Our bank subsidiary is required by the FDIC's Prompt Corrective Action rules to maintain the following minimum capital ratios to be considered "well-capitalized": (i) a common equity Tier 1 capital ratio of 6.5%; (ii) a Tier 1 risk-based capital ratio of 8%; (iii) a total risk-based capital ratio of 10%; and (iv) a Tier 1 leverage ratio of 5%. At December 31, 2023, DFS met all requirements to be deemed "well-capitalized" pursuant to the applicable regulations. For related information regarding our bank subsidiary see "- FDIA" below.

There are various federal and state law limitations on the extent to which our bank subsidiary can provide funds to us through dividends, loans or otherwise. These limitations include minimum regulatory capital requirements, federal and state banking law requirements concerning the payment of dividends out of net profits or surplus, affiliate transaction limits and general federal and state regulatory oversight to prevent unsafe or unsound practices. In general, federal and applicable state banking laws prohibit, without first obtaining regulatory approval, insured depository institutions, such as Discover Bank, from making dividend distributions if such distributions are not paid out of available earnings or would cause the institution to fail to meet applicable capital adequacy standards. For more information, see "- FDIA" below.

Additionally, we are subject to regulatory requirements relative to capital distributions, including common stock dividends and repurchases, imposed by the Federal Reserve as part of its stress testing framework and CCAR program.

For more information on capital planning, including additional conditions and limits on our ability to pay dividends and repurchase our stock, see "- Bank Holding Company Regulation," "Risk Factors - Operational and Other Risk - *We may be limited in our ability to pay dividends on and repurchase our stock*," "Risk Factors - Operational and Other Risk - We are a holding company and depend on payments from our subsidiaries," "Management's Discussion and Analysis of Financial Condition and Results of Operations - Regulatory Environment and Developments," "Management's Discussion and Analysis of Financial Condition and Results of Operations - Liquidity and Capital Resources - Capital" and Note 17: Capital Adequacy to our consolidated financial statements.

FDIA

The FDIA imposes various requirements on insured depository institutions. For example, the FDIA requires, among other things, the federal banking agencies to take "prompt corrective action" in respect of depository institutions that do not meet minimum capital requirements. The FDIA sets forth the following five capital tiers: "well-capitalized," "adequately capitalized," "undercapitalized," "significantly undercapitalized" and "critically undercapitalized." A depository institution's capital tier will depend upon how its capital levels compare with various relevant capital measures and certain other factors that are established by regulation. At December 31, 2023, Discover Bank met all applicable requirements to be deemed "well-capitalized."

The FDIA also prohibits any depository institution from making any capital distributions (including payment of a dividend) or paying any management fee to its parent holding company if the depository institution would thereafter be "undercapitalized." "Undercapitalized" institutions are subject to growth limitations and are required to submit a capital restoration plan. For a capital restoration plan to be acceptable, among other things, the depository institution's parent holding company must guarantee that the institution will comply with the capital restoration plan.

If a depository institution fails to submit an acceptable capital restoration plan, it is treated as if it is "significantly undercapitalized." "Significantly undercapitalized" depository institutions may be subject to a number of requirements and restrictions, including orders to sell sufficient voting stock to become "adequately capitalized," requirements to

reduce total assets and cessation of receipt of deposits from correspondent banks. "Critically undercapitalized" institutions are subject to the appointment of a receiver or conservator.

The FDIA prohibits insured banks from accepting brokered deposits or offering interest rates on any deposits significantly higher than the prevailing rate in the bank's normal market area or nationally (depending upon where the deposits are solicited), unless it is "well-capitalized," or it is "adequately capitalized" and receives a waiver from the FDIC. Under current FDIC regulations, a bank that is less than "well-capitalized" is generally prohibited from soliciting deposits by offering an interest rate that exceeds 75 basis points over the national market average or 120 percent of the current yield on a similar maturity U.S. Treasury obligation plus 75 basis points, whichever is higher. There are no such restrictions under the FDIA on a bank that is "well-capitalized." As of December 31, 2023, Discover Bank met the FDIC's definition of a "well-capitalized" institution for purposes of accepting brokered deposits. An inability to accept brokered deposits in the future could materially adversely impact our funding costs and liquidity. For more information, see "Risk Factors - Credit, Market and Liquidity Risk - An inability to accept or maintain deposits in the future could materially adversely affect our liquidity position and our ability to fund our business."

The FDIA also affords FDIC insured depository institutions, such as Discover Bank, the ability to "export" interest rates permitted under the laws of the state where the bank is located. Discover Bank is located in Delaware and, therefore, can charge interest on loans to out-of-state borrowers at rates permitted under Delaware law, regardless of the usury limitations imposed by the state laws of the borrower's residence. Delaware law does not limit the amount of interest that may be charged on loans of the type offered by Discover Bank. This flexibility facilitates the current nationwide lending activities of Discover Bank.

The FDIA subjects Discover Bank to deposit insurance assessments. In an effort to bolster the reserves of the Deposit Insurance Fund, the Dodd-Frank Act raised the statutory minimum reserve ratio for the Fund to 1.35% and removed the statutory cap for the designated reserve ratio ("DRR"). The FDIA requires the FDIC to designate and publish a DRR annually. For 2023, the DRR was 2.00%. The FDIC also recently amended its deposit insurance regulations to increase initial base deposit insurance assessment rate schedules, beginning with the first quarterly assessment period of 2023, which will raise Discover Bank's cost of deposit insurance. Further increases may occur in the future. In November 2023, the FDIC's Board of Directors approved a final rule to implement a special assessment to recover the loss to the Deposit Insurance Fund associated with protecting uninsured depositors following the failure of two domestic banks in March 2023. The assessment base for the special assessment is equal to an insured depository institution's estimated uninsured deposits reported as of December 31, 2022, adjusted to exclude the first $5 billion. The special assessment will be collected at an annual rate of approximately 13.4 basis points for an anticipated total of eight quarterly assessment periods, beginning with the first quarterly assessment period of 2024 (i.e., January 1 through March 31, 2024).

Discover Bank is subject to the FDIC's final rule requiring periodic submission of a resolution plan to the FDIC. In June 2021, the FDIC announced a modified approach to its implementation of certain aspects of its resolution plan rule as it relates to insured depository institutions with $100 billion or more in total assets. Discover Bank is required to submit a resolution plan to the FDIC on a three-year cycle, with its first filing due on December 1, 2022, under the FDIC's modified approach. Discover Bank submitted its most recent resolution plan to the FDIC in November 2022. In August 2023, the FDIC issued proposed revisions to strengthen the resolution plan rule, including with respect to the content and timing of resolution submissions as well as interim supplements provided to the FDIC. The proposed rule would require full plan submissions from Discover Bank every two years, with more limited supplements filed in off years. The proposed revisions also include updated and new information requirements. Because the rule revisions are not yet final, the impact to Discover Bank remains uncertain until the rulemaking process is complete.

Acquisitions and Investments

Since we are a bank holding company, and Discover Bank is an insured depository institution, we are subject to banking laws and regulations that limit the types of acquisitions and investments that we can make. In addition, certain permitted acquisitions and investments that we seek to make are subject to the prior review and approval of our banking regulators, including the Federal Reserve and FDIC. Our banking regulators have broad discretion on whether to approve proposed acquisitions and investments. In deciding whether to approve a proposed acquisition, federal bank regulators will consider, among other factors, the effect of the acquisition on competition; our financial condition and our future prospects, including current and projected capital ratios and levels; the competence, experience and integrity of our management and our record of compliance with laws and regulations; the convenience and needs of the communities to be served, including our record of compliance under the Community Reinvestment Act; and our effectiveness in combating money laundering. Therefore, results of supervisory activities of the banking regulators,

including examination results and ratings, can impact whether regulators approve proposed acquisitions and investments. For more information on recent matters affecting us, see Note 19: Litigation and Regulatory Matters to our consolidated financial statements. For information on the regulatory environment, see "Risk Factors."

In addition, certain acquisitions of our voting stock may be subject to regulatory approval or notice under federal or Delaware state law. Investors are responsible for ensuring that they do not, directly or indirectly, acquire shares of our stock in excess of the amount that can be acquired without regulatory approval under the Change in Bank Control Act, the Bank Holding Company Act and the Delaware Change in Bank Control provisions, which prohibit any person or company from acquiring control of us without, in most cases, the prior written approval of each of the FDIC, the Federal Reserve and the Delaware Commissioner.

Consumer Financial Services

The relationship between us and our U.S. customers is regulated extensively under federal and state consumer protection laws. Federal laws include the Truth in Lending Act, the Equal Credit Opportunity Act, the Fair Credit Reporting Act, the GLBA, the Credit Card Accountability Responsibility and Disclosure Act, the Servicemembers Civil Relief Act, the Military Lending Act, the Truth in Savings Act, the Electronic Fund Transfer Act and the Dodd-Frank Act. These and other federal laws, among other things, prohibit unfair, deceptive and abusive practices, require disclosures of the cost of credit and other terms of credit and deposit accounts, provide substantive consumer rights, prohibit discrimination in credit transactions, regulate the use of credit report information, provide privacy protections, require safe and sound banking operations, restrict our ability to raise interest rates on credit cards, protect customers serving in the military and their dependents and subject us to substantial regulatory oversight. The CFPB has rulemaking and interpretive authority under the Dodd-Frank Act and other federal consumer financial services laws, as well as broad supervisory, examination and enforcement authority over large providers of consumer financial products and services, such as DFS. For more information, see "Management's Discussion and Analysis of Financial Condition and Results of Operations - Regulatory Environment and Developments - Consumer Financial Services." State and, in some cases, local laws also may regulate in these areas, as well as in the areas of collection practices, and may provide other additional consumer protections.

Violations of applicable consumer protection laws can result in significant potential liability in litigation by customers, including civil monetary penalties, actual damages, restitution and attorneys' fees. Federal banking regulators, as well as state attorneys general and other state and local consumer protection agencies, also may seek to enforce consumer protection requirements and obtain these and other remedies. Further violations may cause federal banking regulators to deny, or delay approval of, potential acquisitions and investments. See "- Acquisitions and Investments."

We are subject to additional laws and regulations affecting mortgage lenders. Federal, state and, in some instances, local laws apply to mortgage lending activities. These laws generally regulate the manner that mortgage lending and lending-related activities are conducted, including advertising and other consumer disclosures, payments for services and recordkeeping requirements. These laws include the Real Estate Settlement Procedures Act, the Fair Credit Reporting Act, the Truth in Lending Act, the Equal Credit Opportunity Act, the Fair Housing Act, the Home Mortgage Disclosure Act and various state laws. For more information, see "Management's Discussion and Analysis of Financial Condition and Results of Operations - Regulatory Environment and Developments - Consumer Financial Services."

Payment Networks

Our payment networks deliver switching and settlement services to financial institutions and other program participants for a variety of ATM, payment and other electronic banking transactions. These operations are regulated by certain federal and state laws, including banking, privacy and data security laws. Moreover, the Discover and PULSE networks are subject to examination under the oversight of the Federal Financial Institutions Examination Council, an interagency body composed of the federal bank regulators and the National Credit Union Administration. In addition, as our payments business has expanded globally, we are subject to government regulation, both directly and indirectly through regulation affecting network licenses, in countries in which our networks operate or our cards are used. Changes in existing federal, state or international regulation could increase the cost or risk of providing network services, change the competitive environment, or otherwise materially adversely affect our operations. The legal environment regarding privacy and data security is particularly dynamic and any unpermitted handling or disclosure of confidential customer information could have a material adverse impact on our business, including loss of consumer confidence.

The Dodd-Frank Act contains several provisions that are relevant to the business practices, network transaction volume, revenue and prospects for future growth of our debit card network business. The Dodd-Frank Act requires that merchants control the routing of debit transactions and that interchange fees received by certain payment card issuers on debit card transactions be "reasonable and proportional" to the issuer's cost in connection with such transactions, as determined by the Federal Reserve. The Dodd-Frank Act also requires the Federal Reserve to restrict debit card networks and issuers from requiring debit card transactions to be processed solely on a single payment network or two or more affiliated networks, or from requiring that transactions be routed over certain networks.

Money Laundering & Terrorist Financing Prevention Program

We maintain an enterprise-wide program designed to comply with all applicable anti-money laundering and anti-terrorism laws and regulations, including the Bank Secrecy Act and the USA PATRIOT Act of 2001. This program includes policies, procedures, training and other internal controls designed to mitigate the risk of money laundering or terrorist financing posed by our products, services, customers and geographic locale. These controls include procedures and processes to detect and report suspicious transactions, perform customer due diligence and meet all recordkeeping and reporting requirements related to particular transactions involving currency or monetary instruments. The program is coordinated by our anti-money laundering compliance and sanctions officer and undergoes regular independent audits to assess its effectiveness. Our program is typically reviewed on an annual basis by federal banking regulators. For additional information regarding bank regulatory limitations on acquisitions and investments, see "- Acquisitions and Investments."

Sanctions Programs

We have a program designed to comply with applicable economic and trade sanctions programs, including those administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control. These sanctions are usually targeted against foreign countries, terrorists, international narcotics traffickers and those believed to be involved in the proliferation of weapons of mass destruction. These regulations generally require either the blocking of accounts or other property of specified entities or individuals, but they may also require the rejection of certain transactions involving specified entities or individuals. We maintain policies, procedures and other internal controls designed to comply with these sanctions programs.

Information About Our Executive Officers

Set forth below is information concerning our executive officers, each of whom is a member of our Executive Management Committee.

Name	Age	Position
Michael G. Rhodes	58	Chief Executive Officer and President
John T. Greene	58	Executive Vice President, Chief Financial Officer
Daniel P. Capozzi	52	Executive Vice President, President - Consumer Banking
Jason P. Hanson	45	Executive Vice President, President - Payment Services
Hope D. Mehlman	59	Executive Vice President, Chief Legal Officer, General Counsel and Corporate Secretary
Michael E. Roemer	61	Executive Vice President, Chief Risk Officer
Jason J. Strle	47	Executive Vice President, Chief Information Officer
Keith E. Toney	52	Executive Vice President, President - Credit and Decision Management

Michael G. Rhodes is our CEO and President, having joined Discover in February 2024. Prior to joining Discover, Mr. Rhodes was the Group Head, Canadian Personal Banking at TD Bank Group ("TD"). He joined TD in 2011 to lead the North American Credit Card and Merchant Services business, and from 2017 to 2021, he also served as the Group Head, Innovation, Technology and Shared Services. His experience also includes leadership roles at both Bank of America and MBNA America Bank. Mr. Rhodes earned his MBA from the Wharton School at the University of Pennsylvania and holds a bachelor's degree in engineering from Duke University.

John T. Greene is our Executive Vice President, Chief Financial Officer ("CFO"). He has held this role since September 2019. Prior to joining Discover, Mr. Greene served as executive vice president, chief financial officer and treasurer at Bioverativ, a global biopharmaceutical company. From 2014 to 2016, he was chief financial officer for Willis Group Holdings, which was preceded by more than eight years at HSBC Holdings where he held CFO positions for several divisions, including retail bank and wealth management, insurance and consumer and mortgage lending. He also held various CFO roles in his 12-year tenure with General Electric from 1993 to 2005. Mr. Greene holds a bachelor's degree in accounting from the State University of New York and an MBA from the Kellogg School of Management at Northwestern University.

Daniel P. Capozzi is our Executive Vice President, President - Consumer Banking. He has held this role since July 2023. In his current role, Mr. Capozzi oversees enterprise marketing, consumer products (US Cards, Lending and Deposits) and customer care operations. Prior to this role, he served as president - US Cards from December 2020 to 2023. In October 2018, he was appointed to the role of executive vice president, president - Credit Operations and Decision Management and also previously served as senior vice president, Credit and Decision Management beginning in June 2017. Since joining Discover in 2007, Mr. Capozzi has held leadership positions in the Deposits business and Corporate Finance. Prior to joining Discover, he held various leadership positions in Finance at Citibank and Bank of America. Mr. Capozzi holds a bachelor's degree in business administration from Northeastern University.

Jason P. Hanson is our Executive Vice President, President - Payment Services. He has held this role since July 2023, with responsibility for Discover Network, PULSE and Diners Club International. Since joining Discover in 2019, Mr. Hanson has held various leadership positions across Payment Services. Prior to joining Discover, Mr. Hanson held roles as a senior vice president at FIS/WorldPay, as a partner at McKinsey & Company and as an officer in the U.S. Army. Mr. Hanson holds a bachelor's degree in economics from the United States Military Academy, West Point and an MBA from the University of Chicago Booth School of Business.

Hope D. Mehlman is our Executive Vice President, Chief Legal Officer, General Counsel and Corporate Secretary. She joined Discover in January 2023 as executive vice president, chief legal officer and general counsel, and became corporate secretary in February 2023. Prior to joining Discover, Ms. Mehlman was executive vice president, general counsel and corporate secretary of Bank of the West and corporate secretary of BNP Paribas USA, Inc., positions she held from 2020 to January 2023. From 2006 to 2020, she held multiple leadership roles at Regions Financial Corp., where she last served as executive vice president, deputy general counsel, chief governance officer and corporate secretary. Ms. Mehlman holds a bachelor's degree in near eastern studies from Cornell University, a juris doctor from Seton Hall University Law School and a master of laws in taxation from New York University School of Law.

Michael E. Roemer is our Executive Vice President, CRO. He has held this role since July 2021 and previously served as chief compliance officer beginning in February 2021 through December 2021. Prior to joining Discover, Mr. Roemer served as chief compliance officer at Wells Fargo from 2018 to 2020, where he oversaw the transformation of its enterprise compliance function, focusing on regulatory remediation and improvement of compliance risk management. Before that, he was head of compliance at Barclays from 2014 to 2017, where he led the compliance transformation program and served as chief internal auditor from 2012 to 2014. Mr. Roemer holds a bachelor's degree from St. John's University and completed the Tuck Executive Program at Dartmouth College.

Jason J. Strle is our Executive Vice President, Chief Information Officer ("CIO"). He has held this role since July 2023. Prior to joining Discover, Mr. Strle served as executive vice president and group CIO for Corporate Functions at Wells Fargo from 2022 to 2023, Consumer Banking, Payments and Digital from 2017 to 2022. Prior to Wells Fargo, he spent almost 13 years with JPMorgan Chase in roles of increasing scope, culminating as CIO of Consumer and Small Business Banking. Mr. Strle holds a bachelor's degree in computer science from Ohio University in Athens, Ohio.

Keith E. Toney is our Executive Vice President, President - Credit and Decision Management. He has held this role since July 2023 and previously served as executive vice president, president - data and analytics from October 2020 to July 2023. Prior to that, Mr. Toney served as senior vice president, chief data officer beginning in December 2019. From 2017 to 2019, Mr. Toney held leadership positions with The Hartford Financial Services Group, where he last served as senior vice president - product, data science and analytics. Mr. Toney, who also served as chief data scientist at Connexion Point from 2015 to 2017, has more than 20 years of information technology and risk management experience in financial services and analytics. He holds a bachelor's degree and a master's degree in mathematics from Ohio State University.

Item 1A. Risk Factors

You should carefully consider each of the following risks described below and all of the other information in this annual report on Form 10-K in evaluating us. Our business, financial condition, cash flows and/or results of operations could be materially adversely affected by any of these risks. The trading price of our common stock could decline due to any of these risks. This annual report on Form 10-K also contains forward-looking statements that involve risks and uncertainties. Our actual results could differ materially from those anticipated in these forward-looking statements as a result of certain factors, including the risks faced by us described below and elsewhere in this annual report on Form 10-K. See "Special Note Regarding Forward-Looking Statements," which immediately follows the risks below.

Summary

The following is a summary of the most important risks that could materially adversely affect our business, financial condition, cash flows and/or results of operations, and should be read together with the more detailed description of risks that follow:

- Merger Related Risks: The merger is subject to a number of risks, including that the required regulatory approvals may not be obtained in a timely manner, if at all, that the merger may be terminated or abandoned by the parties and that it may be more difficult, costly or time consuming than expected to realize, or that the combined company will fail to realize, the anticipated synergies and benefits of the merger.
- Economic, Regulatory, Enforcement and Litigation: As a consumer financial services and payment services company, we are subject to risks stemming from laws and regulations, compliance therewith and related litigation and an uncertain economic environment.
- Strategic: We must successfully compete against firms that are larger than we are and have more resources than we do as well as firms that are smaller and potentially disruptive to our industry as we manage the unique risks associated with each of our product offerings.
- Credit, Market and Liquidity: We must effectively manage our desire to grow our loan portfolio against the risk that those loans will not be repaid, while ensuring that we manage the underlying cost of the funds we use to make those loans and sources of funding we rely on to fund those loans.
- Operational and Other Risks: We must remain operationally effective and manage operational and reputational risks such as fraud and cybersecurity, while continuing to monitor and effectively respond to an external environment that may negatively impact the utilization or desirability of our products and services.

Merger Related Risks

Failure to complete the merger with Capital One could negatively affect our stock price and our future business and financial results.

If our pending merger with Capital One is not completed for any reason, our ongoing business may be adversely affected and, without realizing any of the benefits of having completed the merger, we would be subject to a number of risks, including the following:

- we may experience negative reactions from the financial markets, including negative effects on our stock price;
- we may experience negative reactions from our customers and vendors;
- we will have incurred substantial expenses and will be required to pay certain costs relating to the merger, including legal, accounting, and other fees, whether or not the merger is completed;
- our management team will have devoted substantial time and resources to matters relating to the merger, and would otherwise have devoted their time and resources to other opportunities that may have been beneficial to us, which could cause us to lag competitor advances.

In addition, if the Merger Agreement is terminated and we seek another merger or business combination, the market price of our common stock could decline, which could make it more difficult to find a party willing to offer equivalent or more attractive consideration than the consideration Capital One has agreed to provide in the merger.

We will be subject to business uncertainties and contractual restrictions while the merger with Capital One is pending.

Uncertainty about the effect of the merger on our employees and customers may have an adverse effect on us. These uncertainties may impair our ability to attract, retain and motivate key personnel until the merger is completed and could cause customers and others that deal with us to seek to change existing business relationships with us. In addition, subject to certain exceptions, we have agreed to operate our business in the ordinary course in all material respects and to refrain from taking certain actions that may adversely affect our ability to consummate the transactions contemplated by the Merger Agreement on a timely basis without the consent of Capital One. These restrictions may prevent us from pursuing attractive business opportunities that may arise prior to the completion of the merger. Employee retention may be particularly challenging during the pendency of the merger, as employees may experience uncertainty about their roles with the surviving corporation following the merger.

Shareholder litigation could prevent or delay the closing of our pending merger with Capital One or otherwise negatively affect our business and operations.

We may incur additional costs in connection with the defense or settlement of any shareholder lawsuits filed in connection with our pending merger with Capital One. Such litigation could have an adverse effect on our financial condition and results of operations and could prevent or delay the consummation of the merger.

We have incurred and are expected to incur substantial costs related to the merger.

We have incurred and expect to incur a number of non-recurring costs associated with the merger. These costs include, or will include, legal, financial advisory, accounting, consulting and other advisory fees, retention, severance and employee benefit-related costs, public company filings fees and other regulatory fees, financial printing and other printing costs. Some of these costs are payable by us regardless of whether or not the merger is completed.

Because the market price of Capital One common stock may fluctuate, our stockholders cannot be certain of the precise value of the merger consideration they may receive in our pending merger with Capital One.

At the time our pending merger with Capital One is completed, each issued and outstanding share of our common stock (other than certain shares held by us or Capital One) will be converted into the right to receive 1.0192 shares of Capital One common stock. There will be a time lapse between each of the date of the proxy statement/prospectus for the stockholders' meeting to approve the merger, the date on which our stockholders vote to approve the merger, and the date on which Discover stockholders entitled to receive shares of Capital One common stock actually receive such shares. The market value of Capital One common stock may fluctuate during these periods as a result of a variety of factors, including general market and economic conditions, changes in our and Capital One's businesses, operations and prospects, and regulatory considerations. Many of these factors are outside of our and Capital One's control. The actual value of the shares of Capital One common stock received by our shareholders will depend on the market value of shares of Capital One common stock at the time the merger is completed. This market value may be less or more than the value used to determine the exchange ratio stated in the Merger Agreement.

Regulatory approvals may not be received, may take longer than expected, or may impose conditions that are not presently anticipated or that could have an adverse effect on the combined company following the proposed merger with Capital One.

Before the merger with Capital One and the subsequent merger of Capital One, National Association and Discover Bank (the "bank merger") may be completed, various approvals, consents and non-objections must be obtained from the FRB, the OCC and the Delaware State Banking Commissioner. In determining whether to grant these approvals, such regulatory authorities consider a variety of factors, including the regulatory standing of each party. These approvals could be delayed or not obtained at all, including due to an adverse development in either party's regulatory standing or in any other factors considered by regulators when granting such approvals; governmental, political or community group inquiries, investigations or opposition; or changes in legislation or the political environment generally.

The approvals that are granted may impose terms and conditions, limitations, obligations or costs, or place restrictions on the conduct of the combined company's business or require changes to the terms of the transactions contemplated by the Merger Agreement. There can be no assurance that regulators will not impose any such conditions, limitations, obligations or restrictions and that such conditions, limitations, obligations or restrictions will not have the effect of delaying the completion of any of the transactions contemplated by the Merger Agreement, imposing

additional material costs on or materially limiting the revenues of the combined company following the merger or otherwise reducing the anticipated benefits of the merger if the merger were consummated successfully within the expected timeframe. In addition, there can be no assurance that any such conditions, terms, obligations or restrictions will not result in the delay or abandonment of the merger. Additionally, the completion of the merger is conditioned on the absence of certain orders, injunctions or decrees by any court or regulatory agency of competent jurisdiction that would prohibit or make illegal the completion of any of the transactions contemplated by the Merger Agreement.

In addition, despite the parties' commitments to using their reasonable best efforts to comply with conditions imposed by regulators, under the terms of the Merger Agreement, neither us nor Capital One, nor any of their respective subsidiaries, is required to take any action, or commit to take any action, or agree to any condition or restriction, in connection with obtaining the required permits, consents, approvals and authorizations of governmental entities that would reasonably be expected to have a material adverse effect on the combined company and its subsidiaries, taken as a whole, after giving effect to the merger and the bank merger.

The Merger Agreement between us and Capital One may be terminated in accordance with its terms and the merger may not be completed.

The Merger Agreement is subject to a number of conditions which must be fulfilled in order to complete the merger. Those conditions include, among other things: (i) approval by each of our shareholders and Capital One's shareholders of certain matters relating to the merger at each company's respective special meeting; (ii) the receipt of required regulatory approvals, including the approval of the FRB and the OCC; and (iii) the absence of any order, injunction, decree or other legal restraint preventing the completion of the merger, the bank merger or any of the other transactions contemplated by the Merger Agreement or making the completion of the merger, the bank merger or any of the other transactions contemplated by the merger agreement illegal. Each party's obligation to complete the merger is also subject to certain additional customary conditions, including (a) subject to applicable materiality standards, the accuracy of the representations and warranties of the other party, (b) the performance in all material respects by the other party of its obligations under the Merger Agreement and (c) the receipt by each party of an opinion from its counsel to the effect that the merger will qualify as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code of 1986.

These conditions to the closing may not be fulfilled in a timely manner or at all, and, accordingly, the merger may not be completed. In addition, the parties can mutually decide to terminate the Merger Agreement at any time, before or after the requisite shareholder approvals, or we or Capital One may elect to terminate the Merger Agreement in certain other circumstances.

Combining us and Capital One may be more difficult, costly or time-consuming than expected, and the combined company may fail to realize the anticipated benefits of the merger.

The success of the merger will depend, in part, on the ability to realize the anticipated revenue and cost synergies from combining the businesses of us and Capital One. To realize the anticipated revenue and cost synergies from the merger, we and Capital One must successfully integrate and combine businesses in a manner that permits those revenue and cost synergies to be realized without adversely affecting current revenues and future growth. If we and Capital One are not able to successfully achieve these objectives, the anticipated benefits of the merger may not be realized fully or at all or may take longer to realize than expected. In addition, the revenue and cost synergies of the merger could be less than anticipated, and integration may result in additional and unforeseen expenses.

An inability to realize the full extent of the anticipated benefits of the merger and the other transactions contemplated by the Merger Agreement, as well as any delays encountered in the integration process, could have an adverse effect upon the revenues, levels of expenses and operating results of the combined company following the completion of the merger, which may adversely affect the value of the common stock of the combined company following the completion of the merger.

We and Capital One have operated and, until the completion of the merger, must continue to operate, independently. It is possible that the integration process could result in the loss of key employees, the disruption of each company's ongoing businesses or inconsistencies in standards, controls, procedures and policies that adversely affect the companies' ability to maintain relationships with merchants, merchant acquirers, clients, customers, depositors and employees or to achieve the anticipated benefits and cost savings of the merger. Integration efforts between the companies may also divert management attention and resources. These integration matters could have an adverse effect

on us during this transition period and for an undetermined period after completion of the merger on the combined company.

The combined company may be unable to retain our and/or Capital One personnel successfully after the merger is completed.

The success of the merger will depend in part on the combined company's ability to retain the talent and dedication of key employees currently employed by us and Capital One. It is possible that these employees may decide not to remain with us or Capital One, as applicable, while the merger is pending or with the combined company after the merger is consummated. If we and Capital One are unable to retain key employees, including management, who are critical to the successful integration and future operations of the companies, we and Capital One could face disruptions in operations, loss of existing customers, loss of key information, expertise or know-how and unanticipated additional recruitment costs. In addition, following the merger, if key employees terminate their employment, the combined company's business activities may be adversely affected, and management's attention may be diverted from successfully hiring suitable replacements, all of which may cause the combined company's business to suffer. We and Capital One also may not be able to locate or retain suitable replacements for any key employees who leave either company.

Current Economic and Regulatory Environment

Economic conditions could have a material adverse effect on our business, results of operations and financial condition.

As a provider of consumer financial services, our business, results of operations and financial condition are subject to the U.S. and global economic environment. A customer's ability and willingness to repay us can be impacted by not only economic conditions but also a customer's other payment obligations.

Economic conditions also can reduce the usage of credit cards in general and the average purchase amount of transactions industry-wide, including our cards, which reduces interest income and transaction fees. We rely heavily on interest income from our credit card business to generate earnings. Our interest income from credit card loans was $14.4 billion for the year ended December 31, 2023, which was 91% of net revenues (defined as net interest income plus other income), compared to $10.6 billion for the year ended December 31, 2022, which was 80% of net revenues. Economic conditions combined with a competitive marketplace could slow loan growth, resulting in reduced revenue growth from our core digital banking business.

Financial regulatory developments have had an impact and will continue to significantly impact the environment for the financial services industry, which could adversely impact our business, results of operations and financial condition.

Under the enhanced prudential standards that apply to bank holding companies, DFS is considered a Category IV institution and therefore subject to the least stringent category of these standards for domestic bank holding companies with at least $100 billion in total assets. However, many of the core components of the regulations implementing enhanced prudential standards continue to apply to DFS. Since 2020, DFS has been subject to slightly more tailored requirements for capital stress testing, liquidity risk management and resolution planning. In addition, proposed changes to the regulatory capital rules issued by the federal banking regulators under the Basel Committee's December 2010 framework (the "Basel III rules"), if adopted as proposed, could require us to maintain additional capital.

The impact of the evolving regulatory environment on our business and operations depends upon a number of factors, including (i) the legislative priorities of the U.S. Congress, (ii) priorities and actions of the Federal Reserve, FDIC and CFPB, (iii) implications resulting from our competitors and other marketplace participants and (iv) changing consumer behavior. For additional information regarding bank regulatory matters impacting us, see "Business - Supervision and Regulation."

Regulatory and legislative developments, findings and actions have had and could continue to have a negative impact on our business strategies or require us to: limit, exit or modify our business practices and product offerings; restructure our products in unanticipated ways; invest more management time and resources in compliance efforts; limit the fees we charge for services; impact the value of our assets; or limit our ability to pursue certain innovations and business opportunities and obtain related required regulatory approvals. For additional information regarding bank regulatory limitations on acquisitions and investments, see "Business - Supervision and Regulation - Acquisitions and

Investments." Furthermore, see Note 19: Litigation and Regulatory Matters to our consolidated financial statements for more information on recent matters affecting us. It is possible that any new regulatory measures or legislation may disproportionately affect us due to our size, structure or product offerings, among other things.

Compliance expectations and expenditures have steadily and significantly increased for us, and the same is true for other financial services firms, as regulators have escalated their focus on the adequacy of controls to support business operations. We may have to invest further in risk management, compliance and other functions in response to possible regulatory feedback. We may face compliance and regulatory risks if we introduce new or changed products and services or enter into new business arrangements with third-party service providers, alternative payment providers, or other industry participants. Heightened regulatory expectations and increased volume of regulatory changes may generate additional expenses or require significant time and resources to maintain compliance.

For more information regarding the regulatory environment and developments potentially impacting us, see "Management's Discussion and Analysis of Financial Condition and Results of Operations - Regulatory Environment and Developments."

Strategic Business Risk

We face competition in the credit card market from other consumer financial services providers and we may not be able to compete effectively, which could result in fewer customers and lower account balances and could materially adversely affect our financial condition, cash flows and results of operations.

The consumer financial services business is highly competitive. We compete with other consumer financial services providers, including non-traditional providers of financing and payment services such as financial technology firms, based on several factors, including brand, reputation, customer service, product offerings, incentives, pricing, digital payments and other terms. Competition in credit cards is also based on merchant acceptance and the value provided to the customer by rewards programs and other innovations. Many credit card issuers have instituted rewards programs that are similar to ours and, in some cases, could be viewed as more attractive to customers than our programs. These competitive factors affect our ability to attract and retain customers, increase usage of our products and maximize the revenue generated by our products. In addition, because most domestically-issued credit cards, other than those issued by American Express, are issued on the Visa and MasterCard networks, most other card issuers benefit from the dominant position and marketing and pricing power of Visa and MasterCard. The competitive marketplace could result in slower loan growth, resulting in reduced revenue growth from our core digital banking business. If we are unable to compete successfully, or if competing successfully requires us to take aggressive actions in response to competitors' actions, our financial condition, cash flows and results of operations could be materially adversely affected.

We incur considerable costs in competing with other consumer financial services providers and many of our competitors have greater financial resources than we do, which may place us at a competitive disadvantage and negatively affect our financial results.

We incur considerable costs in competing with other consumer financial services providers to attract and retain customers and increase usage of our products. A substantial portion of this cost relates to marketing expenditures and rewards programs. Since 2013 our rewards rate, which represents rewards cost divided by Discover Card sales volume, has increased from less than 1% to 1.40% in 2023. We expect the competitive intensity in the rewards space to continue, which could result in a continued increase in the cost of our rewards programs. Our consumer financial services products compete primarily based on pricing, terms and service. Because of the highly competitive nature of the credit card-issuing business, a primary method of competition among credit card issuers, including us, has been to offer rewards programs, low introductory interest rates, attractive standard purchase rates and balance transfer programs that offer a favorable annual percentage rate or other financial incentives for a specified length of time on account balances transferred from another credit card.

Competition is intense in the credit card industry and customers may frequently switch credit cards or transfer their balances to another card. We expect to continue to invest in initiatives to remain competitive in the consumer financial services industry, including the launch of new cards and features, brand awareness initiatives, targeted marketing, online and mobile enhancements, e-wallet participation, customer service improvements, credit risk management and operations enhancements and infrastructure efficiencies. However, there can be no assurance that any of the costs we incur or incentives we offer to attempt to acquire and maintain accounts and increase usage of our products will be effective. In addition, to the extent that we offer new products, features or services to remain competitive, we may be subject to increased operational or other risks.

Furthermore, many of our competitors are larger than we are, have greater financial resources than we do, have more breadth in banking products, have lower funding costs than we have and expect to have and have assets, such as branch locations and co-brand relationships, that may be appealing to certain customers. For example, larger credit card issuers, which have greater resources than we do, may be better positioned to fund appealing rewards, marketing and advertising programs. We may be at a competitive disadvantage as a result of the greater financial resources, diversification and scale of many of our competitors.

Our costs directly affect our earnings results. Many factors can influence the amount of our costs, as well as how quickly it may increase. Our ongoing investments in infrastructure, including technology such as generative artificial intelligence ("AI"), which may be necessary to maintain a competitive business, integrate newly-acquired businesses and establish scalable operations, increase our costs. In addition, as our business develops, changes or expands, additional costs can arise as a result of a reevaluation of business strategies, management of outsourced services, asset purchases, structural reorganization, compliance with new laws or regulations or the acquisition of new businesses. If we are unable to manage our costs successfully, our financial results will be negatively affected.

The inability to compete against other operators of payment networks and alternative payment providers could result in reduced transaction volume, limited merchant acceptance of our cards, limited issuance of cards on our networks by third parties and materially reduced earnings from our payment services business.

We face substantial and increasingly intense competition in the payments industry, both from traditional players and new, emerging alternative payment providers. For example, we compete with other payment networks to attract network partners to issue credit and debit cards and other card products on the Discover, PULSE and Diners Club networks, collectively the Discover Global Network. Competition with other operators of payment networks is generally based on issuer fees, fees paid to networks (including switch fees), merchant acceptance, network size and functionality, technological capabilities and other economic terms. Competition is also based on customer perception of service quality, brand image, reputation and market share. Further, we are facing ongoing competition from alternative payment providers, who may create innovative network or other arrangements with our primary competitors, large merchants or other industry participants, which could adversely impact our costs, transaction volume and ability to grow our business.

Many of our competitors are well established, larger than we are and/or have greater financial resources or scale than we do. These competitors have provided financial incentives to card issuers, such as large cash signing bonuses for new programs, funding for and sponsorship of marketing programs and other bonuses. Visa and MasterCard each enjoy greater merchant acceptance and broader global brand recognition than we do. Although we have made progress in merchant acceptance, we have not achieved global market parity with Visa and MasterCard. In addition, Visa and MasterCard have entered into long-term arrangements with many financial institutions that may have the effect of discouraging those institutions from issuing cards on the Discover Network or issuing debit cards on the PULSE network. Some of these arrangements are exclusive, or nearly exclusive, which further limits our ability to conduct material amounts of business with these institutions. If we are unable to remain competitive on issuer fees and other incentives, we may be unable to offer adequate pricing to network partners while maintaining sufficient net revenues.

We also face competition as merchants put pressure on transaction fees. Increasing merchant fees or acquirer fees could adversely affect our effort to increase merchant acceptance of credit cards issued on the Discover Global Network and may cause merchant acceptance to decrease. This, in turn, could adversely affect our ability to attract and retain network partners who may seek out more cost-effective alternatives from both traditional and non-traditional payment services providers, which may limit our ability to maintain or grow revenues from our proprietary network. In addition, competitors' settlements with merchants and related actions, including pricing pressures and/or surcharging, could negatively impact our business practices. Competitor actions related to the structure of merchant and acquirer fees and merchant and acquirer transaction routing strategies have adversely affected and are expected to continue to adversely affect our PULSE network's business practices, network transaction volume, revenue and prospects for future growth and entry into new product markets. Visa has entered into arrangements with some merchants and acquirers that have, and are expected to continue to have, the effect of discouraging those merchants and acquirers from routing debit transactions to PULSE. In addition, the Dodd-Frank Act's network participation requirements and competitor actions negatively impact PULSE's ability to enter into exclusivity arrangements, which affects PULSE's business practices and may materially adversely affect its network transaction volume and revenue. PULSE has a pending lawsuit against Visa with respect to these competitive concerns. PULSE's transaction processing revenue was $303 million and $249 million for the years ended December 31, 2023 and 2022, respectively.

American Express is also a strong competitor, with international acceptance, high transaction fees and an upscale brand image. Internationally, American Express competes in the same market segments as Diners Club. We may face challenges in increasing international acceptance on our networks, particularly if third parties that we rely on to issue Diners Club cards, increase card acceptance and market our brands do not perform to our expectations.

In addition, if we are unable to maintain sufficient network functionality to be competitive with other networks, or if our competitors develop better data security solutions or more innovative products and services than we do, our ability to retain and attract network partners and maintain or increase the revenues generated by our proprietary card-issuing business or our PULSE business may be materially adversely affected. Our competitive position could also be affected if we are unable to deploy, in a cost effective and competitive manner, technology such as generative AI. Additionally, competitors may develop data security solutions, which as a consequence of the competitors' market power, we may be forced to use. In that case, our business may be adversely affected as they may be better positioned to absorb the costs over higher volumes or a larger customer base.

Our business depends upon relationships with issuers, merchant acquirers, other payment enablers and licensees, many of whom are financial institutions. The economic and regulatory environment and increased consolidation in the financial services industry decrease our opportunities for new business and may result in the termination of existing business relationships if a business partner is acquired or goes out of business. In addition, as a result of this environment, financial institutions may have decreased interest in engaging in new card issuance opportunities or expanding existing card issuance relationships, which would inhibit our ability to grow our payment services business. We continue to face substantial and intense competition in the payments industry, which impacts our revenue margins, transaction volume and business strategies.

If we are unsuccessful in maintaining a strong base of network licensees and achieving meaningful global card acceptance, we may be unable to achieve long-term success in our international network business.

We continue to make progress toward achieving increased global card acceptance for the Discover Global Network since we acquired the Diners Club network and related assets in 2008. Achieving global card acceptance would allow our customers, including third-party issuers leveraging the network, to use their cards at merchant and ATM locations around the world.

Our international network business depends upon the cooperation, support and continuous operation of the network licensees that issue Diners Club cards and that maintain a merchant acceptance network. As is the case for other card payment networks, our Diners Club network does not issue cards or determine the terms and conditions of cards issued by the network licensees. If we are unable to continue our relationships with network licensees or if the network licensees are unable to continue their relationships with merchants, our ability to maintain or increase revenues and to remain competitive would be adversely affected due to the potential deterioration in customer relationships and related demand that could result. If one or more licensees were to experience a significant impairment of their business or were to cease doing business for economic, regulatory or other reasons, we would face the adverse effects of business interruption in a particular market, including loss of volume, acceptance and revenue and exposure to potential reputational risk. If such conditions arise in the future, we may deploy resources and incur expenses in order to sustain network acceptance. Additionally, interruption of network licensee relationships could have an adverse effect on the acceptance of Discover cards when they are used on the Diners Club network outside of North America.

The long-term success of our international network business depends upon achieving meaningful global card acceptance, which has included and may continue to include higher overall costs or longer timeframes than anticipated.

Economic and regulatory challenges facing the student lending business could have a negative effect on our student loan portfolio.

The success of our student loan strategy depends upon our ability to manage the credit risk, pricing, funding, operations, expenses and originations wind-down of our student loan business and compliance with the December 2020 consent order with the CFPB (the "2020 Order"). Our student loan strategy is also impacted by external factors such as the overall economic environment, changes in interest rates and prepayment rates and a challenging regulatory environment for private student loans and student loans generally. For more information on the regulatory environment, see "Management's Discussion and Analysis of Financial Condition and Results of Operations - Regulatory Environment and Developments" and Note 19: Litigation and Regulatory Matters to our consolidated financial statements.

There are several challenges to managing our private student loan business, including (i) economic weakness; (ii) new changes in federal and state laws or regulations; and (iii) other government and regulatory focus on higher education costs, student lending, student loan repayments and student loan servicing. Examples of these challenges include the recent legislative focus on federal student loan debt forgiveness in bankruptcy and current and anticipated legislative proposals in a number of states and the District of Columbia imposing new requirements on private student loan lenders and servicers. These challenges may require us to restructure our private student loan products and servicing activities in ways we may not currently anticipate. In addition, changes that adversely affect the private student loan market generally may negatively impact the profitability of our student loan portfolio.

The potential sale of the Discover Student Loan portfolio and transfer of servicing of such loans to a third-party provider may result in disruptions to our business and operations, and no assurances can be made that such sale and/or servicing transfer will be completed or will be as successful as projected or expected.

In November 2023, we announced that our Board of Directors authorized our management to explore the sale of the Discover Student Loan portfolio and the transfer of servicing of such loans to a third-party provider. The time and effort associated with pursuing such sale and/or transfer may result in disruption to our businesses and operations and/or diversion of management attention from other business concerns, which could impair our relationships with our current employees, customers and strategic partners. If we are unable to retain key employees, including management, who are critical to overseeing, operating and managing our student loan portfolio and the potential sale and servicing transfer of such loans, we could face disruptions in our operations, issues administering and servicing our student loans, challenges complying with the 2020 Order, loss of key information, expertise or know-how and unanticipated additional recruitment costs.

Such sale and/or transfer involves significant risks, execution complexity and uncertainties that could adversely affect our business. These risks, complexities and uncertainties include, among others, (i) the time necessary to evaluate and effect such sale and/or transfer, (ii) the level of interest from buyers or third-party servicers, (iii) the price and other terms upon which buyers are willing to acquire the loans and third-party servicers are willing to service the loans, (iv) our ability to successfully negotiate terms and conditions with buyers and third-party servicers and to satisfy such terms and conditions, (v) buyers' ability to obtain financing to acquire the loans, (vi) a third-party servicer's ability to successfully onboard the loans, (vii) potential challenges in separating the assets and operations of the Discover Student Loan business from our other businesses, (viii) requirements and impact of the 2020 Order, (ix) our ability to retain the talent and focus of our key employees dedicated to our student loan portfolio, and (x) the ability of the applicable parties to obtain any required regulatory approvals and other necessary third-party consents. Such sale and/or transfer may require our continued involvement, such as through transition service agreements, guarantees, loan repurchase obligations, loan servicing obligations and indemnities or other current or contingent financial obligations and liabilities. Additionally, such sale and/or transfer may expose us to increased information security risk as we provide data and information access to third parties.

There is no guarantee that (i) the anticipated benefits of such sale and/or transfer will be realized or (ii) we will be able to effectuate such sale and/or transfer at the prices, times, or volumes we desire, or at all. The inability to realize the full extent of the anticipated benefits, issues related to our ability to fully satisfy any post-sale and/or post-transfer obligations related to the Discover Student Loan portfolio and any delays encountered in such sale and/or transfer process, could have an adverse effect upon our capital position, revenues, levels of expenses, regulatory standing and operating results, which may adversely affect the value of our common stock. Also, our Board of Directors may determine that it is in our best interest ultimately not to complete such sale and/or transfer.

Acquisitions, strategic investments or divestitures may not be successful and could disrupt our business, harm our financial condition or reduce our earnings.

We may consider or undertake strategic acquisitions of, or material investments in, businesses, products, portfolios of loans or technologies in the future, and we may also divest or explore the sale of businesses, portfolios of loans or technologies from time to time. We may not be able to identify suitable acquisition or investment candidates, or even if we do identify suitable candidates, they may be difficult to finance or expensive to fund. Additionally, there is no guarantee that we can obtain any necessary regulatory approvals, obtain any necessary financing or complete transactions on terms that are favorable to us or in a timely manner. We generally must receive federal regulatory approvals before we can acquire a bank, bank holding company, deposits or certain assets or businesses. For additional information regarding bank regulatory limitations on acquisitions and investments, see "Business - Supervision and Regulation - Acquisitions and Investments."

To the extent we pay the purchase price of any strategic acquisition or investment in cash, it may have an adverse effect on our financial condition. Similarly, if the purchase price is paid with our stock, it may be dilutive to our stockholders. In addition, we may assume liabilities associated with a business acquisition or investment, including unrecorded liabilities that are not discovered at the time of the transaction. The repayment or settlement of those liabilities may have an adverse effect on our financial condition. Additionally, a divestiture may result in continued financial obligations, such as through transition service agreements, guarantees, indemnities or other current or contingent financial obligations and liabilities, following the transaction. The satisfaction of these continued financial obligations may also have an adverse effect on our financial condition.

We may not be able to successfully integrate or disaggregate personnel, operations, businesses, products, or technologies of an acquisition, investment or divestiture. Integration may be particularly challenging if we enter into a line of business in which we have limited experience and/or if the business operates in (or involves products or technologies in) a difficult legal, regulatory or competitive environment. We may find that we do not have adequate operations or expertise to manage the new business, products or technologies. The integration or disaggregation of any acquisition, investment or divestiture may divert management's time and resources from our core business, which could impair our relationships with our current employees, customers and strategic partners and disrupt our operations. Additionally, any acquisition, investment or divestiture may expose us to increased information security risk as we integrate new systems that we may not be as familiar with or bring them in line with the requirements of our information security and business continuity programs or provide data and information access to third parties. Acquisitions, investments and divestitures also may not perform to our expectations for various reasons, including the loss of key personnel, customers or vendors or changes in the economic or regulatory environment. If we fail to integrate acquisitions or investments, divest businesses or realize the expected benefits, we may lose the return on these acquisitions, investments or divestitures or incur additional transaction costs. As a result, our business, reputation and financial condition may be harmed.

Credit, Market and Liquidity Risk

The failure to successfully manage credit risk, which may result in high delinquency and charge-off rates, could materially adversely affect our business, profitability and financial condition.

As a lender, we are exposed to the risk that our borrowers will be unable or unwilling to repay the principal of, or interest on, loans in accordance with their terms. We seek to grow our loan receivables while maintaining quality credit performance. Our success depends on our ability to manage credit risk while attracting new customers with profitable usage patterns. We select customers, manage their accounts and establish terms and credit limits using externally developed and proprietary scoring models and other analytical techniques designed to set terms and credit limits to appropriately compensate us for the credit risk we accept, while encouraging customers to use their available credit. The models and approaches we use may not accurately predict future charge-offs due to, among other things, inaccurate assumptions. While we continually seek to improve our assumptions and models, we may make modifications that unintentionally cause them to be less predictive or incorrectly interpret the data produced by these models in setting our credit policies.

At December 31, 2023 and 2022, $2.3 billion, or 1.76%, and $1.3 billion, or 1.14%, of our loan receivables were non-performing (defined as loans over 90 days delinquent and accruing interest, plus loans not accruing interest). Our ability to manage credit risk and avoid high charge-off rates may be adversely affected by household, business, economic and market conditions that may be difficult to predict. When these conditions deteriorate, we may experience reduced demand for credit and increased delinquencies or defaults, including loans which we have securitized and in which we retain a residual interest. The level of nonperforming loans, charge-offs and delinquencies could rise and require additional provision for credit losses. There can be no assurance that our underwriting and portfolio management strategies will permit us to avoid high charge-off levels or that our allowance for credit losses will be sufficient to cover actual losses.

A customer's ability and willingness to repay us can be impacted by changes in their employment status, increases in their payment obligations to other lenders and by restricted availability of credit to consumers generally. Our collection operations may not compete effectively to secure more of customers' diminished cash flow than our competitors. In addition, we may fail to quickly identify customers who are likely to default on their payment obligations and reduce our exposure by closing credit lines and restricting authorizations, which could adversely impact our financial condition and results of operations. Our ability to manage credit risk also may be adversely affected by legal or regulatory changes (such as restrictions on collections, bankruptcy laws, minimum payment regulations and re-age guidance), competitors' actions and consumer behavior, as well as inadequate collections staffing, resources,

techniques and models. There can be no assurance that we will be able to grow the loan receivables portfolio in accordance with our strategies or manage credit and other risks associated with the loan products. Our failure to manage credit and other risks may materially adversely affect profitability and the ability to grow the loan receivables portfolio and further diversify the business.

Adverse market conditions or an inability to effectively manage our liquidity risk could negatively impact our ability to meet our liquidity and funding needs, which could materially adversely impact our business, results of operations and overall financial condition.

We must effectively manage the liquidity risk to which we are exposed. We require liquidity in order to meet cash requirements such as day-to-day operating expenses, extensions of credit on our consumer loans, satisfaction of deposit liabilities upon withdrawal or maturity and required payments of principal and interest on our borrowings. Our primary sources of liquidity and funding are payments on our loan receivables, deposits and proceeds from securitization transactions and securities offerings. We may maintain too much liquidity, which can be costly, or we may be too illiquid, which could limit financial flexibility and result in financial distress during a liquidity stress event. Our liquidity portfolio had a balance of approximately $23.3 billion as of December 31, 2023, compared to $19.8 billion as of December 31, 2022. Our total contingent liquidity sources amounted to $69.8 billion as of December 31, 2023, compared to $67.3 billion as of December 31, 2022. As of December 31, 2023, our total contingent liquidity sources consisted of $23.3 billion in our liquidity portfolio, $2.8 billion of undrawn capacity in private securitizations, $2.6 billion in borrowing capacity with the FHLB of Chicago and $41.2 billion in incremental Federal Reserve discount window capacity.

In the event that our current sources of liquidity do not satisfy our needs, we would be required to seek additional financing. The availability of additional financing will depend on a variety of factors such as market conditions, the general availability of credit to the financial services industry, new regulatory restrictions and requirements and our credit ratings. Disruptions, uncertainty or volatility in the capital, credit or deposit markets may limit our ability to repay or replace maturing liabilities in a timely manner. As such, we may be forced to delay the acquisition of additional funding or be forced to issue or raise funding at undesirable terms and/or costs, which could decrease profitability and significantly reduce financial flexibility. Further, in disorderly financial markets or for other reasons, it may be difficult or impossible to liquidate some of our investments to meet our liquidity needs.

There can be no assurance that significant disruption and volatility in the financial markets will not occur in the future. Likewise, adverse developments with respect to financial institutions and other third parties with whom we maintain important financial relationships could negatively impact our funding and liquidity. If we are unable to continue to fund our assets through deposits or access capital markets on favorable terms, or if we experience an increase in our borrowing costs or otherwise fail to manage our liquidity effectively, our liquidity, results of operations and financial condition may be materially adversely affected.

An inability to accept or maintain deposits in the future could materially adversely affect our liquidity position and our ability to fund our business.

A major source of our funds is customer deposits, primarily in the form of savings accounts, certificates of deposits, money market accounts and checking accounts. We obtain deposits from consumers either directly or through affinity relationships and through third-party securities brokerage firms that offer our deposits to their customers. We had $84.0 billion in deposits acquired directly or through affinity relationships and $24.9 billion in deposits originated through securities brokerage firms as of December 31, 2023, compared to $70.5 billion and $21.1 billion, respectively, as of December 31, 2022. Our ability to attract and maintain deposits, as well as our cost of funds, has been, and will continue to be, significantly affected by general economic conditions. Competition from other financial services firms that use deposit funding, the rates and services we offer on our deposit products and our ability to maintain a high-quality customer experience may affect deposit renewal rates, costs or availability. Changes we make to the rates offered on our deposit products may affect our profitability (through funding costs) and our liquidity (through volumes raised). In addition, our ability to maintain existing or obtain additional deposits may be impacted by various factors, including factors beyond our control, such as perceptions about our reputation, brand, or financial strength; quality of deposit servicing or branchless banking generally, which could reduce the number of consumers choosing to place deposits with us; third parties continuing or entering into affinity relationships or marketing arrangements with us; disruptions in technology services or the internet, generally; or third-party securities brokerage firms continuing to offer our deposit products. A severe reputational event at the Company resulting in fines or additional remediation impacts may result in material deposit outflows and limit our ability to attract new deposits. Furthermore, customers may withdraw deposits to ensure that their deposits are fully insured or make investments that

have a higher yield. If our customers withdraw their deposits, our funding costs may increase, which may reduce our net interest income and net income.

Our ability to obtain deposit funding and offer competitive interest rates on deposits is also dependent on capital levels of our bank subsidiary. In certain circumstances, the FDIA prohibits insured banks from accepting brokered deposits (as defined in the FDIA) and applies other restrictions, such as a cap on interest rates we may pay. See "Business - Supervision and Regulation" and Note 17: Capital Adequacy to our consolidated financial statements for more information. While our subsidiary, Discover Bank, met the FDIC's definition of "well-capitalized" as of December 31, 2023 and has no restrictions regarding acceptance of brokered deposits or setting of interest rates, there can be no assurance that it will continue to meet this definition. Additionally, our regulators can adjust the requirements to be "well-capitalized" at any time and have authority to place limitations on our deposit businesses, including the interest rate we pay on deposits.

If we are unable to securitize our credit card receivables, it may have a material adverse effect on our liquidity, cost of funds and overall financial condition.

We use the securitization of credit card receivables as a significant source of funding as well as for contingent liquidity. The securitization of credit card receivables involves the transfer of credit card receivables to a trust, the transfer of the beneficial interest in those credit card receivables to a second trust through a special purpose entity and the issuance by the second trust of notes to third-party investors collateralized by the beneficial interest in the transferred credit card receivables. Our average level of credit card securitized borrowings from third parties was $10.5 billion and $9.0 billion for the years ended December 31, 2023 and 2022, respectively. There can be no assurance that we will be able to complete additional credit card securitization transactions if the credit card securitization market experiences significant and prolonged disruption or volatility.

Our ability to raise funding through the securitization market also depends, in part, on the credit ratings of the securities we issue from our securitization trusts. If we are not able to satisfy rating agency requirements to confirm the ratings of asset-backed securities issued by our trusts at the time of a new issuance of securities, it could limit our ability to access the securitization markets. Additional factors affecting the extent to which we may securitize our credit card receivables in the future include the overall credit quality of our credit card receivables, the costs of securitizing our credit card receivables, the demand for credit card asset-backed securities and the legal, regulatory, accounting or tax rules affecting securitization transactions and asset-backed securities, generally.

A prolonged inability to securitize our credit card receivables, or an increase in the costs of such issuances that would make such activities economically infeasible, may require us to seek alternative funding sources, which may be less efficient and more expensive than raising capital via securitization transactions and may have a material adverse effect on our liquidity, cost of funds and overall financial condition.

The occurrence of events that result in the early amortization of our existing credit card securitization transactions or an inability to delay the accumulation of principal collections for our existing credit card securitization transactions would materially adversely affect our liquidity.

Our liquidity and cost of funds would be materially adversely affected by the occurrence of events that could result in the early amortization of our existing credit card securitization transactions. Our credit card securitization transactions are structured as "revolving transactions" that do not distribute to securitization investors their share of monthly principal payments received on the underlying receivables during the revolving period and instead use those principal payments to fund the purchase of new credit card receivables. The occurrence of an "early amortization event" may result in termination of the revolving periods of one or more of our securitization transactions, which would require us to repay the affected outstanding securitized borrowings out of principal collections without regard to the original payment schedule. Early amortization events include, for example, insufficient cash flows in the securitized pool of credit card receivables to meet contractual requirements (i.e., excess spread less than zero) and certain breaches of representations, warranties or covenants in the agreements relating to the securitization transactions. For more information on excess spread, see Note 5: Credit Card and Private Student Loan Securitization Activities to our consolidated financial statements. An early amortization event would negatively impact our liquidity and require us to rely on alternative funding sources, which may or may not be available at the time or may be less efficient and more expensive. An early amortization event also could impact our ability to access the undrawn secured credit facilities that we maintain for contingent liquidity purposes. Additionally, the occurrence of an early amortization event with respect to any of our securitization transactions may adversely impact investor demand for notes issued in our future credit card securitization transactions.

Our credit card securitization structure includes a requirement that we accumulate principal collections into a restricted account in the amount of scheduled maturities on a pro rata basis over the 12 months prior to a security's maturity date. We have the option under our credit card securitization documents to shorten this accumulation period, subject to the satisfaction of certain conditions. Historically, we have exercised this option to shorten the accumulation period to a few months prior to maturity. If we were to determine that the payment rate on the underlying credit card receivables would not support a short accumulation period, we would need to begin accumulating principal cash flows earlier than we have historically. A lengthening of the accumulation period could negatively impact our liquidity, requiring management to implement mitigating measures. During periods of significant maturity levels, absent management actions, the lengthening of the accumulation period could materially adversely affect our financial condition.

A downgrade in the credit ratings of our or our subsidiaries' securities could materially adversely affect our liquidity, results of operations and financial condition.

We, along with Discover Bank, are regularly evaluated by the ratings agencies. Their ratings for our long-term debt and other securities, including asset-backed securities issued by our securitization trusts, are based on a number of factors that may change from time to time, including our financial strength as well as factors that may not be within our control. Factors that affect our unsecured credit ratings include, but are not limited to, the macroeconomic environment in which we operate and the credit ratings of the U.S. government, the credit quality and performance of our assets, the amount and quality of our capital, the level and stability of our earnings and the structure and amount of our liquidity. In addition to these factors, the ratings of our asset-backed securities are also based on the quality of the underlying receivables and the credit enhancement structure of the trusts. Downgrades in our ratings, those of Discover Bank or our asset-backed securities could occur at any time and without notice by any of the rating agencies, which could, among other things, materially adversely affect our cost of funds, access to capital and funding and overall financial condition. There can be no assurance that we will be able to maintain our current credit ratings or that our credit ratings will not be lowered or withdrawn.

We may not be successful in managing the investments in our liquidity investment portfolio and investment performance may deteriorate due to market fluctuations, which would adversely affect our business and financial condition.

We must effectively manage the risks of the investments in our liquidity investment portfolio, which is composed of cash and cash equivalents and high-quality liquid investments. The value of our investments may be adversely affected by market fluctuations including changes in interest rates, prices, prepayment rates, credit risk premiums and overall market liquidity. Also, investments backed by collateral could be adversely impacted by changes in the value of the underlying collateral. In addition, economic conditions may cause certain of the obligors, counterparties and underlying collateral on our investments to incur losses of their own or default on their obligations to us due to bankruptcy, lack of liquidity, operational failure or other reasons, thereby increasing our credit risk exposure to these investments. These risks could result in a decrease in the value of our investments, which could negatively impact our financial condition. These risks could also restrict our access to funding. While the securities in our investment portfolio are currently limited to obligations of high-quality sovereign and government-sponsored issuers, we may choose to expand the range of our investments over time, which may result in greater fluctuations in market value. While we expect these investments to be readily convertible into cash and do not believe they present a material increase to our risk profile or will have a material impact on our risk-based capital ratios, they are subject to certain market fluctuations that may reduce the ability to fully convert them into cash.

Changes in the level of interest rates could materially adversely affect our earnings.

Changes in interest rates cause our net interest income to increase or decrease, as some of our assets and liabilities carry interest rates that fluctuate with market benchmarks. Through July 2023, short-term interest rates continued to rise as the Federal Reserve tightened monetary policy further. Although U.S. economic growth remained strong in 2023, financial market participants and the Federal Reserve Board expect that growth will decelerate in 2024 while inflationary pressures and labor market conditions normalize, leading to potential reductions in the federal funds target rate range throughout the year. The timing and pace of interest rate changes is uncertain, however, and will largely depend on trends in inflation, employment, and other macroeconomic factors. Higher interest rates could negatively impact our customers as total debt service payments would increase, impede our ability to grow our consumer lending businesses and increase the cost of our funding, which would put us at a disadvantage as compared to some of our competitors that have less expensive funding sources.

Some of our consumer loan receivables bear interest at a fixed rate or do not earn interest and we are not able to increase the rate on those loans to offset any higher cost of funds, which could materially reduce earnings. At the same time, some of our variable-rate loan receivables are subject to a cap, exposing us to interest-rate risk. In addition, we utilize a combination of fixed- and variable-rate funding from various sources, and we may use derivative instruments to hedge the liabilities. However, timing mismatches between loan receivable growth and funding procurement could expose us to interest-rate risk.

Interest rates may also adversely impact our delinquency and charge-off rates. Many consumer lending products bear interest rates that fluctuate with certain base lending rates published in the market, such as the prime rate and Secured Overnight Financing Rate. As a result, higher interest rates often lead to higher payment requirements by consumers under obligations to us and other lenders, which may reduce their ability to remain current on their obligations to us and thereby lead to loan delinquencies and additions to our credit loss provision, which could materially adversely affect our earnings.

We continually monitor interest rates and have a number of tools, including the composition of our loans and investments, liability terms and interest rate derivatives, to manage our interest rate risk exposure. Changes in market assumptions regarding future interest rates could significantly impact our interest rate risk strategy, our financial position and results of operations. If our interest rate risk management strategies are not appropriately monitored or executed, these activities may not effectively mitigate our interest rate sensitivity or have the desired impact on our results of operations or financial condition. For information related to interest rate risk sensitivities, see "Item 7A - Quantitative and Qualitative Disclosures About Market Risk."

Operational and Other Risk

Our risk management framework and models for managing risks may not be effective in mitigating our risk of loss.

Our risk management framework seeks to identify and mitigate risk and appropriately balance risk and return. We have established processes and procedures intended to identify, measure, manage, monitor and report the types of risk to which we are subject, including credit risk, market risk, liquidity risk, operational risk, compliance and legal risk and strategic risk. We seek to monitor and control our risk exposure through a framework of policies, procedures, limits and reporting requirements.

Management of our risks in some cases depends upon the use of analytical and/or forecasting models. We use a variety of models to manage and inform decision-making with respect to customers and for the measurement of risk including credit, market and operational risks and for our finance and treasury functions. Models used by Discover can vary in their complexity and are designed to identify, measure and mitigate risks at various levels such as loan-level, portfolio segments, entire portfolios and products. These models use a set of computational rules to generate numerical estimates of uncertain values to be used for assessment of price, financial forecasts and estimates of credit, interest rate, market and operational risk. These models and the quality of their outputs are dependent on the quality and accuracy of the data loaded into the models. To the extent that the quality and integrity of that data is compromised, the models could result in inaccurate forecasts, ineffective risk management practices or inaccurate risk reporting. All models carry some level of uncertainty that introduces risks in the estimates.

If the models that we use to mitigate risks are inadequate or do not accurately predict future outcomes, we may incur increased losses. In addition, there may be risks that exist, or that develop in the future, that we have not appropriately anticipated, identified or mitigated. If our risk management framework and models do not effectively identify or mitigate our risks, we could suffer unexpected losses and our financial condition and results of operations could be materially adversely affected.

If the security of our systems, or the systems of third parties we rely upon, is compromised, our business could be disrupted and we may be subject to significant financial exposure, liability and damage to our reputation.

Our digital banking and network operations rely heavily on the secure processing, storage and transmission of confidential or sensitive information about us, our customers and third parties with whom we do business. Information security risks for financial institutions have increased and continue to increase in part because of the proliferation of new technologies, the use of the internet and cloud, mobile and telecommunications technologies to conduct financial transactions and the increased sophistication and activities of organized crime, activists, hackers, terrorist organizations, nation state actors and other external parties. Those parties may also attempt to fraudulently induce employees, customers or other users of our systems (including third parties) to disclose confidential or sensitive information in order to gain access to our data or that of our customers.

Our technologies, systems, networks and software, those of other financial institutions and other firms (such as hardware vendors, cloud providers and others), have been, and are likely to continue to be, the target of increasingly frequent cyber-attacks, malicious code, ransomware, denial of service attacks, phishing and other social engineering, other remote access attacks and physical attacks that could result in unauthorized access, misuse, loss, unavailability or destruction of data (including confidential customer information), account takeovers, identity theft and fraud, unavailability of service or other events. These types of threats may derive from human error, fraud or malice on the part of external or internal parties or may result from technological failure or otherwise. Further, our vulnerability to these types of threats may be increased to the extent employees work remotely or in hybrid work arrangements.

Despite our efforts to ensure the integrity of our systems through our information security and business continuity programs, we may not be able to anticipate or to implement effective preventive measures against all known and unknown security threats, attacks or breaches or events of these types, especially because the techniques used change frequently and are becoming increasingly more sophisticated or are not recognized until launched or vulnerabilities in software or hardware are unknown or are unable to be entirely addressed even after becoming known, and because:

- Security attacks can originate from a wide variety of sources and geographic locations and may be undetected for a period of time.
- We rely on many third-party service providers and network participants, including merchants, and, as such, a security breach or cyber-attack affecting one of these third parties could impact us. For example, the financial services industry continues to see attacks against the environments where personal and identifiable information is handled. For additional information see the risk factor "- Failure to manage our relationships with third-party service providers could result in our revenue or results of operations being materially adversely affected."
- Our customers may use computers and mobile devices that are beyond our security control systems to access our products and services.

We are subject to increasing risk related to information and data security as we increase acceptance of the Discover card internationally, expand our suite of online digital banking products, enhance our mobile payment technologies, acquire new or outsource some of our business operations, expand our internal usage of web-based products and applications, and otherwise attempt to keep pace with rapid technological changes in the financial services industry. Our efforts to mitigate this risk increase our expenses. While we continue to invest in our information security defenses (including cybersecurity defenses), if our security systems or those of third parties are penetrated or circumvented such that the confidentiality, integrity or availability of information about us, our customers, transactions processed on our networks or on third-party networks on our behalf or third parties with which we do business is compromised, we could be subject to significant liability that may not be covered by insurance, including significant legal and financial exposure, actions by our regulators, damage to our reputation, or a loss of confidence in the security of our systems, products and services that could materially adversely affect our business.

Cyber-attacks that are successful, or are perceived to be successful, in compromising the data or disrupting the services of other peer financial institutions, whether or not we are impacted, could lead to a general loss of customer confidence, which could negatively impact market perception of our products and services. Media reports of attempted cyber-attacks, service disruptions or vulnerabilities in our information systems or security procedures or those of any of the third-party service providers we engage, could cause significant legal and financial exposure, lead to regulatory and legislative intervention and cause an overall negative effect in our business. For additional information on risks in this area, see the risk factors below regarding fraudulent activity, the introduction of new products and services, the use of third parties for outsourcing, technology generally, and laws and regulations addressing consumer privacy and data use and security.

If we cannot remain organizationally effective, we will be unable to address the opportunities and challenges presented by our strategy and the increasingly dynamic and competitive economic and regulatory environment.

To remain organizationally effective, we must effectively empower, integrate and deploy our management and operational resources and incorporate global and local business, regulatory and consumer perspectives into our decisions and processes. In order to execute on our objective to be the leading consumer bank and payments partner, we must develop and implement innovative and efficient technology solutions and marketing initiatives while effectively managing legal, regulatory, compliance, security, operational and other risks as well as expenses. Examples include the implementation of a broader rollout of our checking product and a structure for a more competitive global network business. If we fail to develop and implement these solutions, we may be unable to expand quickly and the results of our

expansion may be unsatisfactory. In addition, if we are unable to make decisions quickly, assess our opportunities and risks, execute our strategy and implement new governance, managerial and organizational processes as needed in this increasingly dynamic and competitive economic and regulatory environment, our financial condition, results of operations, relationships with our business partners, banking regulators, customers and shareholders, and ultimately our prospects for achieving our long-term strategies, may be negatively impacted.

We may be unable to increase or sustain Discover credit card usage, which could impair growth in, or lead to diminishing, average balances and total revenue.

A key element of our business strategy is to increase the usage of the Discover credit card by our customers, including making it their primary credit card, and thereby increase our revenue from transaction and service fees and interest income. However, our customers' use and payment patterns may change because of social, legal and economic factors, and customers may decide to use debit cards or other payment products instead of credit cards, not increase credit card usage, or pay their balances within the grace period to avoid finance charges. We face challenges from competing card products in our attempts to increase credit card usage by our existing customers. Our ability to increase credit card usage also is dependent on customer satisfaction, which may be adversely affected by factors outside of our control, including competitors' actions and legislative/regulatory changes. Existing legal and regulatory restrictions limit pricing changes that may impact an account throughout its lifecycle, which may reduce our capability to offer lower price promotions to drive account usage and customer engagement. As part of our strategy to increase usage, we have been increasing the number of merchants who accept credit cards issued on the Discover Network. If we are unable to continue increasing merchant acceptance or fail to improve awareness of existing merchant acceptance of our credit cards, our ability to grow usage of Discover credit cards may be hampered. As a result of these factors, we may be unable to increase or sustain credit card usage, which could impair growth in or lead to diminishing average balances and total revenue.

A reduction in the number of large merchants that accept cards on the Discover Network or PULSE network or in the rates they pay could materially adversely affect our business, financial condition, results of operations and cash flows.

Discover card net transaction dollar volume was concentrated among our top 100 merchants in 2023, with our largest merchant accounting for approximately 6% of that net transaction volume. Transaction volume on the PULSE network was also concentrated among the top 100 merchants in 2023, with our largest merchant accounting for approximately 17% of PULSE transaction volume. These merchants could seek to negotiate better pricing or other financial incentives by conditioning their continued participation in the Discover Network and/or PULSE network on a change in the terms of their economic participation. Loss of acceptance at our largest merchants would decrease transaction volume, negatively impact our brand and could cause customer attrition. In addition, some of our merchants, primarily our remaining small- and mid-size merchants, are not contractually committed to us for any period of time and may cease to participate in the Discover Network at any time on short notice.

Actual or perceived limitations on acceptance of credit cards issued on the Discover Network or debit cards issued on the PULSE network could adversely affect the use of Discover cards by existing customers and the attractiveness of Discover cards to prospective customers. Also, we may have difficulty attracting and retaining network partners if we are unable to add or retain acquirers or merchants who accept cards issued on the Discover or PULSE networks. As a result of these factors, a reduction in the number of our merchants or the rates they pay could materially adversely affect our business, financial condition, results of operations and cash flows.

Our business, financial condition and results of operations may be adversely affected by merchants' increasing focus on the fees charged by credit card and debit card networks.

Merchant acceptance and fees are critical to the success of both our card-issuing and payment processing businesses. Merchants are concerned with the fees charged by credit card and debit card networks. They seek to negotiate better pricing or other financial incentives as a condition of continued participation in the Discover Network and PULSE network. Merchants and their trade groups have filed numerous lawsuits against Visa, MasterCard, American Express and their card-issuing banks, claiming that their practices toward merchants, including issuer fees, violate federal antitrust laws. There can be no assurance that they will not in the future bring legal proceedings against other credit card and debit card issuers and networks, including us. Merchants also may promote forms of payment with lower fees, such as ACH-based payments, or seek to impose surcharges at the point of sale for use of credit or debit cards. Merchant groups have also promoted federal and state legislation that would restrict issuer practices or enhance the ability of merchants, individually or collectively, to negotiate more favorable fees. The heightened focus by

merchants on the fees charged by credit card and debit card networks, together with the Dodd-Frank Act and recent industry litigation, which would allow merchants to encourage customers to use other payment methods or cards and may increase merchant surcharging, could lead to reduced transactions on, or merchant acceptance of, Discover Network or PULSE network cards or reduced fees, any of which could adversely affect our business, financial condition and results of operations.

Political, economic or other instability in a country or geographic region, or other unforeseen or catastrophic events, could adversely affect our business activities and reduce our revenue.

Geopolitical events, natural disasters, extreme weather-related events or other catastrophic events, including terrorist attacks and pandemics, may have a negative effect on our business and infrastructure, including our information technology systems. Climate change may exacerbate certain of these threats, including the frequency and severity of weather-related events and other natural disasters. Our Diners Club network, concentrated primarily on serving the global travel industry, could be adversely affected by a number of factors including international conditions, travel restrictions, pandemics or negative perceptions about the safety of travel that may result in an indefinite decline in consumer or business travel activity. Armed conflict, public health emergencies, natural disasters, political instability or terrorism may have a significant and prolonged negative effect on travel activity and related revenue. Although a regionalized event or condition may primarily affect one of our network participants, it may also affect our overall network and card activity and our resulting revenue. Overall network and card transaction activity may decline as a result of concerns about safety or disease or may be limited because of economic conditions that result in spending, including on travel, to decline. The impact of such events and other catastrophes on the overall economy may also adversely affect our financial condition or results of operations.

Fraudulent activity associated with our products or our networks could cause our brands to suffer reputational damage, the use of our products to decrease and our fraud losses to be materially adversely affected.

We are subject to the risk of fraudulent activity associated with merchants, customers and other third parties handling customer information. The fraud environment continues to be challenging for the financial services industry in general. Credit and debit card fraud, identity theft and electronic-transaction related crimes are prevalent and perpetrators are growing ever more sophisticated. More recently, emerging generative AI capabilities, such as synthetic voice and conversation generation, introduced new fraud risks, especially in the form of identity fraud. While we have policies and procedures designed to address such risk, there can be no assurance that losses will not occur. Our resources, customer authentication methods and fraud prevention tools may be insufficient to accurately predict, prevent or detect fraud. Consumer activists and regulators have sought to expand financial institutions' responsibility to hold customers harmless for fraudulent transactions on their accounts. We incurred fraud losses and other charges of $131 million and $149 million during the years ended December 31, 2023 and 2022, respectively.

Our risk of fraud continues to increase as third parties that handle confidential consumer information suffer security breaches, acceptance of the Discover card grows internationally and we expand our digital banking business and introduce new products and features. Our financial condition, the level of our fraud charge-offs and other results of operations could be materially adversely affected if fraudulent activity were to significantly increase. Furthermore, high-profile fraudulent activity could negatively impact our brand and reputation. In addition, significant increases in fraudulent activity could lead to regulatory intervention (such as mandatory card reissuance) and reputational and financial damage to our brands, which could negatively impact the use of our deposit accounts, cards and networks and thereby have a material adverse effect on our business. Further, fraudulent activity may result in lower license fee revenue from our Diners Club licensees.

The financial services and payment services industries are rapidly evolving and we may be unsuccessful in introducing new products or services on a large scale in response to these changes.

Technological changes continue to significantly impact the financial services and payment services industries. For example, we may be unsuccessful in deploying new technologies to strengthen our credit underwriting capabilities, enhance the effectiveness of our marketing efforts, ensure acceptance with new payment technologies, enhance customer service, drive efficiencies in back-office functions or reduce fraud. The competitive mobile, e-wallet and tokenization spaces are expected to continue to bring risks and opportunities to both our digital banking and payment services businesses.

The effect of technological changes on our business is both rapid and unpredictable. We depend, in part, on third parties for the development of and access to new technologies. We expect that new services and technologies

relating to the payments business will continue to appear in the market and these new services and technologies may be superior to, or render obsolete, the technologies that we currently use in our products and services. Rapidly evolving technologies and new entrants in mobile and emerging payments pose a risk to us both as a card issuer and as a payments business. As a result, our future success may be dependent on our ability to identify and adapt to technological changes and evolving industry standards and to provide payment solutions for our customers, merchants and financial institution customers.

The process of developing new products and services or enhancing our existing products and services is complex, costly and uncertain. Difficulties or delays in the development, production, testing and marketing of new products or services may be caused by a number of factors including, among other things, operational, capital and regulatory constraints. The occurrence of such difficulties may affect the success of our products or services. Developing unsuccessful products and services could result in financial losses as well as decreased capital availability. In addition, the new products and services offered may not be adopted by consumers, merchants or financial institution customers. Also, the success of a new product or service may depend upon our ability to deliver it on a large scale, which may require a significant capital investment that we may not be in a position to make. If we are unable to successfully introduce and support new income-generating products and services while also managing our expenses, it may impact our ability to compete effectively and materially adversely affect our business, financial condition and results of operations.

Failure to manage our relationships with third-party service providers could result in our revenue or results of operations being materially adversely affected.

We depend on third-party service providers for many aspects of the operation of our business. For example, we depend on third parties for software and systems development, the timely transmission of information across our data transportation network and for other telecommunications, processing, remittance, technology-related and other services in connection with our digital banking and payment services businesses. If a service provider fails to provide the services that we require or expect, or fails to meet contractual requirements, such as service levels, security requirements or compliance with applicable laws, the failure could negatively impact our business by adversely affecting our ability to process customers' transactions in a secure, consistent, timely and accurate manner, otherwise hampering our ability to serve our customers, or subjecting us to litigation and regulatory risk for poor vendor oversight. Such a failure could adversely affect the perception of the reliability of our networks and services, and the quality of our brands, and could have a materially adverse effect on our reputation, revenues and/or our results of operations.

With remote and hybrid work arrangements, we have become increasingly dependent on third-party service providers, including those with which we have no direct relationship, such as our employees' internet service providers. If these third-parties experience service disruptions, our operations may be interrupted or negatively impacted.

If our key technology platforms become obsolete, or if we experience disruptions, including difficulties in our ability to process transactions, our revenue or results of operations could be materially adversely affected.

Our ability to deliver services to our customers and run our business in compliance with applicable laws and regulations may be affected by the functionality of our technology systems. The implementation of technology changes as well as patches and upgrades to maintain current and integrated systems may result in compliance issues and may, at least temporarily, cause disruptions to our business, including, but not limited to, systems interruptions, transaction processing errors and system conversion delays, all of which could have a negative impact on us. In addition, our transaction processing systems and other operational systems may encounter service interruptions at any time due to system or software failure, natural disaster or other reasons. Such services could be disrupted at any of our primary or back-up facilities or our other owned or leased facilities. Third parties to whom we outsource the maintenance and development of certain technological functionality may experience errors or disruptions that could adversely impact us and over which we may have limited control. In addition, there is no assurance that we will be able to sustain our investment in new technology to avoid obsolescence of critical systems and applications. A failure to maintain current technology, systems and facilities or to control third-party risk, could cause disruptions in the operation of our business, which could materially adversely affect our transaction volumes, revenues, reputation and/or our results of operations.

If we are unable to recruit, retain and motivate key officers and employees to drive our business, our business could be materially adversely affected.

Our success depends, in large part, on our ability to recruit, retain and motivate key officers and employees to manage and grow our business. Our senior management team has significant industry experience and would be

difficult to replace. We believe we are in a critical period of competition in the financial services and payments industry. The market for qualified individuals is highly competitive and we may not be able to attract and retain qualified personnel or candidates to replace or succeed members of our senior management team or other key personnel or it may be expensive to do so. We may be subject to restrictions under future legislation or regulation limiting executive compensation. For example, the federal banking agencies have previously issued proposed rulemaking on incentive compensation practices for certain employees at banking organizations, including executives, and may issue additional rules relating to such activities in the future. These requirements could negatively impact our ability to compete with other companies in attracting, hiring and retaining key personnel and offer incentives that motivate our key personnel to perform and may require us to extensively restructure certain of our existing incentive compensation practices. Additionally, the market for individuals with skills in fields such as technology, advanced analytics, digital marketing and payments is increasingly competitive and we may not be able to attract and retain persons with the desired skill set or experience. If we are unable to recruit, retain and motivate key personnel to manage and grow our business well, our business could be materially adversely affected.

Merchant defaults may adversely affect our business, financial condition, cash flows and results of operations.

As an issuer and merchant acquirer in the U.S. on the Discover Network and as a holder of certain merchant agreements internationally for the Diners Club network, we may be contingently liable for certain disputed credit card sales transactions that arise between customers and merchants. If a dispute is resolved in the customer's favor, we will cause a credit or refund of the amount to be issued to the customer and charge back the transaction to the merchant or merchant acquirer. If we are unable to collect this amount from the merchant or merchant acquirer, we will bear the loss for the amount credited or refunded to the customer. Where the purchased product or service is not provided until some later date following the purchase, such as an airline ticket, the likelihood of potential liability increases. Losses related to merchant chargebacks were not material for the years ended December 31, 2023 and 2022.

Damage to our reputation could negatively affect our business and brand.

In recent years, financial services companies have experienced increased reputational risk as consumers protest and regulators scrutinize business and compliance practices of such companies. Maintaining a positive reputation is critical to attracting and retaining customers, investors and employees. Damage to our reputation can therefore cause significant harm to our business and prospects. Harm to our reputation can arise from numerous sources, including, among others, employee misconduct; a breach of our or our service providers' cybersecurity defenses; litigation or regulatory outcomes; failing to deliver minimum standards of service and quality; compliance failures; and the activities of customers, business partners and counterparties. Social media also can cause harm to our reputation. By its very nature, social media can reach a wide audience in a very short amount of time, which presents unique corporate communications challenges. Negative or otherwise undesirable publicity generated through unexpected social media coverage can damage our reputation and brand. Negative publicity regarding us, whether or not true, may result in customer attrition and other harm to our business prospects. There has also been increased focus on topics related to environmental, social and corporate governance policies, and criticism of our policies in these areas could also harm our reputation and/or potentially limit our access to some forms of capital or liquidity.

We may be unsuccessful in protecting or defending our brands or other intellectual property, or third parties may allege that we are infringing their intellectual property rights.

We rely on a multifaceted strategy to protect our intellectual property that takes advantage of protection such as patents, trademarks, copyrights, trade secrets and other restrictions on disclosure of confidential and proprietary information. We develop our intellectual property internally and in some cases license it from third parties.

In addition, the Discover, PULSE and Diners Club brands have substantial economic and intangible value. Our success is dependent on our ability to promote and protect these brands and our other intellectual property. Our ability to attract and retain customers is highly dependent upon the external perception of our Company and brands. We strategically license our trademarks to business partners and network participants, some of whom have contractual obligations to promote and develop our brands. For example, the Discover card brand is now being issued by certain Diners Club licensees in their local markets.

If our business partners or other third parties do not adhere to contractual standards, engage in improper business practices, or otherwise misappropriate, misuse or diminish the value of our brands or our other intellectual property, we may suffer reputational and financial damage. If we will not be able to adequately protect our brands, our proprietary information and other intellectual property, our business success may be adversely affected. In addition,

third parties may allege that our developed or licensed marketing, processes or systems may infringe upon their intellectual property rights. Given the potential risks and uncertainties of such claims, our business could be adversely affected by having to pay significant monetary damages, technology development expenses or licensing fees, and we may have to alter our business practices or be prevented from competing effectively.

Laws, regulations and supervisory guidance and practices, or the application thereof, may adversely affect our business, financial condition and results of operations.

We must comply with an array of banking, consumer lending and payment services laws and regulations in all jurisdictions in which we operate as described more fully in "Business - Supervision and Regulation," the risk factor entitled "- *Financial regulatory developments have and will continue to significantly impact the environment for the financial services industry, which could adversely impact our business, results of operations and financial condition"* and "Management's Discussion and Analysis of Financial Condition and Results of Operations - Regulatory Environment and Developments." In addition, we are subject to inquiries and enforcement actions from states' attorney general offices and regulation by federal regulators, state banking regulators and the U.S. Department of Justice, as well as the SEC and New York Stock Exchange in our capacity as a public company. We also are subject to the requirements of entities that set and interpret accounting standards (such as the Financial Accounting Standards Board, the SEC, banking regulators and our independent registered public accounting firm), which may add new requirements or change their interpretations on how standards should be applied. Guidance not yet issued could potentially have a material impact on business lines, as well as how we record and report our financial condition and results of operations, and could have an impact on regulatory capital.

Failure to comply with laws, regulations and standards could lead to adverse consequences such as financial, structural, reputational and operational penalties, including our bank subsidiary being placed in receivership, litigation exposure and disgorgement and fines (as described further below). For example, failure to comply with anti-terrorism, anti-money laundering, anti-bribery and anti-corruption laws, including the USA Patriot Act of 2001, the U.S. Foreign Corrupt Practices Act and other laws regarding corporate conduct, can expose us and/or individual employees to severe criminal and civil penalties.

Legislative, regulatory and tax code changes could impact the profitability of our business activities, alter consumer behavior in ways we did not anticipate, require us to limit or change our business practices or our product offerings, or expose us to additional costs (including increased compliance costs). Significant changes in laws and regulations may have a more adverse effect on our results of operations than on the results of our competitors or may disproportionately benefit our competitors.

Current and proposed laws and regulations addressing consumer privacy and data use and security could affect the competitiveness of our products and increase our costs.

Legal or regulatory pronouncements relating to consumer privacy, data use and security affect our business. We are subject to a number of laws concerning consumer privacy and data use and security enacted by U.S. and non-U.S. governmental and regulatory authorities, such as the European Union's General Data Protection Regulation, the GLBA, and the California Consumer Privacy Act. Due to recent consumer data compromise events in the U.S., which resulted in unauthorized access to millions of customers' data, these areas continue to be a focus of the U.S. Executive Branch and Congress, state legislators and attorneys general and other regulators. Developments in this area, such as new laws, regulations, regulatory guidance, litigation or enforcement actions, could result in new or different requirements on Discover and other card issuers or networks that could increase costs or adversely affect the competitiveness of our credit card or debit card products. See "Management's Discussion and Analysis of Financial Condition and Results of Operations - Regulatory Environment and Developments" for more information. In addition, failure to comply with the privacy and data use and security laws and regulations to which we are subject, including by reason of inadvertent disclosure of confidential information or the failure to provide timely notification of a disclosure, could result in litigation, fines, sanctions, penalties or other adverse consequences and loss of consumer confidence, which could materially adversely affect our results of operations, overall business and reputation.

Litigation and regulatory actions could subject us to significant fines, penalties and/or requirements resulting in increased expenses, oversight and reputation risk.

Consumer banking and payment services institutions have historically been subject to significant legal actions, both from private and government litigants. In addition to regulatory actions, private litigation may include class action lawsuits and commercial, shareholder and patent litigation. Many of these actions have included claims for substantial

compensatory, statutory or punitive damages. We have been, currently are, and may again be involved in various actions or proceedings brought by private litigants as well as governmental regulatory and enforcement agencies. This includes the 2020 Order with the CFPB pursuant to which Discover is required to implement a redress and compliance plan in addition to the payment of at least $10 million in consumer redress to consumers who may have been harmed and a $25 million civil money penalty to the CFPB, and the September 2023 consent order by the FDIC with Discover Bank regarding its compliance management system for consumer protection laws pursuant to which Discover Bank has agreed to improve its consumer compliance management system and enhance related corporate governance and enterprise risk management practices, and increase the level of Board oversight over such matters. In addition, we may be subject to further actions, including the imposition of additional consent orders, regulatory agreements or civil money penalties, by governmental regulatory and enforcement agencies regarding similar or other issues. Furthermore, issues with or delays in satisfying the requirements of a regulatory action could affect our progress on others, and failure to satisfy the requirements of a regulatory action on a timely basis could result in additional penalties, enforcement actions, and other negative consequences, including reputational harm, requiring changes to business activities and product offerings, or subjecting us to material fines, penalties, customer restitution or other requirements, resulting in increased expenses. Compliance with existing consent orders, and any other consent orders or regulatory actions, as well as the implementation of their requirements, may increase our expenses, require us to reallocate resources away from growing our existing businesses, subject us to business restrictions, negatively impact our capital and liquidity, require us to undergo significant changes to our business, operations, products and services, and risk management practices, and expose us to private litigation. See Note 19: Litigation and Regulatory Matters to our consolidated financial statements for more information on current matters affecting us.

Historically, we have offered customers an arbitration clause in agreements to quickly and economically resolve disputes. The arbitration clause has, in some cases, also limited our exposure to consumer class action litigation, while still being able to resolve individual customer disputes. However, there is no guarantee that we will be able to continue to offer arbitration clauses in the future or that we will be successful in enforcing the arbitration clause in court. Legal challenges to the enforceability of these clauses may cause us to discontinue their use. In addition to court enforceability uncertainty, there have been bills pending in the U.S. Congress to directly or indirectly prohibit the use of pre-dispute arbitration clauses in some or all consumer banking products. Members of Congress have also urged the CFPB to enact rules prohibiting or limiting the use of pre-dispute arbitration clauses.

We may be limited in our ability to pay dividends on and repurchase our stock.

We increased our quarterly common stock dividend in 2023 to $0.70 per share, an increase of $0.10 per share from the previous rate of $0.60 per share and repurchased approximately 6.8% of our outstanding common stock under our share repurchase program in 2023. The declaration and payment of future dividends, as well as the amount thereof, are subject to the discretion of our Board of Directors. The amount and size of any future dividends and share repurchases will depend upon regulatory limitations imposed by the Federal Reserve and our results of operations, financial condition, capital levels, cash requirements, future prospects, regulatory review and other factors as further described in “Business - Supervision and Regulation - Capital, Dividends and Share Repurchases.” Holders of our shares of common stock are subject to the prior dividend rights of holders of our preferred stock or the depositary shares representing such preferred stock outstanding. No dividend may be declared or paid on or set aside for payment on our common stock if full dividends have not been declared and paid on all outstanding shares of our preferred stock in any dividend period. Banking laws and regulations and our banking regulators may limit or prohibit our payment of dividends on or our repurchase of our stock at any time. There can be no assurance that we will declare and pay any dividends on or repurchase our stock in the future.

We are a holding company and depend on payments from our subsidiaries.

Discover Financial Services, our parent holding company, depends on dividends, distributions and other payments from its subsidiaries, particularly Discover Bank, to fund its dividend payments, share repurchases, payments on its obligations, including debt obligations, and to provide funding and capital as needed to its operating subsidiaries. Banking laws and regulations and our banking regulators may limit or prohibit our transfer of funds freely, either to or from our subsidiaries, at any time. These laws, regulations and rules may hinder our ability to access funds that we may need to make payments on our obligations or otherwise achieve strategic objectives. For more information, see “Business - Supervision and Regulation - Capital, Dividends and Share Repurchases.”

Special Note Regarding Forward-Looking Statements

This annual report on Form 10-K and materials we have filed or will file with the SEC (as well as information included in our other written or oral statements) contain or will contain certain statements that are forward-looking within the meaning of the Private Securities Litigation Reform Act of 1995. These statements are not guarantees of future performance and involve certain risks, uncertainties and assumptions that are difficult to predict. Actual outcomes and results may differ materially from those expressed in, or implied by, our forward-looking statements. Words such as "expects," "anticipates," "believes," "estimates," "forecasts," and other similar expressions or future or conditional verbs such as "will," "should," "would," and "could," are intended to identify such forward-looking statements. You should not rely solely on the forward-looking statements and should consider all uncertainties and risks throughout this annual report on Form 10-K, including those described under "Risk Factors." The statements are only as of the date they are made and we undertake no obligation to update any forward-looking statement.

Possible events or factors that could cause results or performance to differ materially from those expressed in our forward-looking statements include the following:

- changes in economic variables, such as the availability of consumer credit, the housing market, energy costs, the number and size of personal bankruptcy filings, the rate of unemployment, the levels of consumer confidence and consumer debt and investor sentiment;
- the impact of current, pending and future legislation, regulation, supervisory guidance and regulatory and legal actions, including, but not limited to, those related to accounting guidance, tax reform, financial regulatory reform, consumer financial services practices, anti-corruption and funding, capital and liquidity;
- risks related to the proposed merger with Capital One including, among others, (i) failure to complete the merger with Capital One or unexpected delays related to the merger or the inability of the parties to obtain regulatory approvals or satisfy other closing conditions required to complete the merger, (ii) regulatory approvals resulting in the imposition of conditions that could adversely affect the combined company or the expected benefits of the transaction, (iii) diversion of management's attention from ongoing business operations and opportunities, (iv) cost and revenue synergies from the merger may not be fully realized or may take longer than anticipated to be realized, (v) the integration of each party's management, personnel and operations will not be successfully achieved or may be materially delayed or will be more costly or difficult than expected, (vi) deposit attrition, customer or employee loss and/or revenue loss as a result of the announcement of the proposed merger, (vii) expenses related to the proposed merger being greater than expected, and (viii) shareholder litigation that could prevent or delay the closing of the proposed merger or otherwise negatively impact our business and operations;
- the actions and initiatives of current and potential competitors;
- our ability to manage our expenses;
- our ability to successfully achieve card acceptance across our networks and maintain relationships with network participants and merchants;
- our ability to sustain our card and personal loan growth;
- our ability to complete the proposed sale of the Discover Student Loan portfolio;
- our ability to increase or sustain Discover card usage or attract new customers;
- difficulty obtaining regulatory approval for financing, closing, transitioning, integrating or managing the expenses of acquisitions of or investments in new businesses, products or technologies;
- our ability to manage our credit risk, market risk, liquidity risk, operational risk, compliance and legal risk and strategic risk;
- the availability and cost of funding and capital;
- access to deposit, securitization, equity, debt and credit markets;
- the impact of rating agency actions;
- the level and volatility of equity prices, commodity prices and interest rates, currency values, investments, other market fluctuations and other market indices;
- losses in our investment portfolio;

- limits on our ability to pay dividends and repurchase our common stock;
- limits on our ability to receive payments from our subsidiaries;
- fraudulent activities or material security breaches of our or others' key systems;
- our ability to remain organizationally effective;
- the effect of political, economic and market conditions, geopolitical events, climate change, pandemics and unforeseen or catastrophic events;
- our ability to introduce new products or services;
- our ability to manage our relationships with third-party vendors, as well as those with which we have no direct relationship such as our employees' internet service providers;
- our ability to maintain current technology and integrate new and acquired systems and technology;
- our ability to collect amounts for disputed transactions from merchants and merchant acquirers;
- our ability to attract and retain employees;
- our ability to protect our reputation and our intellectual property;
- our ability to comply with regulatory requirements, including existing consent orders; and
- new lawsuits, investigations, consent orders or similar matters or unanticipated developments related to current matters.

We routinely evaluate and may pursue acquisitions of, investments in or divestitures from businesses, products, technologies, loan portfolios or deposits, which may involve payment in cash or our debt or equity securities.

The foregoing review of important factors should not be construed as exclusive and should be read in conjunction with the other cautionary statements that are included in this annual report on Form 10-K. These factors expressly qualify all subsequent oral and written forward-looking statements attributable to us or persons acting on our behalf. Except for any ongoing obligations to disclose material information as required under U.S. federal securities laws, we do not have any intention or obligation to update forward-looking statements after we distribute this annual report on Form 10-K, whether as a result of new information, future developments or otherwise.

Item 1B. Unresolved Staff Comments

None.

Item 1C. Cybersecurity

Risk Assessment and Management

Our Information Security Program is led by our CISO and overseen by our TIRC. The program is designed to safeguard the confidentiality, integrity and availability of information assets by monitoring the cyber threat landscape, internal threats and technological changes and through the development of controls to mitigate risk to the organization and our customers.

Our Enterprise Risk Management governance structure is based on the principle that each line of business is responsible for managing risks, including information security risk, inherent in its business.

Our Information Risk Management ("IRM") department provides second line defense oversight of the Information Security Program in support of senior management and the Board of Directors' responsibility to provide appropriate risk oversight. Owned by the VP, Information Security and Technology Risk ("VP-ISTR") in IRM, the Information Security Policy provides a framework for the security of information assets and computer resources and is consistent with our five principles that guide the Company's approach to risk management: Comprehensiveness, Accountability, Independence, Defined Risk Appetite and Transparency. The Information Security Policy is designed to comply with applicable laws and regulations, such as the GLBA and the Sarbanes-Oxley Act.

Our enterprise-wide incident management framework addresses risk mitigation activities that stem from incidents including governance structure and organization; risk, incident management and escalation principles; requirements for testing and assessing our processes; and external reporting guidance. We conduct internal assessments and engage external assessors, consultants and auditors to help provide assurance and validation of our security controls, as well as alignment to industry norms.

We are also committed to strong third party risk management. Our Third Party Program provides regulatory guidance for managing third party risk and is designed to assist us with the identification, measurement, management, monitoring and reporting of third party risk.

Our Information Security Program requires that employees adhere to our Third Party Information Security Policy, as well as the Third Party Risk Management Policy, which requires review of third-party controls to determine whether such controls meet the objectives of our Third Party Information Security Policy. The IRM team is responsible for seeing that appropriate information security risks are identified and monitored. We rely on many third-party service providers and network participants, including merchants, and, as such, a security breach or cyber attack affecting one of these third parties could impact us.

Incident Management

While we continue to invest in our information security defenses, including cybersecurity defenses, if our security systems or those of third parties are penetrated or circumvented such that the confidentiality, integrity or availability of information about us, our customers, transactions processed on our networks or on third-party networks on our behalf, or third parties with which we do business is compromised, we could be subject to significant liability that may not be covered by insurance, including significant legal and financial exposure, actions by our regulators, damage to our reputation or loss of confidence in the security of our systems, products and services that could materially adversely affect our business. For more information about the risks posed by cybersecurity threats, see "Risk Factors - Operational and Other Risk - If the security of our systems, or the systems of third parties we rely upon, is compromised, our business could be disrupted and we may be subject to significant financial exposure, liability and damage to our reputation."

Board of Directors Oversight

Our Risk Oversight Committee and Audit Committee are responsible for reviewing and approving our Information Security Program, as well as reviewing the quality and effectiveness of our technology security. These committees are also responsible for reviewing the guidelines and policies for assessing and managing our exposure to risks, including cybersecurity risk, and the steps management takes to monitor and control such exposures. The Risk Oversight Committee and Audit Committee periodically meet to facilitate oversight of risk management matters, including cybersecurity risk. For example, at least five times per year, the committees receive updates from the CISO and VP-ISTR on our Information Security Program.

The Board of Directors regularly devotes time during its meetings to review and discuss the most significant risks facing us over the short-, medium- and long-term, and our responses to those risks, including cybersecurity risks. Within these discussions, the Board of Directors receives updates from senior executives including the CRO and, on an annual basis, the CISO on the risks posed by cybersecurity threats and our information security program. Additionally, the CISO provides annual Information Security training to the Board of Directors. The training covers the regulatory landscape, risk management practices, cyber landscape and threats to us and the roles and responsibilities of management and board members.

Management Oversight

Our Information Security Program is led by our CISO, who reports to our CIO, and overseen by the TIRC, which serves as a sub-committee to the Management Risk Committee. The TIRC provides oversight, leadership and direction for data risks, technology risks and information security. Our CISO leads the Information Security organization and has the overall responsibility of implementing its strategy and objectives to build a strong cyber engineering function. Reporting to the CISO is the Security Intelligence Incident Response Team, which is responsible for managing cybersecurity incidents by leading, designing and implementing threat intelligence, continuous monitoring and rapid response services.

Our CISO has over 20 years of information technology experience with specialization in information security and risk management. Our CISO is a Certified Information Systems Security Professional, Certified Ethical Hacker, a graduate of the Department of Defense Executive Leadership Development Program, a fellow with the American Council of Technology and an adjunct professor at Carnegie Mellon University. He was formerly the CISO at other large financial institutions and a federal agency prior to joining Discover.

Item 2. Properties

Our principal properties are located in the U.S. and include our corporate headquarters, our call centers and a processing center. Our corporate headquarters is used by both our Digital Banking and Payment Services segments and the call centers and processing center largely support our Digital Banking segment. We also have various offices located outside the U.S. that primarily support our Payment Services segment.

We have begun to reconfigure certain locations as we continue to work to optimize our physical space. As a result, our call centers and processing center are being utilized to a reasonable capacity. We believe our facilities that support both our Digital Banking and Payment Services segments are suitable and adequate to meet our current and projected needs.

Item 3. Legal Proceedings

For a description of legal proceedings, see Note 19: Litigation and Regulatory Matters to our consolidated financial statements.

Item 4. Mine Safety Disclosures

None.

Part II.

Part II | Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

Our common stock is traded on the New York Stock Exchange (ticker symbol DFS). As of February 16, 2024, there were approximately 36,645 holders of record of our common stock.

Issuer Purchases of Equity Securities

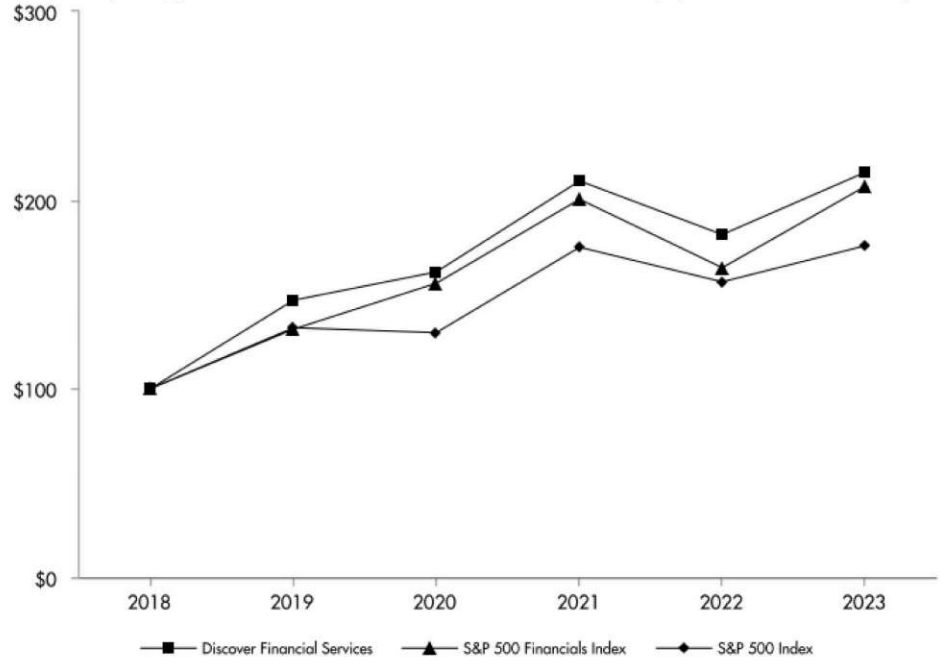
The following table sets forth information regarding purchases of our common stock related to our share repurchase program and employee transactions made by us or on our behalf during the most recent quarter:

Period	Total Number of Shares Purchased	Average Price Paid Per Share[3]	Total Number of Shares Purchased as Part of Publicly Announced Plan or Program[1][4]	Maximum Dollar Value of Shares that may yet be purchased under the Plans or Programs[1][4]
October 1-31, 2023				
Repurchase program[1][4]	-	$ -	-	$ -
Employee transactions[2]	1,080	$ 89.40	N/A	N/A
November 1-30, 2023				
Repurchase program[1][4]	-	$ -	-	$ -
Employee transactions[2]	6,818	$ 83.45	N/A	N/A
December 1-31, 2023				
Repurchase program[1][4]	-	$ -	-	$ -
Employee transactions[2]	2,624	$ 98.25	N/A	N/A
Total				
Repurchase program[1][4]	-	$ -	-	$ -
Employee transactions[2]	10,522	$ 87.75	N/A	N/A

(1) In April 2023, our Board of Directors approved a new share repurchase program authorizing the purchase of up to $2.7 billion of our outstanding shares of common stock through June 30, 2024. This share repurchase authorization replaced our prior $4.2 billion share repurchase program.
(2) Reflects shares withheld (under the terms of grants under employee stock compensation plans) to offset tax withholding obligations that occur upon the delivery of outstanding shares underlying restricted stock units or upon the exercise of stock options.
(3) Average price paid per share excludes any excise tax.
(4) Share repurchases were suspended because of an ongoing internal review of compliance, risk management and corporate governance. See "- Liquidity and Capital Resources - Capital" for additional information.

Stock Performance Graph

The following graph compares the cumulative total stockholder return of our common stock, the S&P 500 Financials Index and the S&P 500 Index for the period from December 31, 2018 through December 31, 2023. The graph assumes an initial investment of $100 on December 31, 2018. The cumulative returns include stock price appreciation and assume full reinvestment of dividends. This graph does not forecast future performance of our common stock.



	December 31,					
	2018	2019	2020	2021	2022	2023
Discover Financial Services	$ 100.00	$ 146.95	$ 161.76	$ 209.95	$ 181.46	$ 214.51
S&P 500 Financials Index	$ 100.00	$ 131.47	$ 155.65	$ 200.29	$ 163.98	$ 207.04
S&P 500 Index	$ 100.00	$ 132.09	$ 129.77	$ 175.02	$ 156.52	$ 175.46

Item 6. Reserved

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our audited consolidated financial statements and related notes included elsewhere in this annual report on Form 10-K. Some of the information contained in this discussion and analysis constitutes forward-looking statements that involve risks and uncertainties. Actual results could differ materially from those discussed in these forward-looking statements. Factors that could cause or contribute to these differences include, but are not limited to, those discussed below and elsewhere in this annual report on Form 10-K particularly under "Risk Factors" and "Special Note Regarding Forward-Looking Statements," which immediately follows "Risk Factors." Unless otherwise specified, references to Notes to our consolidated financial statements are to the Notes to our audited consolidated financial statements as of December 31, 2023 and 2022 and for years ended December 31, 2023, 2022 and 2021.

Introduction and Overview

Discover Financial Services ("DFS") is a digital banking and payment services company. We provide digital banking products and services and payment services through our subsidiaries. We offer our customers credit card loans, personal loans, home loans and deposit products. We also operate the Discover Network, the PULSE network ("PULSE") and Diners Club International ("Diners Club"), collectively known as the Discover Global Network. The Discover Network processes transactions for Discover-branded credit and debit cards and provides payment transaction processing and settlement services. PULSE operates an electronic funds transfer network, providing financial institutions issuing debit cards on the PULSE network with access to automated teller machines domestically and internationally and merchant acceptance throughout the United States of America ("U.S.") for debit card transactions. Diners Club is a global payments network of licensees, which are generally financial institutions, that issue Diners Club branded credit and charge cards and/or provide card acceptance services.

Our primary revenues consist of interest income earned on loan receivables and fees earned from customers, financial institutions, merchants and issuers. The primary expenses required to operate our business include funding costs (interest expense), credit loss provisions, customer rewards and expenses incurred to grow, manage and service our loan receivables and networks. Our business activities are funded primarily through consumer deposits, securitization of loan receivables and the issuance of unsecured debt.

2023 Highlights

The highlights below compare results as of and for the year ended December 31, 2023 against results as of and for the year ended December 31, 2022.

- Net income was $2.9 billion, or $11.26 per diluted share, compared to net income of $4.4 billion, or $15.44 per diluted share, in the prior year.
- Total loans grew $16.3 billion, or 15%, to $128.4 billion.
- Credit card loans grew $12.1 billion, or 13%, to $102.3 billion.
- The net charge-off rate for credit card loans increased 185 basis points to 3.90% and the delinquency rate for credit card loans over 30 days past due increased 134 basis points to 3.87%.
- Direct-to-consumer deposits grew $13.5 billion, or 19%, to $84.0 billion.
- Payment Services transaction volume for the segment was $364.6 billion, up 10%.

Outlook

The outlook below provides our current expectations for our financial results for 2024, in comparison to 2023, based on market conditions, the regulatory and legal environment and our business strategies.

- We expect total loans to be relatively flat.
- Based on our expectation of the interest rate environment during 2024, net interest margin is expected to decrease.
- We expect the total net charge-off rate to increase driven by the seasoning of recent vintages with higher delinquencies.
- Total expenses are expected to increase driven by investments in compliance and risk management capabilities. We remain committed to managing expenses while continuing to make investments in profitable long-term growth.

Regulatory Environment and Developments

Banking

Capital Standards and Stress Testing

As a bank holding company, DFS is subject to mandatory supervisory stress tests every other year and is required to submit annual capital plans to the Federal Reserve based on forward-looking internal analysis of income and capital levels under baseline and stressful conditions. DFS is also subject to capital buffer requirements, including the Stress Capital Buffer ("SCB"), which requires maintaining regulatory capital levels above a threshold based on the results of supervisory stress tests after accounting for planned dividend payments.

In January 2021, the Federal Reserve finalized regulatory amendments that made targeted changes to the capital planning, regulatory reporting and SCB requirements for firms subject to Category IV standards, including DFS, to be consistent with the Federal Reserve's regulatory tailoring framework. The final rules generally align to instructions the Federal Reserve previously provided to Category IV firms regarding their respective capital plan submissions. The amended rules also provide Category IV firms with the option to submit to supervisory stress tests during off years if they wish for the Federal Reserve to reset the stress test portion of their SCB requirement. The Federal Reserve also revised the scope of application of its existing regulatory guidance for capital planning to align with the tailoring framework. However, the timing and substance of any additional changes to existing guidance or new guidance are uncertain. Moreover, following the failure of three domestic banks during March and April 2023, members of Congress, the President of the United States and various bank regulatory authorities have made public statements indicating a desire for additional prudential regulation for Category IV firms like DFS.

In July 2023, the Federal Reserve, the Office of the Comptroller of the Currency ("OCC") and the Federal Deposit Insurance Corporation ("FDIC") issued a proposal to amend the risk-based capital framework (the "Basel III rules"), which includes replacing the current "advanced approach" with a new expanded risk-based approach. In addition, the proposal introduces new standardized approaches for credit risk, operational risk and credit valuation adjustment risk, and would significantly revise risk-based capital requirements for all banking institutions with assets of $100 billion or more, including DFS. If adopted, the new requirements would be effective July 1, 2025 with a three-year transition period.

In August 2023, the Federal Reserve, the FDIC and the OCC (the "Agencies") issued a proposal that would require banking institutions in Categories II through IV of the tailoring framework, including DFS, and their insured depository institution subsidiaries with $100 billion or more in assets such as Discover Bank, to have minimum levels of outstanding long-term debt. Under the proposed rule, a covered banking institution would be required to have a minimum outstanding amount of eligible long-term debt that is at least 6% of the institution's total risk-weighted assets, 2.5% of its total leverage exposure (if it is required to maintain a minimum supplementary leverage ratio) and 3.5% of its average total consolidated assets, whichever is greater. If adopted, banking institutions would have three years to comply with the new requirements, though the Agencies would retain the authority to accelerate or extend the transition period.

While we cannot currently predict the timing or substance of the finalization of these proposals or other regulatory changes, if any such change were adopted, it would likely revise the regulatory tailoring currently applicable to DFS, otherwise tighten the prudential regulatory requirements that would apply to DFS and increase our expenses.

In June 2022, the Federal Reserve released results of the 2022 Comprehensive Capital Analysis and Review ("CCAR") exercise. Our capital levels demonstrated resiliency under stress, staying well above regulatory minimums. Based on these results, in August 2022, our new SCB was set at 2.5%, the lowest possible requirement. This new SCB was effective October 1, 2022 through September 30, 2023. In accordance with the capital plan rule amendments, we elected not to participate in the 2023 supervisory stress tests. Nevertheless, on April 5, 2023, we submitted to the Federal Reserve a capital plan based on a forward-looking internal assessment of income and capital under baseline and stressful conditions. On July 27, 2023, the Federal Reserve disclosed that our SCB was unchanged at 2.5%, effective beginning October 1, 2023 through September 30, 2024.

London Interbank Offered Rate Transition

In March 2021, the United Kingdom's Financial Conduct Authority announced that it would no longer encourage or compel banks to continue to contribute quotes and maintain the London Interbank Offered Rate ("LIBOR") after December 31, 2021, and the most commonly used U.S. dollar ("USD") LIBOR settings ceased to be published on a representative basis in July 2023.

On December 16, 2022, the Federal Reserve adopted a final rule, which became effective on February 27, 2023, implementing the Adjustable Interest Rate (LIBOR) Act ("LIBOR Act"), which provides a statutory framework to replace LIBOR with a benchmark rate based on the Secured Overnight Financing Rate ("SOFR") for contracts governed by U.S. law that do not have fallback provisions or that have fallback provisions resulting in a replacement rate based on LIBOR.

In connection with the transition, $1.8 billion of our LIBOR-based capital markets securities transitioned to the corresponding tenor for Chicago Mercantile Exchange ("CME") Term SOFR Reference Rate plus the applicable tenor spread adjustment in a manner consistent with the LIBOR Act and the regulation implementing the LIBOR Act. Additionally, approximately $500 million of Discover Bank's subordinated notes not covered under the LIBOR Act reset in August 2023 consistent with their fallback provisions.

New originations of variable-rate student loans are indexed solely to 3-month term SOFR, as published by the CME. Our portfolio of outstanding LIBOR-indexed student loans converted to a SOFR index in October 2023.

Consumer Financial Services

The Consumer Financial Protection Bureau ("CFPB") regulates consumer financial products and services and examines certain providers of consumer financial products and services, including Discover. The CFPB's authority includes rulemaking, supervisory and enforcement powers with respect to federal consumer protection laws; preventing "unfair, deceptive or abusive acts or practices" ("UDAAP") and ensuring that consumers have access to fair and transparent financial products and services. Historically, the CFPB's policy priorities focused on several financial products of the type we offer (e.g., credit cards and other consumer lending products). In addition, the CFPB is required by statute to undertake certain actions including its biennial review of the consumer credit card market.

The CFPB's priorities have continued to focus on, among other things, increased enforcement of existing consumer protection laws, with a particular focus on fees charged to consumers, UDAAP, fair lending, student lending and servicing, debt collection and credit reporting. Additionally, detection of repeat offenders, such as companies that violate a formal court or agency order, has also become a priority for the CFPB. Director Chopra, in March 2022, identified, as repeat offenders, several companies that have had multiple enforcement actions, including Discover. The CFPB has recently taken action against financial institutions for violating prior enforcement actions. In December 2020, certain of our subsidiaries entered into a consent order with the CFPB regarding identified private student loan servicing practices. See Note 19: Litigation and Regulatory Matters to our consolidated financial statements for more information.

On February 1, 2023, the CFPB proposed a rule to alter Regulation Z's late fee standards that includes caps on fees for late payments, which could result in increased cardholder delinquencies and credit losses.

Enhanced regulatory requirements, potential supervisory findings, or enforcement actions and ratings could negatively impact our ability to implement certain consumer-focused enhancements to product features and functionality and business strategies, limit or change our business practices, limit our consumer product offerings, cause us to invest more management time and resources in compliance efforts or limit our ability to obtain related required regulatory approvals. The additional expense, time and resources needed to comply with ongoing or new regulatory requirements may adversely impact the cost of and access to credit for consumers and results of business operations.

Data Security and Privacy

Policymakers at the federal and state levels remain focused on enhancing data security and data breach incident response requirements. Furthermore, regulations and legislation at various levels of government continue to be proposed and enacted to augment consumer data privacy standards and require companies to assess and/or disclose cybersecurity metrics, risks, opportunities, policies and practices. At the federal level, Discover is subject to the Gramm-Leach-Bliley Act ("GLBA") and its implementing regulations and guidance, which regulate Discover's use and disclosure of our consumers' nonpublic personal information ("NPI"). In July 2023, the Securities and Exchange Commission (the "SEC") adopted rules on Cybersecurity Risk Management, Strategy, Governance and Incident Disclosure. For more information on Discover's cybersecurity program in connection with these rules, see Item 1C. Cybersecurity.

At the state level, the California Consumer Privacy Act ("CCPA"), which became effective in 2020, created a broad set of privacy rights and remedies. The California Privacy Rights Act ("CPRA"), which became effective on January 1, 2023, amends the CCPA, enhancing consumer privacy protections and creating a new California Privacy Protection Agency ("CPPA"). A California court recently issued an order delaying enforcement of the CPRA regulations from July 1, 2023, until March 29, 2024, although the CPPA may still decide to enforce the provisions of the CCPA, as amended. The CPPA has proposed additional regulations around cybersecurity, risk assessment and automated decision-making technology that may impact Discover once they move to more formal rulemaking. Other states continue to pass privacy legislation with New Jersey being the first in 2024. So far, these laws exempt either NPI or financial institutions subject to the GLBA from their scope, so the impact of these state privacy laws on several Discover businesses is limited. We continue to evaluate the impact of the CCPA, as well as other federal and state laws, on our businesses and other providers of consumer financial services, including laws regulating the capture and use of consumer biometrics. For more information on the impact to Discover of data security and privacy laws on regulation, see "Business - Supervision and Regulation" and Item 1A. Risk Factors.

Environmental, Social and Governance Matters

Environmental, social and governance ("ESG") issues, including climate change, human capital and governance practices, are a significant area of focus by U.S. federal, state and international lawmakers and regulatory agencies, as well as shareholders and other stakeholders. In recent months, there have been substantial legislative and regulatory developments on such issues, including proposed, issued or implemented legislation and rulemakings that would require companies to assess and/or disclose climate and other ESG metrics, risks, opportunities, policies and practices. For example, in March 2022, the SEC proposed climate-related disclosure requirements and in October 2023, three climate disclosure bills were signed in California. The potential impact to us of these legislative and regulatory developments is uncertain at this time, although we expect that the emerging legal and regulatory requirements on ESG issues will result in additional compliance and reporting costs to us.

We continue to monitor and assess the potential impact of these legislative and regulatory developments.

Results of Operations

The discussion below provides a summary of our results of operations and information about our loan receivables as of and for the year ended December 31, 2023, compared to the year ended December 31, 2022. Refer to our annual report on Form 10-K for the year ended December 31, 2022, for discussion of our results of operations and loan receivables information as of and for the year ended December 31, 2022, compared to the year ended December 31, 2021.

Segments

We manage our business activities in two segments, Digital Banking and Payment Services, based on the products and services provided. For a detailed description of the operations of each segment, as well as the allocation conventions used in our business segment reporting, see Note 22: Segment Disclosures to our consolidated financial statements.

The following table presents segment data (dollars in millions):

	For the Years Ended December 31,		
	2023	2022	2021
Digital Banking			
Interest income			
Credit card loans	$ 14,438	$ 10,632	$ 8,717
Private student loans	1,033	831	742
Personal loans	1,156	872	878
Other loans	326	167	114
Other interest income	892	362	200
Total interest income	17,845	12,864	10,651
Interest expense	4,746	1,865	1,134
Net interest income	13,099	10,999	9,517
Provision for credit losses	6,018	2,359	218
Other income	2,311	2,118	1,745
Other expense	5,822	5,049	4,549
Income before income taxes	3,570	5,709	6,495
Payment Services			
Other income	450	176	789
Other expense	194	167	256
Income before income taxes	256	9	533
Total income before income taxes	$ 3,826	$ 5,718	$ 7,028

The following table presents information on transaction volume (dollars in millions):

	For the Years Ended December 31,		
	2023	2022	2021
Network Transaction Volume			
PULSE Network	$ 285,616	$ 253,072	$ 247,913
Network Partners	39,671	44,542	40,707
Diners Club[1]	39,299	33,505	25,937
Total Payment Services	364,586	331,119	314,557
Discover Network - Proprietary[2]	224,572	218,738	188,960
Total Network Transaction Volume	$ 589,158	$ 549,857	$ 503,517
Transactions Processed on Networks			
Discover Network	3,728	3,617	3,259
PULSE Network	7,705	6,200	5,632
Total Transaction Processed on Networks	11,433	9,817	8,891
Credit Card Volume			
Discover Card Volume[3]	$ 232,785	$ 224,477	$ 192,755
Discover Card Sales Volume[4]	$ 217,914	$ 210,645	$ 182,125

(1) Diners Club volume is derived from data provided by licensees for Diners Club branded cards issued outside North America and is subject to subsequent revision or amendment.
(2) Represents gross Discover card sales volume on the Discover Network.
(3) Represents Discover card activity related to sales net of returns, balance transfers, cash advances and other activity.
(4) Represents Discover card activity related to sales net of returns.

Digital Banking

Our Digital Banking segment reported pretax income of $3.6 billion for the year ended December 31, 2023, as compared to $5.7 billion for the year ended December 31, 2022.

Net interest income increased for the year ended December 31, 2023, as compared to the year ended December 31, 2022, primarily driven by a higher yield on loans and a higher average level of loan receivables, partially offset by higher funding costs. Interest income increased compared to the prior year primarily due to higher market rates and a higher average level of loan receivables. Interest expense increased compared to the prior year primarily due to higher funding costs driven by higher market rates and a larger funding base.

For the year ended December 31, 2023, the provision for credit losses increased as compared to the year ended December 31, 2022, primarily driven by loan growth, increasing delinquencies, and macroeconomic variables impacting household cash flows. For a detailed discussion on provision for credit losses, see "- Loan Quality - Provision and Allowance for Credit Losses."

Total other income for the Digital Banking segment increased for the year ended December 31, 2023, as compared to the year ended December 31, 2022, primarily due to increases in loan fee income and net discount and interchange revenue. Loan fee income increased primarily due to a higher volume of late payments. The increase in discount and interchange revenue was partially offset by an increase in rewards, both of which were driven by higher sales volume.

Total other expense increased for the year ended December 31, 2023, as compared to the year ended December 31, 2022, primarily due to increases in employee compensation and benefits, professional fees, other expense and marketing and business development. The increase in employee compensation and benefits was driven primarily by higher headcount. Professional fees increased primarily due to increased consulting supporting compliance and risk management initiatives. Other expense increased mainly due to a reserve for customer remediation. The marketing and business development increase was due primarily from growth investments in consumer banking products.

Discover card sales volume was $217.9 billion for the year ended December 31, 2023, which was an increase of 3.5% as compared to the year ended December 31, 2022. This volume growth was primarily driven by higher consumer spending across most spending categories.

Payment Services

Our Payment Services segment reported pretax income of $256 million for the year ended December 31, 2023, as compared to pretax income of $9 million for the year ended December 31, 2022. The increase in segment pretax income was primarily due to smaller losses on equity investments as a result of smaller mark-to-market adjustments for equity investments measured at fair value.

Critical Accounting Estimates

In preparing our consolidated financial statements in conformity with accounting principles generally accepted in the U.S. ("GAAP"), management must make judgments and use estimates and assumptions about the effects of matters that are uncertain. For estimates that involve a high degree of judgment and subjectivity, it is possible that different estimates could reasonably be derived for the same period. For estimates that are particularly sensitive to changes in economic or market conditions, significant changes to the estimated amount from period to period are also possible. Management believes the current assumptions and other considerations used to estimate amounts reflected in our consolidated financial statements are appropriate. However, if actual experience differs from the assumptions and other considerations used in estimating amounts in our consolidated financial statements, the resulting changes could have a material effect on our consolidated results of operations and, in certain cases, could have a material effect on our consolidated financial condition. Management has identified the estimates related to our allowance for credit losses as a critical accounting estimate.

Allowance for Credit Losses

The allowance for credit losses was $9.3 billion at December 31, 2023, which reflects a $1.9 billion build from the amount of the allowance for credit losses at December 31, 2022. The allowance for credit losses represents management's estimate of expected credit losses over the remaining expected life of our financial assets measured at amortized cost. Changes in the allowance for credit losses, and in the related provision for credit losses, can materially affect net income.

In estimating the expected credit losses, we use a combination of statistical models and qualitative analysis. There is a significant amount of judgment applied in selecting inputs and analyzing the results produced to estimate the allowance for credit losses. For more information on these judgments and our accounting policies and methodologies used to determine the allowance for credit losses, see "- Loan Quality," Note 4: Loan Receivables and Note 2: Summary of Significant Accounting Policies to our consolidated financial statements.

One of the key assumptions requiring significant judgment in estimating the current expected credit losses ("CECL") on a quarterly basis is the determination of the macroeconomic forecasts used in the loss forecast models. For the reasonable and supportable loss forecast period, we consider forecasts of multiple economic scenarios that generally include a base scenario with one or more optimistic (upside) or pessimistic (downside) scenarios. These scenarios comprise a variety of macroeconomic variables, including annualized gross domestic product growth and unemployment rate. The scenarios that are chosen each quarter and the amount of weighting given to each scenario depend on a variety of factors including recent economic events, leading economic indicators, views of internal and third-party economists and industry trends. Assumptions about the macroeconomic environment are inherently uncertain and, as a result, actual changes in the allowance for credit losses may be different from the simulated scenario presented below.

To demonstrate the sensitivity of the estimated credit losses to the macroeconomic scenarios, we measured the impact of altering the weighting of macroeconomic scenarios used in our loss forecast. Our allowance for credit losses would increase by approximately $660 million at December 31, 2023 if we applied 100% weight to the most adverse scenario in our sensitivity analysis to reflect continued inflationary pressures, including unsustainably low unemployment and the influence of geopolitical events, as well as high interest rates.

The sensitivity disclosed above is hypothetical. It is difficult to estimate how potential changes in any one factor or input, such as the weighting of macroeconomic forecasts, might affect the overall allowance for credit losses because we consider a variety of factors and inputs in estimating the allowance for credit losses. The macroeconomic scenarios used are constructed with interrelated projections of multiple economic variables, and loss estimates are produced that consider the historical correlation of those economic variables with credit losses. The inputs in the macroeconomic scenarios may not change at the same rate and may not be consistent across all geographies or product types, and changes in factors and inputs may be directionally inconsistent, such that improvement in one factor or input may offset deterioration in others. As a result, the sensitivity analysis above does not necessarily reflect the nature and extent of future changes in the allowance for credit losses. It is intended to provide insights into the impact of different judgments about the economy on our modeled loss estimates for the loan portfolio and does not imply any expectation of future losses. Furthermore, the hypothetical increase in our allowance for credit losses for loans does not incorporate the impact of management judgment for qualitative factors applied in the current allowance for credit losses, which may have a positive or negative effect on our actual financial condition and results of operations.

The overall economic environment directly impacts the macroeconomic variables that are used in the loss forecast models. If management used different assumptions about the economic environment in estimating expected credit losses, the impact to the allowance for credit losses could have a material effect on our consolidated financial condition and results of operations. In addition, if we experience significant instability in the economic environment, the uncertainty around the credit loss forecasts may increase, both due to the uncertainty of the economic forecasts and the challenges our models may have in incorporating them.

Earnings Summary

The following table outlines changes in our consolidated statements of income (dollars in millions):

	For the Years Ended December 31,			2023 vs. 2022 Increase (Decrease)		2022 vs. 2021 Increase (Decrease)	
	2023	2022	2021	$	%	$	%
Interest income	$ 17,845	$ 12,864	$ 10,651	$ 4,981	39 %	$ 2,213	21 %
Interest expense	4,746	1,865	1,134	2,881	154 %	731	64 %
Net interest income	13,099	10,999	9,517	2,100	19 %	1,482	16 %
Provision for credit losses	6,018	2,359	218	3,659	155 %	2,141	982 %
Net interest income after provision for credit losses	7,081	8,640	9,299	(1,559)	(18) %	(659)	(7) %
Other income	2,761	2,294	2,534	467	20 %	(240)	(9) %
Other expense	6,016	5,216	4,805	800	15 %	411	9 %
Income before income taxes	3,826	5,718	7,028	(1,892)	(33) %	(1,310)	(19) %
Income tax expense	886	1,344	1,606	(458)	(34) %	(262)	(16) %
Net income	$ 2,940	$ 4,374	$ 5,422	$ (1,434)	(33) %	$ (1,048)	(19) %
Net income allocated to common stockholders	$ 2,859	$ 4,286	$ 5,323	$ (1,427)	(33) %	$ (1,037)	(19) %

Net Interest Income

The tables that follow this section have been provided to supplement the discussion below and provide further analysis of net interest income, net interest margin and the impact of rate and volume changes on net interest income. Net interest income represents the difference between interest income earned on our interest-earning assets and the interest expense incurred to finance those assets. We analyze net interest income in total by calculating net interest margin (net interest income as a percentage of average total loan receivables) and net yield on interest-earning assets (net interest income as a percentage of average total interest-earning assets). We also separately consider the impact of the level of loan receivables and the related interest yield and the impact of the cost of funds related to each of our funding sources, along with the income generated by our liquidity portfolio, on net interest income.

Our interest-earning assets consist of: (i) cash and cash equivalents primarily related to amounts on deposit with the Federal Reserve Bank of Philadelphia, (ii) restricted cash, (iii) other short-term investments, (iv) investment securities and (v) loan receivables. Our interest-bearing liabilities consist primarily of deposits, both direct-to-consumer and brokered, and long-term borrowings, including amounts owed to securitization investors. The following factors influence net interest income:

- The level and composition of loan receivables, including the proportion of credit card loans to other loans, as well as the proportion of loan receivables bearing interest at promotional rates as compared to standard rates;
- The credit performance of our loans, particularly with regard to charge-offs of finance charges, which reduce interest income;
- The terms of long-term borrowings and certificates of deposit upon initial offering, including maturity and interest rate;
- The interest rates necessary to attract and maintain direct-to-consumer deposits;
- The level and composition of other interest-earning assets, including our liquidity portfolio, and interest-bearing liabilities;
- Changes in the interest rate environment, including the levels of interest rates and the relationships among interest rate indices, such as the prime rate, the federal funds rate, the interest rate on reserve balances, LIBOR and SOFR; and
- The effectiveness of interest rate swaps in our interest rate risk management program.

Net interest income increased for the year ended December 31, 2023, as compared to the year ended December 31, 2022, primarily driven by a higher yield on loans and a higher average level of loan receivables, partially offset by higher funding costs. Interest income increased compared to the prior year primarily due to higher market rates and a higher average level of loan receivables. Interest expense increased compared to the prior year primarily due to higher funding costs driven by higher market rates and a larger funding base.

Average Balance Sheet Analysis

(dollars in millions)

	For the Years Ended December 31,								
	2023			2022			2021		
	Average Balance	Yield/Rate	Interest	Average Balance	Yield/Rate	Interest	Average Balance	Yield/Rate	Interest
Assets									
Interest-earning assets									
Cash and cash equivalents	$ 8,192	5.17%	$ 423	$ 9,279	1.89%	$ 175	$ 14,236	0.13%	$ 18
Restricted cash	250	7.80%	20	515	1.48%	8	695	0.03%	NM
Other short-term investments	-	-	-	-	-	-	176	0.12%	NM
Investment securities	12,938	3.47%	449	6,988	2.57%	179	8,713	2.09%	182
Loan receivables[1]									
Credit card loans[2][3]	94,205	15.33%	14,438	79,243	13.42%	10,632	69,365	12.57%	8,717
Private student loans	10,382	9.95%	1,033	10,240	8.11%	831	10,057	7.38%	742
Personal loans	9,011	12.83%	1,156	7,295	11.95%	872	6,945	12.64%	878
Other	4,713	6.92%	326	2,895	5.77%	167	2,054	5.57%	114
Total loan receivables	118,311	14.33%	16,953	99,673	12.54%	12,502	88,421	11.82%	10,451
Total interest-earning assets	139,691	12.77%	17,845	116,455	11.05%	12,864	112,241	9.49%	10,651
Allowance for credit losses	(7,936)			(6,820)			(7,351)		
Other assets	6,938			6,070			6,237		
Total assets[4]	$ 138,693			$ 115,705			$ 111,127		
Liabilities and Stockholders' Equity									
Interest-bearing liabilities									
Interest-bearing deposits									
Time deposits	$ 38,220	3.89%	$ 1,485	$ 23,988	2.02%	$ 484	$ 23,928	1.84%	$ 440
Money market deposits	8,143	4.16%	339	8,453	1.67%	141	8,142	0.53%	43
Other interest-bearing savings deposits	51,366	4.01%	2,062	44,276	1.43%	632	40,912	0.43%	178
Total interest-bearing deposits	97,729	3.98%	3,886	76,717	1.64%	1,257	72,982	0.91%	661
Borrowings									
Short-term borrowings	44	10.21%	5	225	0.70%	2	72	0.18%	NM
Securitized borrowings[5][6][7]	10,528	4.30%	453	9,060	2.41%	219	9,627	1.06%	102
Other long-term borrowings[6][7][8]	9,090	4.43%	402	9,334	4.15%	387	9,888	3.75%	371
Total borrowings	19,662	4.37%	860	18,619	3.26%	608	19,587	2.42%	473
Total interest-bearing liabilities	117,391	4.04%	4,746	95,336	1.96%	1,865	92,569	1.23%	1,134
Other liabilities and stockholders' equity[9]	21,302			20,369			18,558		
Total liabilities and stockholders' equity	$ 138,693			$ 115,705			$ 111,127		
Net interest income			$ 13,099			$ 10,999			$ 9,517
Net interest margin[10]		11.07%			11.04%			10.76%	
Net yield on interest-earning assets[11]		9.38%			9.45%			8.48%	
Interest rate spread[12]		8.73%			9.09%			8.26%	

(1) Average balances of loan receivables and yield calculations include non-accruing loans. If the non-accruing loan balances were excluded, there would not be a material impact on the amounts reported above.
(2) Interest income on credit card loans includes $468 million, $365 million and $295 million of amortization of balance transfer fees for the years ended December 31, 2023, 2022 and 2021, respectively.
(3) Includes the impact of interest rate swap agreements used to change a portion of floating-rate assets to fixed-rate assets for the years ended December 31, 2023, 2022 and 2021.
(4) The return on average assets, based on net income, was 2.12%, 3.80% and 4.90% for the years ended December 31, 2023, 2022 and 2021, respectively.
(5) Includes the impact of one terminated derivative formerly designated as a cash flow hedge for the years ended December 31, 2023, 2022 and 2021.
(6) Includes the impact of interest rate swap agreements used to change a portion of fixed-rate funding to floating-rate funding for the years ended December 31, 2023, 2022 and 2021.
(7) Includes the impact of terminated derivatives formerly designated as fair value hedges for the years ended December 31, 2023, 2022 and 2021.
(8) Includes the impact of interest rate swap agreements used to change a portion of floating-rate funding to fixed-rate funding for the years ended December 31, 2023 and 2022.
(9) The return on average stockholders' equity, based on net income, was 21.00%, 32.00% and 43.12% for the years ended December 31, 2023, 2022 and 2021, respectively.
(10) Net interest margin represents net interest income as a percentage of average total loan receivables.
(11) Net yield on interest-earning assets represents net interest income as a percentage of average total interest-earning assets.
(12) Interest rate spread represents the difference between the rate on total interest-earning assets and the rate on total interest-bearing liabilities.

Rate/Volume Variance Analysis[1]
(dollars in millions)

	Year Ended December 31, 2023 vs. Year Ended December 31, 2022			Year Ended December 31, 2022 vs. Year Ended December 31, 2021		
	Volume	Rate	Total	Volume	Rate	Total
Increase/(Decrease) in net interest income due to changes in:						
Interest-earning assets						
Cash and cash equivalents	$ (23)	$ 271	$ 248	$ (9)	$ 166	$ 157
Restricted cash	(6)	18	12	-	8	8
Investment securities	191	79	270	(40)	37	(3)
Loan receivables						
Credit card loans	2,170	1,636	3,806	1,299	616	1,915
Private student loans	11	191	202	14	75	89
Personal loans	216	68	284	43	(49)	(6)
Other	121	38	159	48	5	53
Total loan receivables	2,518	1,933	4,451	1,404	647	2,051
Total interest income	2,680	2,301	4,981	1,355	858	2,213
Interest-bearing liabilities						
Interest-bearing deposits						
Time deposits	391	610	1,001	1	43	44
Money market deposits	(5)	203	198	2	96	98
Other interest-bearing savings deposits	116	1,314	1,430	15	439	454
Total interest-bearing deposits	502	2,127	2,629	18	578	596
Borrowings						
Short-term borrowings	(2)	5	3	1	1	2
Securitized borrowings	40	194	234	(6)	123	117
Other long-term borrowings	(10)	25	15	(22)	38	16
Total borrowings	28	224	252	(27)	162	135
Total interest expense	530	2,351	2,881	(9)	740	731
Net interest income	$ 2,150	$ (50)	$ 2,100	$ 1,364	$ 118	$ 1,482

(1) The rate/volume variance for each category has been allocated on a consistent basis between rate and volume variances between the years ended December 31, 2023, 2022 and 2021 based on the percentage of the rate or volume variance to the sum of the two absolute variances.

Loan Quality

Loan receivables consist of the following (dollars in millions):

	December 31,	
	2023	2022
Credit card loans	$ 102,259	$ 90,113
Other loans		
Private student loans	10,352	10,308
Personal loans	9,852	7,998
Other loans	5,946	3,701
Total other loans	26,150	22,007
Total loan receivables	128,409	112,120
Allowance for credit losses	(9,283)	(7,374)
Net loan receivables	$ 119,126	$ 104,746

Provision and Allowance for Credit Losses

Provision for credit losses is the expense related to maintaining the allowance for credit losses at an appropriate level to absorb the estimate of credit losses anticipated over the remaining expected life of loan receivables at each period end date. In deriving the estimate of expected credit losses, we consider the collectability of principal, interest and fees associated with our loan receivables. We also consider expected recoveries of amounts that were either previously charged-off or are expected to be charged-off. Establishing the estimate for expected credit losses requires significant management judgment. The factors that influence the provision for credit losses include:

- Increases or decreases in outstanding loan balances, including:
  - Changes in consumer spending, payment and credit utilization behaviors;
  - The level of new account and loan originations and loan maturities; and
  - Changes in the overall mix of accounts and products within the portfolio;
- The credit quality of the loan portfolio, which reflects our credit granting practices and the effectiveness of collection efforts, among other factors;
- The impact of general economic conditions on the consumer, including national and regional conditions, unemployment levels, bankruptcy trends and interest rate movements;
- The level and direction of historical losses; and
- Regulatory changes or new regulatory guidance.

Refer to "- Critical Accounting Estimates - Allowance for Credit Losses" and Note 4: Loan Receivables to our consolidated financial statements for more details on how we estimate the allowance for credit losses.

The following tables provide changes in our allowance for credit losses (dollars in millions):

	For the Year Ended December 31, 2023				
	Credit Card Loans	Private Student Loans	Personal Loans	Other Loans	Total Loans
Balance at December 31, 2022	$ 5,883	$ 839	$ 595	$ 57	$ 7,374
Cumulative effect of ASU No. 2022-02 adoption[1]	(66)	-	(2)	-	(68)
Balance at January 1, 2023	5,817	839	593	57	7,306
Additions					
Provision for credit losses[2]	5,476	152	363	28	6,019
Deductions					
Charge-offs	(4,481)	(155)	(290)	(1)	(4,927)
Recoveries	807	22	56	-	885
Net charge-offs	(3,674)	(133)	(234)	(1)	(4,042)
Balance at December 31, 2023	$ 7,619	$ 858	$ 722	$ 84	$ 9,283

	For the Year Ended December 31, 2022				
	Credit Card Loans	Private Student Loans	Personal Loans	Other Loans	Total Loans
Balance at December 31, 2021	$ 5,273	$ 843	$ 662	$ 44	$ 6,822
Additions					
Provision for credit losses[2]	2,233	99	24	13	2,369
Deductions					
Charge-offs	(2,417)	(126)	(159)	-	(2,702)
Recoveries	794	23	68	-	885
Net charge-offs	(1,623)	(103)	(91)	-	(1,817)
Balance at December 31, 2022	$ 5,883	$ 839	$ 595	$ 57	$ 7,374

	For the Year Ended December 31, 2021				
	Credit Card Loans	Private Student Loans	Personal Loans	Other Loans	Total Loans
Balance at December 31, 2020	$ 6,491	$ 840	$ 857	$ 38	$ 8,226
Additions					
Provision for credit losses[2]	229	67	(75)	6	227
Deductions					
Charge-offs	(2,255)	(89)	(190)	-	(2,534)
Recoveries	808	25	70	-	903
Net charge-offs	(1,447)	(64)	(120)	-	(1,631)
Balance at December 31, 2021	$ 5,273	$ 843	$ 662	$ 44	$ 6,822

(1) Represents the adjustment to the allowance for credit losses as a result of the adoption of Accounting Standards Update ("ASU") No. 2022-02 on January 1, 2023.
(2) Excludes a $1 million, $10 million and $9 million adjustment to the liability for expected credit losses on unfunded commitments for the years ended December 31, 2023, 2022 and 2021, respectively, as the liability is recorded in accrued expenses and other liabilities in our consolidated statements of financial condition.

The allowance for credit losses was approximately $9.3 billion at December 31, 2023, which reflects a $1.9 billion build from the amount of the allowance for credit losses at December 31, 2022. The build in the allowance for credit losses between December 31, 2023 and December 31, 2022, was primarily driven by loan growth, increasing delinquencies, and macroeconomic variables impacting household cash flows.

The allowance estimation process begins with a loss forecast that uses certain macroeconomic variables and multiple macroeconomic scenarios among its inputs. In estimating the allowance at December 31, 2023, we used a macroeconomic forecast that projected the following weighted average amounts: (i) unemployment rate ending 2024 at 4.17% and, within our reasonable and supportable period, peaking at 4.26% in the second quarter of 2025 and (ii) 1.36% growth rate in real gross domestic product in 2024.

In estimating expected credit losses, we considered the uncertainties associated with borrower behavior and payment trends, as well as recent and expected macroeconomic conditions, such as high consumer price inflation and the fiscal and monetary policy responses to that inflation. The Federal Reserve raised its federal funds rate target range substantially during 2022 and the first three quarters of 2023 in an effort to slow economic growth and reduce inflation. Although real GDP growth and labor market conditions have exceeded most economists' expectations this year, restrictive monetary policy, as manifested in relatively high interest rates, typically precedes weaker consumer credit conditions caused by rising unemployment as economic growth slows. Credit performance in our lending portfolios has evolved in line with our expectations this year, but may weaken if the economy fails to avert a recession in response to tighter credit conditions or other factors. We assessed the prospects for various macroeconomic outcomes in setting our allowance for credit losses.

The forecast period we deemed to be reasonable and supportable was 18 months for all periods presented. The 18-months reasonable and supportable forecast period was deemed appropriate given the current economic conditions. For all periods presented, we determined that a reversion period of 12 months was appropriate for the same reason. We applied a weighted reversion method to provide a more reasonable transition to historical losses for all loan products for all periods presented.

The provision for credit losses is the amount of expense realized after considering the level of net charge-offs in the period and the required amount of allowance for credit losses at the balance sheet date. For the year ended December 31, 2023, the provision for credit losses increased by $3.7 billion, as compared to the year ended December 31, 2022. The reserve build during the year ended December 31, 2023, was primarily driven by loan growth, increasing delinquencies, and macroeconomic variables impacting household cash flows.

Net Charge-offs

Our net charge-offs include the principal amount of losses charged off less principal recoveries and exclude charged-off and recovered interest and fees and fraud losses. Charged-off and recovered interest and fees are recorded in interest income and loan fee income, respectively, which is effectively a reclassification of the provision for credit losses, while fraud losses are recorded in other expense.

The following table presents amounts and rates of net charge-offs of key loan products (dollars in millions):

	For the Years Ended December 31,								
	2023			2022			2021		
	$		%	$		%	$		%
Credit card loans	$ 3,674		3.90 %	$ 1,623		2.05 %	$ 1,447		2.09 %
Private student loans	$ 133		1.29 %	$ 103		1.00 %	$ 64		0.63 %
Personal loans	$ 234		2.60 %	$ 91		1.25 %	$ 120		1.73 %

The net charge-offs and net charge-off rate for credit card loans, private student loans and personal loans increased for the year ended December 31, 2023, when compared to the same periods in 2022, primarily due to portfolio seasoning.

Delinquencies

Delinquencies are an indicator of credit quality at a point in time. A loan balance is considered delinquent when contractual payments on the loan become 30 days past due.

The following table presents the amounts and delinquency rates of key loan products that are 30 and 90 days or more delinquent, and loan receivables that are not accruing interest regardless of delinquency (dollars in millions):

	December 31,					
	2023			2022		
	$		%	$		%
Loans 30 or more days delinquent						
Credit card loans	$ 3,955		3.87 %	$ 2,278		2.53 %
Private student loans	$ 271		2.62 %	$ 212		2.05 %
Personal loans	$ 143		1.45 %	$ 63		0.80 %
Total loan receivables	$ 4,427		3.45 %	$ 2,578		2.30 %
Loans 90 or more days delinquent						
Credit card loans	$ 1,917		1.87 %	$ 1,028		1.14 %
Private student loans	$ 70		0.67 %	$ 45		0.43 %
Personal loans	$ 39		0.40 %	$ 16		0.21 %
Total loan receivables	$ 2,045		1.59 %	$ 1,101		0.98 %
Loans not accruing interest	$ 269		0.21 %	$ 214		0.19 %

The 30-day and 90-day delinquency rates for credit card loans, private student loans, and personal loans at December 31, 2023, increased compared to December 31, 2022, primarily driven by portfolio seasoning.

Modified and Restructured Loans

For information regarding modified and restructured loans, see Note 4: Loan Receivables to our condensed consolidated financial statements.

Maturities and Sensitivities of Loan Receivables to Changes in Interest Rates

Our loan portfolio had the following maturity distribution[1] (dollars in millions):

At December 31, 2023	Due One Year or Less	Due After One Year Through Five Years	Due After Five Years Through Fifteen Years	Due After Fifteen Years	Total
Credit card loans	$ 32,250	$ 54,628	$ 15,032	$ 349	$ 102,259
Private student loans	364	2,083	6,296	1,609	10,352
Personal loans	2,653	6,653	546	-	9,852
Other loans	161	724	2,102	2,959	5,946
Total loan portfolio	$ 35,428	$ 64,088	$ 23,976	$ 4,917	$ 128,409

(1) Because of the uncertainty regarding loan repayment patterns, the above amounts have been calculated using contractually required minimum payments. Historically, actual loan repayments have been higher than such minimum payments and, therefore, the above amounts may not necessarily be indicative of our actual loan repayments.

At December 31, 2023, approximately $55.9 billion of our loan portfolio due after one year had interest rates tied to an index and approximately $37.0 billion were fixed-rate loans.

Other Income

The following table presents the components of other income (dollars in millions):

	For the Years Ended December 31,			2023 vs. 2022 Increase		2022 vs. 2021 Increase (Decrease)	
	2023	2022	2021	$	%	$	%
Discount and interchange revenue, net[1]	$ 1,447	$ 1,380	$ 1,188	$ 67	5 %	$ 192	16 %
Protection products revenue	172	172	165	-	- %	7	4 %
Loan fee income	763	632	464	131	21 %	168	36 %
Transaction processing revenue	303	249	227	54	22 %	22	10 %
(Losses) gains on equity investments	(9)	(214)	424	205	(96) %	(638)	(150) %
Other income	85	75	66	10	13 %	9	14 %
Total other income	$ 2,761	$ 2,294	$ 2,534	$ 467	20 %	$ (240)	(9) %

(1) Net of rewards, including Cashback Bonus rewards, of $3.1 billion, $3.0 billion and $2.5 billion for the years ended December 31, 2023, 2022 and 2021, respectively.

Total other income increased for the year ended December 31, 2023, as compared to the year ended December 31, 2022, primarily due to smaller losses on equity investments and increases in loan fee income and net discount and interchange revenue. The smaller losses on equity investments were the result of smaller mark-to-market adjustments for equity investments measured at fair value. Loan fee income increased primarily due to a higher volume of late payments. The increase in discount and interchange revenue was partially offset by an increase in rewards, both of which were driven by higher sales volume.

Other Expense

The following table represents the components of other expense (dollars in millions):

	For the Years Ended December 31,			2023 vs. 2022 Increase (Decrease)		2022 vs. 2021 Increase (Decrease)	
	2023	2022	2021	$	%	$	%
Employee compensation and benefits	$ 2,434	$ 2,139	$ 1,986	$ 295	14 %	$ 153	8 %
Marketing and business development	1,164	1,035	810	129	12 %	225	28 %
Information processing and communications	608	513	500	95	19 %	13	3 %
Professional fees	1,041	871	797	170	20 %	74	9 %
Premises and equipment	89	118	92	(29)	(25) %	26	28 %
Other expense	680	540	620	140	26 %	(80)	(13) %
Total other expense	$ 6,016	$ 5,216	$ 4,805	$ 800	15 %	$ 411	9 %

Total other expense increased for the year ended December 31, 2023, as compared to the year ended December 31, 2022, primarily due to increases in employee compensation and benefits, professional fees, other expense and marketing and business development. The increase in employee compensation and benefits was driven primarily by higher headcount. Professional fees increased primarily due to increased consulting supporting compliance and risk management initiatives. Other expense increased mostly due to a reserve for customer remediation. The marketing and business development increase was due primarily from growth investments in consumer banking products.

Income Tax Expense

The following table reconciles our effective tax rate to the U.S. federal statutory income tax rate (dollars in millions):

	For the Years Ended December 31,					
	2023		2022		2021	
U.S. federal statutory income tax rate	21.0	%	21.0	%	21.0	%
U.S. state, local and other income taxes, net of U.S. federal income tax benefits	3.5		3.4		3.2	
Tax credits	(2.0)		(1.3)		(1.2)	
Other	0.6		0.4		(0.1)	
Effective income tax rate	23.1	%	23.5	%	22.9	%
Income tax expense	$ 886		$ 1,344		$ 1,606	

Liquidity and Capital Resources

Funding and Liquidity

We seek to maintain stable, diversified and cost-effective funding sources and a strong liquidity profile to fund our business and repay or refinance our maturing obligations under normal operating conditions and periods of economic or financial stress. In managing our liquidity risk, we seek to maintain a prudent liability maturity profile and ready access to an ample store of primary and contingency liquidity sources. Our primary funding sources include direct-to-consumer and brokered deposits, public term asset-backed securitizations and other short-term and long-term borrowings. Our primary liquidity sources include a portfolio composed of highly liquid, unencumbered assets, including cash and cash equivalents and investment securities, as well as secured borrowing capacity through private term asset-backed securitizations and Federal Home Loan Bank ("FHLB") advances. In addition, we have unused borrowing capacity at the Federal Reserve discount window, which provides another source of contingency liquidity.

Funding Sources

Deposits

We obtain deposits from consumers directly or through affinity relationships ("direct-to-consumer deposits"). Additionally, we obtain deposits through third-party securities brokerage firms that offer our deposits to their customers ("brokered deposits"). Direct-to-consumer deposit products include savings accounts, certificates of deposit, money market accounts, IRA savings accounts, IRA certificates of deposit and checking accounts. We gather these deposits from retail customers of our bank, many of whom have more than one Discover product. These deposits originate from a large and diverse customer base, and therefore, the majority of these deposit account balances are insured according to the FDIC's insurance limits. Our cost of insuring these deposits in the fourth quarter reflects the FDIC special assessment, which was immaterial for the year ended December 31, 2023, to cover the cost of losses to the Deposit Insurance Fund incurred after the failure of two domestic banks in March 2023. Brokered deposit products include certificates of deposit and sweep accounts. In accordance with FDIC guidance, we do not categorize certain retail deposit products such as affinity deposits and deposits generated through certain sweep deposit relationships as brokered for regulatory reporting purposes. At December 31, 2023, we had $84.0 billion of direct-to-consumer deposits and $24.9 billion of brokered deposits, of which there are $89.2 billion of deposit balances due in less than one year and $19.7 billion of deposit balances due in one year or thereafter.

Credit Card Securitization Financing

We securitize credit card receivables as a source of funding. We access the asset-backed securitization market using the Discover Card Master Trust I ("DCMT") and the Discover Card Execution Note Trust ("DCENT"). In connection with our securitization transactions, credit card receivables are transferred to DCMT. DCMT has issued a certificate representing the beneficial interest in its credit card receivables to DCENT. We issue DCENT DiscoverSeries notes in public and private transactions, which are collateralized by the beneficial interest certificate held by DCENT. From time to time, we may add credit card receivables to DCMT to create sufficient funding capacity for future securitizations while managing seller's interest. During 2023, we added $4.5 billion of credit card loan receivables to the securitization trust, which increased seller's interest. As of December 31, 2023, there were $30.4 billion of credit card

receivables in the trust. We retain significant exposure to the performance of the securitized credit card receivables through holding the seller's interest and subordinated classes of DCENT DiscoverSeries notes. At December 31, 2023, we had $11.7 billion of outstanding public asset-backed securities and $3.1 billion of outstanding subordinated asset-backed securities that had been issued to our wholly-owned subsidiaries.

The securitization structures include certain features designed to protect investors. The primary feature relates to the availability and adequacy of cash flows in the securitized pool of receivables to meet contractual requirements, the insufficiency of which triggers early repayment of the securities. We refer to this as "economic early amortization," which is based on excess spread levels. Excess spread is the amount by which income received with respect to the securitized credit card receivables during a collection period including interest collections, fees and interchange, exceeds the fees and expenses of DCENT during such collection period, including interest expense, servicing fees and charged-off receivables. In the event of an economic early amortization, which would occur if the excess spread fell below 0% on a three-month rolling average basis, we would be required to repay all outstanding securitized borrowings using available collections received with respect to the securitized credit card receivables. For the three months ended December 31, 2023, the DiscoverSeries three-month rolling average excess spread was 14.75%. The period of ultimate repayment would be determined by the amount and timing of collections received.

Through our wholly-owned indirect subsidiary, Discover Funding LLC, we are required to maintain an interest in a contractual minimum level of receivables in DCMT in excess of the face value of outstanding investors' interests. This minimum interest is referred to as the minimum seller's interest. The required minimum seller's interest in the pool of trust receivables is approximately 7% in excess of the total investors' interests, which includes interests held by third parties as well as those interests held by us. If the level of receivables in DCMT were to fall below the required minimum, we would be required to add receivables from the unrestricted pool of receivables, which would increase the amount of credit card receivables restricted for securitization investors. A decline in the amount of the excess seller's interest could occur if balance repayments and charge-offs exceeded new lending on the securitized accounts or as a result of changes in total outstanding investors' interests. Seller's interest exhibits seasonality as higher receivable balance repayments tend to occur in the first calendar year quarter. If we could not add enough receivables to satisfy the minimum seller's interest requirement, an early amortization (or repayment) of investors' interests would be triggered.

An early amortization event would impair our liquidity and may require us to utilize our available non-securitization related contingent liquidity or rely on alternative funding sources, which may or may not be available at the time. We have several strategies we can deploy to prevent an early amortization event. For instance, we could add receivables to DCMT, which would reduce our available borrowing capacity at the Federal Reserve discount window. Alternatively, we could employ structured discounting, which was used effectively in 2009 to bolster excess spread and mitigate early amortization risk.

The following table summarizes expected contractual maturities of the investors' interests in credit card securitizations, excluding those that have been issued to our wholly-owned subsidiaries (dollars in millions):

At December 31, 2023	Total	Less Than One Year	One Year and Thereafter
Scheduled maturities of borrowings - owed to credit card securitization investors	$ 11,678	$ 3,225	$ 8,453

The "AAA(sf)" and "Aaa(sf)" ratings of the DCENT DiscoverSeries Class A Notes issued to date have been based, in part, on an FDIC rule, which created a safe harbor that provides that the FDIC, as conservator or receiver, will not use its power to disaffirm or repudiate contracts, seek to reclaim or recover assets transferred in connection with a securitization, or recharacterize assets transferred in connection with a securitization as assets of the insured depository institution, provided such transfer satisfies the conditions for sale accounting treatment under previous GAAP. Although the implementation of Financial Accounting Standards Board Accounting Standards Codification Topic 860, *Transfers and Servicing*, no longer qualified certain transfers of assets for sale accounting treatment, the FDIC approved a final rule that preserved the safe-harbor treatment applicable to revolving trusts and master trusts, including DCMT, so long as those trusts would have satisfied the original FDIC safe harbor if evaluated under GAAP pertaining to transfers of financial assets in effect prior to December 2009. However, other legislative and regulatory developments may impact our ability or desire to issue asset-backed securities in the future.

Federal Home Loan Bank Advances

Discover Bank is a member bank of the FHLB of Chicago, one of 11 FHLBs that, along with the Office of Finance, compose the FHLB System. The FHLBs are government-sponsored enterprises of the U.S. ("U.S. GSEs") chartered to improve the availability of funds to support home ownership. As such, senior debt obligations of the FHLBs feature the same credit ratings as U.S. Treasury securities and are considered high-quality liquid assets for bank regulatory purposes. Consequently, the FHLBs benefit from consistent capital market access during nearly all macroeconomic and financial market conditions and low funding costs, which they pass on to their member banks when they borrow advances. Thus, we consider FHLB advances a stable and reliable funding source for Discover Bank for short-term contingency liquidity and long-term asset-liability management.

As a member of the FHLB of Chicago, Discover Bank has access to short- and long-term advance structures with maturities ranging from overnight to 30 years. As of December 31, 2023, we had total committed borrowing capacity of $3.6 billion based on the amount and type of assets pledged, of which $1.0 billion of long-term advances were outstanding with the FHLB of Chicago. Under certain stressed conditions, we could pledge our liquidity portfolio securities and borrow against them at a modest reduction to their value.

Other Long-Term Borrowings - Corporate and Bank Debt

The following table provides a summary of Discover Financial Services (Parent Company) and Discover Bank outstanding fixed-rate debt (dollars in millions):

At December 31, 2023	Principal Amount Outstanding
Discover Financial Services (Parent Company) fixed-rate senior notes, maturing 2024-2032	$ 3,350
Discover Financial Services (Parent Company) fixed-rate retail notes, maturing 2025-2031	$ 140
Discover Financial Services (Parent Company) fixed to floating-rate senior notes, maturing 2034	$ 1,000
Discover Bank fixed-rate senior bank notes, maturing 2024-2030	$ 3,550
Discover Bank fixed-rate subordinated bank notes, maturing 2028	$ 500

At December 31, 2023, $732 million of interest on our fixed-rate debt is due in less than one year and $2.2 billion of interest is due in one year and thereafter. See Note 9: Long-Term Borrowings to our consolidated financial statements for more information on the maturities of our long-term borrowings.

Short-Term Borrowings

As part of our regular funding strategy, we may, from time to time, borrow short-term funds in the federal funds market or the repurchase ("repo") market through repurchase agreements. Federal funds are short-term, unsecured loans between banks or other financial entities with a Federal Reserve account. Funds borrowed in the repo market are short-term, collateralized loans, usually secured with highly-rated investment securities such as U.S. Treasury bills or notes, or mortgage bonds or debentures issued by government agencies or U.S. GSEs. At December 31, 2023, there were no outstanding balances in the federal funds market or under repurchase agreements. Additionally, we have access to short-term advance structures through privately placed asset-backed securitizations. At December 31, 2023, there were $750 million of short-term advances outstanding from private asset-backed securitizations.

Additional Funding Sources

Private Asset-Backed Securitizations

We have access to committed borrowing capacity through privately placed asset-backed securitizations. While we may utilize funding from these private securitizations from time to time for normal business operations, their committed nature also makes them a reliable contingency funding source. Therefore, we reserve some undrawn capacity, informed by our liquidity stress test results, for any contingency funding needs. At December 31, 2023, we had a total committed capacity of $3.5 billion, $750 million of which was drawn. We seek to ensure the stability and reliability of these securitizations by staggering their maturity dates, renewing them well ahead of their scheduled maturity dates and periodically drawing them for operational tests and seasonal funding needs.

Federal Reserve

Discover Bank has access to the Federal Reserve Bank of Philadelphia's discount window. As of December 31, 2023, Discover Bank had $41.2 billion of available borrowing capacity through the discount window based on the amount and type of assets pledged, primarily consumer loans. We also have access to, and have tested our ability to borrow from, the Federal Reserve's Bank Term Funding Program ("BTFP"), which offers loans up to one year in length collateralized by U.S. Treasuries, U.S. agency securities and U.S. agency mortgage-backed securities. As of December 31, 2023, we have no borrowings outstanding under the discount window or the BTFP and reserve this capacity as a source of contingency liquidity.

Funding Uses

Our primary uses of funds include the extensions of loans and credit to customers, primarily through Discover Bank; the maintenance of sufficient working capital for routine operations; the service of our debt and capital obligations, including interest, principal, and dividend payments; and the purchase of investment securities for our liquidity portfolio.

In addition to originating consumer loans to new customers, we also extend credit to existing customers, which primarily arises from agreements for unused lines of credit on certain credit cards and certain other loan products, provided there is no violation of conditions established in the related agreement. At December 31, 2023, our unused credit arrangements were approximately $229.8 billion. These arrangements, substantially all of which we can terminate at any time and which do not necessarily represent future cash requirements, are periodically reviewed based on account usage, customer creditworthiness, loan qualification and the cost of capital.

In the normal course of business, we enter into various contracts for goods and services, such as consulting, outsourcing, data, sponsorships, software licenses, telecommunications, and global merchant acceptance, among other things. These contracts are legally binding and specify all significant terms, including any applicable fixed future cash payments.

As of December 31, 2023, we have debt obligations, common stock and preferred stock outstanding, for which we incur servicing costs. Refer to "- Funding Sources" and "- Capital" for more information related to our debt obligations and capital service, respectively, and the timing of expected payments.

We assess funding uses and liquidity needs under stressed and normal operating conditions, considering primary uses of funding, such as on-balance sheet loans and contingency uses of funding, such as the need to post additional collateral for derivatives positions. To anticipate funding needs under stress, we conduct liquidity stress tests to assess the impact of idiosyncratic, systemic and hybrid (i.e., idiosyncratic and systemic) scenarios with varying levels of liquidity risk reflecting a range of stress severity. If we determine we have excess cash and cash equivalents above what is required for daily operations, we may invest in highly liquid, unencumbered assets that we expect to be able to convert to cash quickly and with little loss of value using the repo market or other secured borrowing or outright sales.

Guarantees

Guarantees are contracts or indemnification agreements that may require us to make payments to a guaranteed party based on changes in an underlying asset, liability, or equity security of a guaranteed party, rate or index. Also included in guarantees are contracts that may require the guarantor to make payments to a guaranteed party based on another entity's failure to perform under an agreement. Our guarantees relate to transactions processed on the Discover Network and certain transactions processed by PULSE and Diners Club. In the ordinary course of business, we guarantee payment on behalf of subsidiaries relating to contractual obligations with external parties. The activities of the subsidiaries covered by any such guarantees are included in our consolidated financial statements. See Note 18: Commitments, Contingencies and Guarantees to our consolidated financial statements for further discussion regarding our guarantees.

Credit Ratings

Our borrowing costs and capacity in certain funding markets, including those for securitizations and unsecured senior and subordinated debt, may be affected by the credit ratings of DFS, Discover Bank and the securitization trusts. Downgrades in these credit ratings could result in higher interest expense on our unsecured debt and asset securitizations, as well as higher credit enhancement requirements for both our public and private asset securitizations. In addition to increased funding costs, deterioration in our credit ratings could reduce our borrowing capacity in the unsecured debt and asset securitization capital markets.

The table below reflects our current credit ratings and outlooks:

	Moody's Investors Service	Standard & Poor's	Fitch Ratings
Discover Financial Services			
Senior unsecured debt	Baa2	BBB-	BBB+
Outlook for Discover Financial Services senior unsecured debt	Negative	Stable	Stable
Discover Bank			
Senior unsecured debt	Baa1	BBB	BBB+
Outlook for Discover Bank senior unsecured debt	Negative	Stable	Stable
Subordinated debt	Baa1	BBB-	BBB
Discover Card Execution Note Trust (DCENT)			
Class A[1]	Aaa(sf)	AAA(sf)	AAA(sf)

(1) An "sf" in the rating denotes rating agency identification for structured finance product ratings.

A credit rating is not a recommendation to buy, sell or hold securities and may be subject to revision or withdrawal at any time by the assigning rating organization. Each rating should be evaluated independently of any other rating. A credit rating outlook reflects an agency's opinion regarding the likely rating direction over the medium term, often a period of about a year, and indicates the agency's belief that the issuer's credit profile is consistent with its current rating level at that point in time.

Liquidity

We seek to ensure that we have adequate liquidity to sustain business operations, fund asset growth and satisfy debt obligations under stressed and normal operating conditions. In addition to the funding sources discussed in the previous section, we also maintain highly liquid, unencumbered assets in our liquidity portfolio that we expect to be able to convert to cash quickly and with little loss of value using either the repo market or other secured borrowing or outright sales.

We maintain a liquidity risk and funding management policy, which outlines the overall framework and general principles we follow in managing liquidity risk across our business. The Board of Directors approves the policy and the Asset and Liability Management Committee (the "ALCO") is responsible for its implementation. We seek to balance the trade-offs between maintaining too much liquidity, which may be costly, with having too little liquidity, which could cause financial distress. The ALCO, chaired by our Treasurer, has cross-functional membership, and manages liquidity risk centrally. The ALCO monitors the liquidity risk profiles of DFS and Discover Bank and oversees any actions Corporate Treasury may take to ensure that we maintain ready access to our funding sources and sufficient liquidity to

meet current and projected needs. In addition, the ALCO and our Board of Directors regularly review our compliance with our liquidity limits at DFS and Discover Bank, which are established in accordance with the liquidity risk appetite set by our Board of Directors.

We employ a variety of metrics to monitor and manage liquidity. We utilize early warning indicators ("EWIs") to detect emerging liquidity stress events. The EWIs include both idiosyncratic and systemic measures and are monitored daily and reported to the ALCO regularly. A warning from one or more of these indicators triggers prompt review and decision-making by our senior management team and, in certain instances, may lead to the convening of a senior-level response team and activation of our contingency funding plan.

In addition, we conduct liquidity stress tests regularly and ensure contingency funding is in place to address potential liquidity shortfalls. We evaluate a range of stress scenarios that are designed to follow regulatory requirements, including idiosyncratic, systemic and a combination of such events that could impact funding sources and our ability to meet liquidity needs. These scenarios measure the projected liquidity position at DFS and Discover Bank across a range of periods by comparing estimated contingency funding needs to available contingency liquidity.

Our primary contingency liquidity sources include our liquidity portfolio securities, which we could sell, repo or borrow against, and private securitizations with unused borrowing capacity. In addition, we could borrow FHLB advances by pledging securities to the FHLB of Chicago. Moreover, we have unused borrowing capacity with the Federal Reserve discount window and BTFP, which provide additional sources of contingency liquidity. We seek to maintain sufficient liquidity to satisfy all maturing obligations and fund business operations for at least 12 months in a severe stress environment. In such an environment, we may also take actions to curtail the size of our balance sheet, which would reduce the need for funding and liquidity.

At December 31, 2023, our liquidity portfolio was composed of highly liquid, unencumbered assets, including cash and cash equivalents and investment securities. Cash and cash equivalents were primarily deposits with the Federal Reserve. Investment securities primarily included debt obligations of the U.S. Treasury and U.S. GSEs and residential mortgage-backed securities issued by U.S. government agencies or U.S. GSEs. These investments, nearly all of which are classified as available-for-sale, are considered highly liquid and we expect to have the ability to raise cash by selling them, utilizing repurchase agreements or pledging certain of these investments to access secured funding. The size and composition of our liquidity portfolio may fluctuate based on the size of our balance sheet as well as operational requirements, market conditions and interest rate risk management objectives.

At December 31, 2023, our liquidity portfolio and undrawn credit facilities were $69.8 billion, which was $2.5 billion higher than the balance at December 31, 2022. Our liquidity portfolio and undrawn credit facilities grew primarily as a result of an increase in cash and cash equivalents. During the years ended December 31, 2023 and 2022, the average balance of our liquidity portfolio was $21.0 billion and $16.3 billion, respectively. Our liquidity portfolio and undrawn facilities consist of the following (dollars in millions):

	December 31,	
	2023	2022
Liquidity portfolio		
Cash and cash equivalents[1]	$ 9,815	$ 7,585
Investment securities[2]	13,439	12,213
Total liquidity portfolio	23,254	19,798
Private asset-backed securitizations[3]	2,750	3,500
Federal Home Loan Bank of Chicago	2,551	1,712
Primary liquidity sources	28,555	25,010
Federal Reserve discount window[3]	41,199	42,268
Total liquidity portfolio and undrawn credit facilities	$ 69,754	$ 67,278

(1) Cash in the process of settlement and restricted cash are excluded from cash and cash equivalents for liquidity purposes.
(2) Excludes $320 million and $97 million of U.S. Treasury securities that have been pledged as swap collateral in lieu of cash as of December 31, 2023 and 2022, respectively.
(3) See "- Additional Funding Sources" for additional information.

Bank Holding Company Liquidity

The primary uses of funds at the unconsolidated DFS level include debt service obligations (interest payments and return of principal) and capital service and management activities, including dividend payments on capital instruments and the periodic repurchase of shares of our common stock. Our primary sources of funds at the bank holding company level include the proceeds from the issuance of unsecured debt and capital securities, as well as dividends from our subsidiaries, notably Discover Bank. Under periods of idiosyncratic or systemic stress, the bank holding company could lose or experience impaired access to the capital markets. In addition, our regulators have the discretion to restrict dividend payments from Discover Bank to the bank holding company.

We utilize a measure referred to as Number of Months of Pre-Funding to determine the length of time DFS can meet upcoming funding obligations, including common and preferred stock dividend payments and debt service obligations, using existing cash resources. In managing this metric, we structure our debt maturity schedule to manage prudently the amount of debt maturing within a short period. See Note 9: Long-Term Borrowings to our consolidated financial statements for further information regarding our debt.

Capital

Our primary sources of capital are the earnings generated by our businesses and the proceeds from issuances of capital securities. We seek to manage capital to a level and composition sufficient to support our businesses' growth, account for their risks, and meet regulatory requirements, rating agency targets and debt investor expectations. Within these constraints, we are focused on deploying capital in a manner that provides attractive returns to our stockholders. The level, composition and utilization of capital are influenced by changes in the economic environment, strategic initiatives and legislative and regulatory developments.

Under regulatory capital requirements adopted by the Federal Reserve and the FDIC, DFS, along with Discover Bank, must maintain minimum capital levels. Failure to meet minimum capital requirements can result in the initiation of certain mandatory and possibly additional discretionary actions by regulators that, if undertaken, could limit our business activities and have a direct material effect on our financial condition and operating results. We must meet specific capital requirements that involve quantitative measures of assets, liabilities and certain off-balance sheet items, as calculated under regulatory guidance and regulations. Current or future legislative or regulatory reforms, such as those related to the adoption of the CECL accounting model or those related to the proposed revisions to the Basel Committee's December 2010 framework ("Basel III rules"), may require us to hold more capital and/or adversely impact our capital level. We consider the potential impacts of these reforms in managing our capital position.

DFS and Discover Bank are subject to regulatory capital rules issued by the Federal Reserve and the FDIC, respectively, under the Basel III rules. Under these rules, DFS and Discover Bank are classified as "standardized approach" entities as they are U.S. banking organizations with consolidated total assets over $50 billion but not exceeding $250 billion and consolidated total on-balance sheet foreign exposures less than $10 billion. The Basel III rules require DFS and Discover Bank to maintain minimum risk-based capital and leverage ratios and define what constitutes capital for purposes of calculating those ratios.

In accordance with the final rule on the impact of CECL on regulatory capital, we have elected to phase in the impact over three years, beginning in 2022. By electing this option, our Common Equity Tier 1 ("CET1") capital ratios are higher than they otherwise would have been. The phase-in of the CECL accounting model decreased CET1 by $1.1 billion as of January 1, 2023. For additional information regarding the risk-based capital and leverage ratios, see Note 17: Capital Adequacy to our consolidated financial statements.

Federal Reserve rules impose limitations on DFS' capital distributions if we do not maintain our risk-based capital ratios above stated regulatory minimum ratios based on the results of supervisory stress tests. We are required to assess whether DFS' planned capital actions are consistent with the effective capital distribution limitations that will apply on a pro-forma basis throughout the planning horizon.

The SCB requirement is institution-specific and is calculated as the greater of (i) 2.5% and (ii) the sum of (a) the difference between DFS' actual CET1 ratio at the beginning of the forecast and the projected minimum CET1 ratio based on the Federal Reserve's models in its nine-quarter Severely Adverse stress scenario, plus (b) the sum of the dollar amount of DFS' planned common stock dividend distributions for each of the fourth through seventh quarters of its nine-quarter capital planning horizon, expressed as a percentage of risk-weighted assets. For Category IV firms, including DFS, the Federal Reserve calculates each firm's SCB biennially in even-numbered calendar years, and did so in 2022. Based on the results of the 2022 CCAR exercise released by the Federal Reserve, our new SCB was set at 2.5%, the

lowest possible requirement, effective October 1, 2022, through September 30, 2023. In odd-numbered years, each firm subject to Category IV standards that did not opt-in to such year's supervisory stress tests as part of the Federal Reserve's CCAR process receives an adjusted SCB requirement that is updated to reflect its planned common stock dividends per the firm's annual capital plan. On July 27, 2023, the Federal Reserve disclosed SCB requirements to firms subject to Category IV standards that did not opt-in to this year's stress test. Our SCB remains unchanged at 2.5%, effective beginning October 1, 2023 through September 30, 2024. See "- Regulatory Environment and Developments - Banking - Capital Standards and Stress Testing" for additional information.

At December 31, 2023, DFS and Discover Bank met the requirements for "well-capitalized" status under the Federal Reserve's Regulation Y and the prompt corrective action rules and corresponding FDIC requirements, respectively, exceeding the regulatory minimums to which they were subject under the applicable rules.

Basel III rules also require disclosures relating to market discipline. This series of disclosures is commonly referred to as "Pillar 3." The objective is to increase the transparency of capital requirements for banking organizations. We are required to make prescribed regulatory disclosures quarterly regarding our capital structure, capital adequacy, risk exposures and risk-weighted assets. We make the Pillar 3 disclosures publicly available on our website in a report called "Basel III Regulatory Capital Disclosures."

We disclose tangible common equity, which represents common equity less goodwill and intangibles. Management believes that common stockholders' equity excluding goodwill and intangibles is meaningful to investors as a measure of our true net asset value. At December 31, 2023, tangible common equity is considered to be a non-GAAP financial measure as it is not formally defined by GAAP or codified in the federal banking regulations. Other financial services companies may also disclose this measure and definitions may vary. We advise users of this information to exercise caution in comparing this measure among different companies.

The following table reconciles total common stockholders' equity (a GAAP financial measure) to tangible common equity (dollars in millions):

	December 31,	
	2023	2022
Total common stockholders' equity[1]	$ 13,772	$ 13,288
Less: goodwill	(255)	(255)
Tangible common equity	$ 13,517	$ 13,033

(1) Total common stockholders' equity is calculated as total stockholders' equity less preferred stock.

Our Board of Directors declared the following common stock dividends during 2023, 2022 and 2021:

Declaration Date	Record Date	Payment Date	Dividend per Share
2023			
October 16, 2023	November 22, 2023	December 07, 2023	$ 0.70
July 17, 2023	August 24, 2023	September 07, 2023	0.70
April 17, 2023	May 25, 2023	June 08, 2023	0.70
January 17, 2023	February 23, 2023	March 09, 2023	0.60
Total common stock dividends			$ 2.70
2022			
October 18, 2022	November 23, 2022	December 08, 2022	$ 0.60
July 20, 2022	August 25, 2022	September 08, 2022	0.60
April 27, 2022	May 26, 2022	June 09, 2022	0.60
January 18, 2022	February 17, 2022	March 03, 2022	0.50
Total common stock dividends			$ 2.30
2021			
October 19, 2021	November 24, 2021	December 09, 2021	$ 0.50
July 20, 2021	August 19, 2021	September 02, 2021	0.50
April 20, 2021	May 20, 2021	June 03, 2021	0.44
January 19, 2021	February 18, 2021	March 04, 2021	0.44
Total common stock dividends			$ 1.88

On January 16, 2024, we declared a quarterly cash dividend on our common stock of $0.70 per share, payable on March 7, 2024 to holders of record on February 22, 2024, which is consistent with the quarterly amount paid in 2023.

Our Board of Directors declared the following Series C preferred stock dividends during 2023, 2022 and 2021:

Declaration Date	Record Date	Payment Date	Dividend per Depositary Share
2023			
July 17, 2023	October 13, 2023	October 30, 2023	$ 27.50
January 17, 2023	April 14, 2023	May 01, 2023	27.50
Total Series C preferred stock dividends			$ 55.00
2022			
July 20, 2022	October 14, 2022	October 31, 2022	$ 27.50
January 18, 2022	April 15, 2022	May 02, 2022	27.50
Total Series C preferred stock dividends			$ 55.00
2021			
July 20, 2021	October 15, 2021	November 01, 2021	$ 27.50
January 19, 2021	April 15, 2021	April 30, 2021	27.50
Total Series C preferred stock dividends			$ 55.00

Our Board of Directors declared the following Series D preferred stock dividends during 2023 and 2022:

Declaration Date	Record Date	Payment Date	Dividend per Depositary Share	
2023				
July 17, 2023	September 08, 2023	September 25, 2023	$	30.625
January 17, 2023	March 08, 2023	March 23, 2023		30.625
Total Series D preferred stock dividends			$	61.250
2022				
July 20, 2022	September 08, 2022	September 23, 2022	$	30.625
January 18, 2022	March 08, 2022	March 23, 2022		30.625
Total Series D preferred stock dividends			$	61.250

On January 16, 2024, we declared a semi-annual cash dividend on our Series C and Series D preferred stock of $27.50 and $30.625 per depositary share, respectively, payable on April 30, 2024 and March 25, 2024, respectively, to holders of record on April 15, 2024 and March 8, 2024, respectively.

Our Board of Directors approved a new share repurchase program in April 2023. The new program authorized up to $2.7 billion of share repurchases through June 30, 2024, and replaced the prior $4.2 billion share repurchase program. If and when we repurchase our shares under the program, we may use various methods including open market purchases, privately negotiated transactions or other purchases, including block trades, accelerated share repurchase transactions, or any combination of such methods. During the three months ended December 31, 2023, we did not repurchase any shares. During the year ended December 31, 2023, we repurchased approximately 18.1 million shares, or 6.8% of our outstanding common stock as of December 31, 2022, for $1.9 billion.

The amount and size of any future dividends and share repurchases will depend on our results of operations, financial condition, capital levels, cash requirements, future prospects, regulatory review and other factors. As reported in the second quarter of 2023, we have decided to pause share repurchases while an internal review of compliance, risk management and corporate governance is ongoing. See Note 19: Litigation and Regulatory Matters to our consolidated financial statements for additional information on the card product misclassification. The declaration and payment of future dividends and the amount thereof are subject to the discretion of our Board of Directors. Holders of our shares of common stock are subject to the prior dividend rights of holders of our preferred stock or the depositary shares representing such preferred stock outstanding. No dividend may be declared or paid or set aside for payment on our common stock if full dividends have not been declared and paid on all outstanding shares of preferred stock in any dividend period. In addition, as noted above, banking laws and regulations and our banking regulators may limit our ability to pay dividends and make share repurchases, including limitations on the extent our banking subsidiary (Discover Bank) can provide funds to us through dividends, loans or otherwise. Further, current or future regulatory reforms, such as those that propose to alter the Basel III standards, may require us to hold more capital or could adversely impact our capital level. As a result, there can be no assurance that we will declare and pay any dividends or repurchase any shares of our common stock in the future.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

Market risk refers to the risk that a change in the level of one or more market prices, rates, indices, correlations or other market factors will result in losses for an investment position or portfolio. We are exposed to market risk primarily from changes in interest rates.

Interest Rate Risk

We borrow money from various depositors and institutions to provide loans to our customers and invest in other assets and our business. These loans to customers and other assets earn interest, which we use to pay interest on the money borrowed. Our net interest income and, therefore, earnings will be reduced if the interest rate earned on assets increases at a slower pace than the interest rate paid on our borrowings. Changes in interest rates and our competitors' responses to those changes may influence customer payment rates, loan balances or deposit account activity. As a result, we may incur higher funding costs that could decrease our earnings.

Our interest rate risk management policies are designed to measure and manage the potential volatility of earnings that may arise from changes in interest rates by having a portfolio that reflects our mix of variable- and fixed-rate assets and liabilities. To the extent that the repricing characteristics of the assets and liabilities in a particular portfolio are not sufficiently matched, we may utilize interest rate derivative contracts, such as swap agreements, to achieve our objectives. Interest rate swap agreements effectively convert the underlying asset or liability from fixed- to floating-rate or from floating- to fixed-rate. See Note 21: Derivatives and Hedging Activities to our consolidated financial statements for information on our derivatives activity.

We use an interest rate sensitivity simulation to assess our interest rate risk exposure. For purposes of presenting the possible earnings effect of a hypothetical, adverse change in interest rates over the 12 months from our reporting date, we assume that all interest-rate-sensitive assets and liabilities are subject to a hypothetical, immediate 100 basis point change in interest rates relative to market consensus expectations as of the beginning of the period. The sensitivity simulation includes the hypothetical assumption that all relevant types of interest rates would change instantaneously, simultaneously and to the same degree.

Our interest-rate-sensitive assets include our variable-rate loan receivables and certain assets in our liquidity portfolio. We have limitations on our ability to mitigate interest rate risk by adjusting rates on existing balances. Further, competitive actions may limit our ability to increase the rates that we charge to customers for new loans. At December 31, 2023, the majority of our credit card and private student loans charge variable rates. Fixed-rate assets that will mature or otherwise contractually reset to a market-based indexed rate or other fixed-rate prior to the end of the 12-month measurement period are considered to be rate sensitive. The latter category includes certain revolving credit card loans that may be offered at below-market rates for an introductory period, such as balance transfers and special promotional programs, after which the loans will contractually reprice in accordance with our normal market-based pricing structure. For assets with a fixed interest rate that contractually will, or is assumed to, reset to a market-based indexed rate or other fixed rate during the next 12 months, earnings sensitivity is measured from the expected repricing date. In addition, for all interest-rate-sensitive assets, earnings sensitivity is calculated net of expected credit losses. For purposes of this analysis, expected credit losses are assumed to remain unchanged relative to our baseline expectations over the analysis horizon.

Interest-rate-sensitive liabilities are assumed to be those for which the stated interest rate is not contractually fixed for the next 12 months. Thus, liabilities that vary with changes in a market-based index, such as the federal funds rate or SOFR, which will reset before the end of the next 12 months, or liabilities that have fixed rates at the fiscal period end but will mature and are assumed to be replaced with a market-based indexed rate prior to the end of the next 12 months, are also considered to be rate sensitive. For these fixed-rate liabilities, earnings sensitivity is measured from the expected maturity date.

Net interest income sensitivity simulations require assumptions regarding market conditions, consumer behavior and the growth and composition of our balance sheet. Our view of market conditions utilizes the implied forward interest rate projection at the beginning of our analysis horizon. This view serves as the base for interest rate risk simulations. We apply rate shocks to the base implied forward curve to measure our overall interest rate sensitivity position. Our view of balance sheet composition and growth utilizes our corporate forecast. On at least a quarterly basis, we create a corporate forecast that incorporates receivable growth and seasonality. The appropriate level of funding is projected and utilizes a diverse mix of instruments with issuance based on expected market conditions. At the same time, optimal levels of liquidity are maintained in accordance with internal guidelines. The degree by which our deposit rates change when benchmark interest rates change, our deposit "beta," is one of the most significant of these

assumptions. Assumptions about deposit beta and other matters are inherently uncertain and, as a result, actual earnings may differ from the simulated earnings presented below. Our actual earnings depend on multiple factors including, but not limited to, the direction and timing of changes in interest rates, the movement of short-term interest rates relative to long-term rates, balance sheet composition, competitor actions affecting pricing decisions in our loans and deposits, the mix of promotional balances in our card portfolio, the level of interest charge-offs and recoveries, the influence of loan repayment rates on revolving balances and strategic actions undertaken by our management.

We have taken actions to bring our net interest income sensitivity closer to neutral as the Federal Reserve has slowed its pace of monetary policy tightening and the outlook for near-term U.S. economic growth may be weakening. The following table shows the impacts to net interest income over the following 12-month period that we estimate would result from an immediate and parallel change in interest rates affecting all interest rate sensitive assets and liabilities. These numbers do not include a sale of the private student loan portfolio (dollars in millions):

	December 31,			
	2023		2022	
Basis point change	$	%	$	%
+100	$ 161	1.17%	$ 183	1.40%
-100	$ (153)	(1.11)%	$ (190)	(1.45)%

Given the nature of our loan portfolio, the impact to our net interest income is far more linear across various rate increase or decrease scenarios than would be true for a financial institution with significant rate-sensitive prepayment risk from the exposure to mortgages.

Item 8. Financial Statements and Supplementary Data

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and the Board of Directors of
Discover Financial Services
Riverwoods, IL

Opinion on Internal Control over Financial Reporting

We have audited the internal control over financial reporting of Discover Financial Services (the "Company") as of December 31, 2023, based on criteria established in *Internal Control - Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2023, based on criteria established in *Internal Control - Integrated Framework (2013)* issued by COSO.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated statement of financial condition, and the related consolidated statements of income, comprehensive income, changes in stockholders' equity, and cash flows as of and for the year ended December 31, 2023, of the Company and our report dated February 23, 2024, expressed an unqualified opinion on those financial statements.

Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Annual Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control over Financial Reporting

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ Deloitte & Touche LLP

Chicago, Illinois
February 23, 2024

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and the Board of Directors of
Discover Financial Services
Riverwoods, IL

Opinion on the Financial Statements

We have audited the accompanying consolidated statements of financial condition of Discover Financial Services (the "Company") as of December 31, 2023 and 2022, the related consolidated statements of income, comprehensive income, changes in stockholders' equity, and cash flows, for each of the three years in the period ended December 31, 2023, and the related notes (collectively referred to as the "
financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2023 and 2022, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2023, in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2023, based on criteria established in *Internal Control - Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated February 23, 2024
,
expressed an unqualified opinion on the Company's internal control over financial reporting.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matters

The critical audit matters communicated below are matters arising from the current-period audit of the financial statements that were communicated or required to be communicated to the audit committee and that (1) relate to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matters below, providing separate opinions on the critical audit matters or on the accounts or disclosures to which they relate.

Allowance for Credit Losses - Credit Card Loans, Private Student Loans, and Personal Loans - Refer to Notes 2 and 4 to the financial statements

Critical Audit Matter Description

The allowance for credit losses ("allowance") represents management's estimate of expected credit losses over the remaining life of each loan, using relevant available information, relating to past events, current conditions, and reasonable and supportable forecasts of future economic conditions. As of December 31, 2023, the total allowance was $9.3 billion, which includes the allowance associated with the credit card loan, private student loan and personal loan portfolios of $7.6 billion, $0.9 billion, and $0.7 billion, respectively.

The determination of the allowance estimate involves a high degree of subjectivity and requires significant estimates of current credit risk using both quantitative and qualitative analysis. Management uses statistical models, which are

developed on the historical relationship between losses and predictive variables, to estimate the quantitative component of the allowance. The statistical models require that management select certain inputs for each estimate, including the macroeconomic forecast scenario, and the reasonable and supportable forecast period. In addition, management considers relevant qualitative factors that have occurred but are not yet reflected in the model estimate.

Auditing certain aspects of the allowance associated with the credit card loan, private student loan, and personal loan portfolios required a high degree of auditor judgment and an increased extent of effort, including the involvement of our credit modeling specialists. This included evaluating the (1) model methodology, including the selection of predictive variables during model development, (2) selection of key model assumptions, including the macroeconomic forecast scenario and reasonable and supportable period, and (3) qualitative analysis of the results, including the use of qualitative adjustments, if applicable.

How the Critical Audit Matter Was Addressed in the Audit

Our audit procedures related to the allowance for credit losses balance, specific to the credit card loan, private student loan, and personal loan portfolios included the following procedures, among others:

- We tested the design and operating effectiveness of management's controls over the determination and review of model methodology, selection of key model assumptions, and qualitative analysis of the results
- We evaluated whether the methodology and key model assumptions are appropriate in the context of the applicable financial reporting framework
- With assistance from credit modeling specialists, we evaluated whether the models are suitable for determining the estimate, which included understanding the model methodologies and logic and whether the selected methods for estimating loan losses is appropriate for each loan portfolio
- We evaluated whether the selected macroeconomic forecasts were reasonable, including evaluating if they were internally consistent with other aspects of the Company's operations, and externally consistent with other macroeconomic forecasts
- We evaluated the reasonableness and consistency of the reasonable and supportable forecast period
- We evaluated whether judgments have been applied consistently to the models and that any qualitative adjustments are consistent with the measurement objective of the applicable financial reporting framework and are appropriate in the circumstances
- We considered any contradictory evidence that arose while performing our procedures, and whether or not this evidence was indicative of management bias
- We evaluated the completeness and accuracy of the Company's allowance for credit losses disclosures

Litigation and Regulatory Matters - Card Product Misclassification Refund Liability - Refer to Note 19 to the financial statements

Critical Audit Matter Description

Beginning in 2007, the Company incorrectly classified certain credit card accounts into its highest merchant and merchant acquirer pricing tier. The misclassification affected pricing for certain merchants and merchant acquirers, but not for cardholders. As of December 31, 2023, the Company recorded a liability of $375 million within accrued expenses and other liabilities to provide refunds to merchant and merchant acquirers as a result of the card product misclassification.

The Company used facts and data available as of December 31, 2023, to develop its best estimate for the amount of refunds it expects to pay to merchant and merchant acquirers. The determination of the liability involved management judgment and estimation as a result of differences in individual merchant agreements, changes in network terms and availability of historical data.

We identified the refund liability as a critical audit matter because auditing management's judgment in determining the methodology for the liability calculation and assumptions applied within the calculation required a high degree of auditor judgment and an increased extent of effort.

How the Critical Audit Matter Was Addressed in the Audit

Our audit procedures related to the card misclassification refund liability included the following procedures, among others:

- We tested the design and operating effectiveness of management's controls over the determination and review of the liability calculation and assumptions used in the calculation
- We tested the completeness and accuracy of data used within the calculation
- We evaluated the reasonableness of the methodology used to calculate the liability which included evaluating the mathematical accuracy of the calculation, the application of the data inputs to the calculation, and assumptions used within the calculation
- We inspected meeting minutes for the Board of Directors, Audit Committee, Risk Oversight Committee, and Governance and Controls Committee
- We performed inquiries with members of management regarding the refund liability
- We inspected supporting documentation and inquired of members of management regarding the status of any ongoing regulatory reviews specific to the refund liability or settlement negotiations
- We considered any contradictory evidence that arose while performing our procedures, and whether or not this evidence was indicative of management bias
- We evaluated the completeness and accuracy of the Company's disclosures related to the refund liability

/s/ Deloitte & Touche LLP

Chicago, Illinois
February 23, 2024

We have served as the Company's auditor since the spin-off from its former parent company in 2007 and as Discover Bank's (a wholly owned subsidiary of the Company) auditor since 1985.

DISCOVER FINANCIAL SERVICES

Consolidated Statements of Financial Condition
(dollars in millions, except for share amounts)

	December 31, 2023	December 31, 2022
Assets		
Cash and cash equivalents	$ 11,685	$ 8,856
Restricted cash	43	41
Investment securities (includes available-for-sale securities of $13,402 and $11,987 reported at fair value with associated amortized cost of $13,451 and $12,167 at December 31, 2023 and 2022, respectively)	13,655	12,208
Loan receivables		
Loan receivables	128,409	112,120
Allowance for credit losses	(9,283)	(7,374)
Net loan receivables	119,126	104,746
Premises and equipment, net	1,091	1,003
Goodwill	255	255
Other assets	5,667	4,597
Total assets	$ 151,522	$ 131,706
Liabilities and Stockholders' Equity		
Liabilities		
Deposits		
Interest-bearing deposit accounts	$ 107,493	$ 90,151
Non-interest-bearing deposit accounts	1,438	1,485
Total deposits	108,931	91,636
Short-term borrowings	750	-
Long-term borrowings	20,581	20,108
Accrued expenses and other liabilities	6,432	5,618
Total liabilities	136,694	117,362
Commitments, contingencies and guarantees (Notes 15, 18 and 19)		
Stockholders' Equity		
Common stock, par value $0.01 per share; 2,000,000,000 shares authorized; 570,837,720 and 569,689,007 shares issued at December 31, 2023 and 2022, respectively	6	6
Preferred stock, par value $0.01 per share; 200,000,000 shares authorized; 10,700 shares issued and outstanding at December 31, 2023 and 2022, respectively	1,056	1,056
Additional paid-in capital	4,553	4,468
Retained earnings	30,448	28,207
Accumulated other comprehensive loss	(225)	(339)
Treasury stock, at cost; 320,734,860 and 302,305,216 shares at December 31, 2023 and 2022, respectively	(21,010)	(19,054)
Total stockholders' equity	14,828	14,344
Total liabilities and stockholders' equity	$ 151,522	$ 131,706

The table below presents the carrying amounts of certain assets and liabilities of Discover Financial Services' consolidated variable interest entities ("VIEs"), which are included in the consolidated statements of financial condition above. The assets in the table below include those assets that can only be used to settle obligations of the consolidated VIEs. The liabilities in the table below include third-party liabilities of consolidated VIEs only and exclude intercompany balances that eliminate in consolidation. The liabilities also exclude amounts for which creditors have recourse to the general credit of Discover Financial Services.

	December 31, 2023	December 31, 2022
Assets		
Restricted cash	$ 43	$ 41
Loan receivables	$ 30,590	$ 25,937
Allowance for credit losses allocated to securitized loan receivables	$ (1,347)	$ (1,152)
Other assets	$ 3	$ 3
Liabilities		
Short- and long-term borrowings	$ 11,743	$ 10,259
Accrued expenses and other liabilities	$ 19	$ 14

See Notes to the Consolidated Financial Statements.

DISCOVER FINANCIAL SERVICES

Consolidated Statements of Income
(dollars in millions, except for share amounts)

	For the Years Ended December 31,		
	2023	2022	2021
Interest income			
Credit card loans	$ 14,438	$ 10,632	$ 8,717
Other loans	2,515	1,870	1,734
Investment securities	449	179	182
Other interest income	443	183	18
Total interest income	17,845	12,864	10,651
Interest expense			
Deposits	3,886	1,257	661
Short-term borrowings	5	2	-
Long-term borrowings	855	606	473
Total interest expense	4,746	1,865	1,134
Net interest income	13,099	10,999	9,517
Provision for credit losses	6,018	2,359	218
Net interest income after provision for credit losses	7,081	8,640	9,299
Other income			
Discount and interchange revenue, net	1,447	1,380	1,188
Protection products revenue	172	172	165
Loan fee income	763	632	464
Transaction processing revenue	303	249	227
(Losses) gains on equity investments	(9)	(214)	424
Other income	85	75	66
Total other income	2,761	2,294	2,534
Other expense			
Employee compensation and benefits	2,434	2,139	1,986
Marketing and business development	1,164	1,035	810
Information processing and communications	608	513	500
Professional fees	1,041	871	797
Premises and equipment	89	118	92
Other expense	680	540	620
Total other expense	6,016	5,216	4,805
Income before income taxes	3,826	5,718	7,028
Income tax expense	886	1,344	1,606
Net income	$ 2,940	$ 4,374	$ 5,422
Net income allocated to common stockholders	$ 2,859	$ 4,286	$ 5,323
Basic earnings per common share	$ 11.27	$ 15.45	$ 17.75
Diluted earnings per common share	$ 11.26	$ 15.44	$ 17.74

See Notes to the Consolidated Financial Statements.

DISCOVER FINANCIAL SERVICES

Consolidated Statements of Comprehensive Income
(dollars in millions)

	For the Years Ended December 31,		
	2023	2022	2021
Net income	$ 2,940	$ 4,374	$ 5,422
Other comprehensive income (loss), net of tax			
Unrealized gains (losses) on available-for-sale investment securities, net of tax	99	(250)	(170)
Unrealized gains (losses) on cash flow hedges, net of tax	6	(5)	3
Unrealized pension and post-retirement plan gains, net of tax	9	10	28
Other comprehensive income (loss)	114	(245)	(139)
Comprehensive income	$ 3,054	$ 4,129	$ 5,283

See Notes to the Consolidated Financial Statements.

DISCOVER FINANCIAL SERVICES

Consolidated Statements of Changes in Stockholders' Equity
(dollars in millions, shares in thousands)

	Preferred Stock		Common Stock		Additional Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Treasury Stock	Total Stockholders' Equity
	Shares	Amount	Shares	Amount					
Balance at December 31, 2020	11	$ 1,056	567,898	$ 6	$ 4,257	$ 19,754	$ 45	$ (14,435)	$ 10,683
Net income	-	-	-	-	-	5,422	-	-	5,422
Other comprehensive loss	-	-	-	-	-	-	(139)	-	(139)
Purchases of treasury stock	-	-	-	-	-	-	-	(2,260)	(2,260)
Common stock issued under employee benefit plans	-	-	88	-	9	-	-	-	9
Common stock issued and stock-based compensation expense	-	-	845	-	103	-	-	-	103
Dividends - common stock ($1.88 per share)	-	-	-	-	-	(569)	-	-	(569)
Dividends - Series C preferred stock ($5,500 per share)	-	-	-	-	-	(31)	-	-	(31)
Dividends - Series D preferred stock ($7,674 per share)	-	-	-	-	-	(38)	-	-	(38)
Balance at December 31, 2021	11	1,056	568,831	6	4,369	24,538	(94)	(16,695)	13,180
Net income	-	-	-	-	-	4,374	-	-	4,374
Other comprehensive loss	-	-	-	-	-	-	(245)	-	(245)
Purchases of treasury stock	-	-	-	-	-	-	-	(2,359)	(2,359)
Common stock issued under employee benefit plans	-	-	107	-	10	-	-	-	10
Common stock issued and stock-based compensation expense	-	-	751	-	89	-	-	-	89
Dividends - common stock ($2.30 per share)	-	-	-	-	-	(643)	-	-	(643)
Dividends - Series C preferred stock ($5,500 per share)	-	-	-	-	-	(31)	-	-	(31)
Dividends - Series D preferred stock ($6,125 per share)	-	-	-	-	-	(31)	-	-	(31)
Balance at December 31, 2022	11	1,056	569,689	6	4,468	28,207	(339)	(19,054)	14,344
Cumulative effect of ASU No. 2022-02 adoption	-	-	-	-	-	52	-	-	52
Net income	-	-	-	-	-	2,940	-	-	2,940
Other comprehensive income	-	-	-	-	-	-	114	-	114
Purchases of treasury stock	-	-	-	-	-	-	-	(1,956)	(1,956)
Common stock issued under employee benefit plans	-	-	118	-	11	-	-	-	11
Common stock issued and stock-based compensation expense	-	-	1,031	-	74	-	-	-	74
Dividends - common stock ($2.70 per share)	-	-	-	-	-	(689)	-	-	(689)
Dividends - Series C preferred stock ($5,500 per share)	-	-	-	-	-	(31)	-	-	(31)
Dividends - Series D preferred stock ($6,125 per share)	-	-	-	-	-	(31)	-	-	(31)
Balance at December 31, 2023	11	$ 1,056	570,838	$ 6	$ 4,553	$ 30,448	$ (225)	$ (21,010)	$ 14,828

See Notes to the Consolidated Financial Statements.

DISCOVER FINANCIAL SERVICES

Consolidated Statements of Cash Flows
(dollars in millions)

	For the Years Ended December 31,		
	2023	2022	2021
Cash flows provided by operating activities			
Net income	$ 2,940	$ 4,374	$ 5,422
Adjustments to reconcile net income to net cash provided by operating activities:			
Provision for credit losses	6,018	2,359	218
Deferred income taxes	(626)	(433)	318
Depreciation and amortization	458	561	531
Amortization of deferred revenues	(468)	(365)	(295)
Net losses (gains) on investments and other assets	50	261	(382)
Other, net	110	125	257
Changes in assets and liabilities:			
Increase in other assets	(658)	(846)	(496)
Increase in accrued expenses and other liabilities	739	1,104	446
Net cash provided by operating activities	8,563	7,140	6,019
Cash flows provided by (used for) investing activities			
Maturities of other short-term investments	-	-	2,200
Maturities of available-for-sale investment securities	1,831	2,084	2,727
Purchases of available-for-sale investment securities	(2,996)	(7,682)	(9)
Maturities of held-to-maturity investment securities	16	32	82
Purchases of held-to-maturity investment securities	(49)	(50)	(28)
Net change in principal on loans originated for investment	(19,934)	(19,961)	(4,574)
Proceeds from the sale of available for sale securities	-	-	5
Proceeds from the sale of other investments	44	336	1
Purchases of other investments	(100)	(169)	(170)
Proceeds from sale of premises and equipment	-	9	-
Purchases of premises and equipment	(303)	(236)	(194)
Net cash (used for) provided by investing activities	(21,491)	(25,637)	40
Cash flows (used for) provided by financing activities			
Net change in short-term borrowings	750	(1,750)	1,750
Net change in deposits	17,250	19,208	(4,533)
Proceeds from issuance of securitized debt	2,230	5,620	1,727
Maturities and repayment of securitized debt	(1,494)	(4,395)	(3,451)
Proceeds from issuance of other long-term borrowings	2,041	1,265	-
Maturities and repayments of other long-term borrowings	(2,340)	(834)	(922)
Proceeds from issuance of common stock	12	10	9
Dividends paid on common and preferred stock	(752)	(703)	(636)
Purchases of treasury stock	(1,938)	(2,359)	(2,260)
Net cash provided by (used for) financing activities	15,759	16,062	(8,316)
Net increase (decrease) in cash, cash equivalents and restricted cash	2,831	(2,435)	(2,257)
Cash, cash equivalents and restricted cash, at the beginning of the period	8,897	11,332	13,589
Cash, cash equivalents and restricted cash, at the end of the period	$ 11,728	$ 8,897	$ 11,332
Reconciliation of cash, cash equivalents and restricted cash			
Cash and cash equivalents	$ 11,685	$ 8,856	$ 8,750
Restricted cash	43	41	2,582
Cash, cash equivalents and restricted cash, at the end of the period	$ 11,728	$ 8,897	$ 11,332
Supplemental disclosures of cash flow information:			
Cash paid during the period for:			
Interest expense	$ 4,508	$ 1,666	$ 1,077
Income taxes, net of income tax refunds	$ 1,605	$ 1,865	$ 1,305

See Notes to the Consolidated Financial Statements.

Notes to the Consolidated Financial Statements

1. Background and Basis of Presentation

Description of Business

Discover Financial Services ("DFS" or the "Company") is a digital banking and payment services company. The Company is a bank holding company under the Bank Holding Company Act of 1956 and a financial holding company under the Gramm-Leach-Bliley Act. Therefore, the Company is subject to oversight, regulation and examination by the Board of Governors of the Federal Reserve System (the "Federal Reserve"). The Company provides digital banking products and services and payment services through its subsidiaries. The Company offers its customers credit card loans, personal loans, home loans and deposit products. The Company also operates the Discover Network, the PULSE network ("PULSE") and Diners Club International ("Diners Club"), collectively known as the Discover Global Network. The Discover Network processes transactions for Discover-branded credit and debit cards and provides payment transaction processing and settlement services. PULSE operates an electronic funds transfer network, providing financial institutions issuing debit cards on the PULSE network with access to automated teller machines ("ATMs") domestically and internationally, as well as merchant acceptance throughout the United States of America ("U.S.") for debit card transactions. Diners Club is a global payments network of licensees, which are generally financial institutions, that issue Diners Club branded credit and charge cards and/or provide card acceptance services.

The Company manages its business activities in two segments, Digital Banking and Payment Services, based on the products and services provided. See Note 22: Segment Disclosures for a detailed description of each segment's operations and the allocation conventions used in business segment reporting.

Basis of Presentation

The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the U.S. ("GAAP"). The preparation of financial statements in conformity with GAAP requires the Company to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and related disclosures. These estimates are based on information available as of the date of the consolidated financial statements. The Company believes that the estimates used in the preparation of the consolidated financial statements are reasonable. Actual results could differ from these estimates.

Certain prior year amounts have been reclassified to conform to the current year presentation. These reclassifications had no impact on the Company's consolidated financial condition, results of operations or changes in stockholders' equity.

Principles of Consolidation

The accompanying consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries. The Company's policy is to consolidate all entities in which it owns more than 50% of the outstanding voting stock unless it does not control the entity. However, the Company did not have a controlling voting interest in any entity other than its wholly-owned subsidiaries in the periods presented in the accompanying consolidated financial statements.

It is also the Company's policy to consolidate any VIEs for which the Company is the primary beneficiary, as defined by GAAP. On this basis, the Company consolidates the Discover Card Master Trust I ("DCMT") and the Discover Card Execution Note Trust ("DCENT") as well as the student loan securitization trust. The Company is deemed to be the primary beneficiary of each of these trusts since it is, for each, the trust Servicer and the holder of both the residual interest and the majority of the most subordinated interests. Because of those involvements, the Company has, for each trust, (i) the power to direct the activities that most significantly impact the economic performance of the trust and (ii) the obligation (or right) to absorb losses (or receive benefits) of the trust that could potentially be significant. The Company has determined that it was not the primary beneficiary of any other VIE during the years ended December 31, 2023, 2022 and 2021.

For investments in any entities in which the Company owns 50% or less of the outstanding voting stock but in which the Company has significant influence over operating and financial decisions, the Company applies the equity method of accounting. The Company also applies the equity method to its investments in qualified affordable housing projects and similar tax credit partnerships. In cases where the Company's equity investment is less than 20% and significant influence does not exist, such investments are carried at cost as they typically do not have readily

determinable fair values, and are adjusted for any impairment in value. Investments in actively traded stock are carried at fair value with changes in fair value recorded as an adjustment to earnings.

Immaterial Restatement of Prior Period Financial Statements

As reported in the second quarter of 2023, beginning in 2007, the Company incorrectly classified certain credit card accounts into its highest merchant and merchant acquirer pricing tier. The Company determined the revenue impact of the incorrect card product classification was immaterial to the consolidated financial statements for all impacted prior periods. For comparative purposes, the Company has made these corrections to the consolidated financial statements for the prior periods presented in this Form 10-K. Additionally, prior period amounts in the applicable notes to the consolidated financial statements have been corrected. The impacts of the misclassification and subsequent corrections are contained entirely within the Digital Banking segment. See Note 26: Immaterial Restatement of Prior Period Financial Statements for additional information and quantification of the prior period restatement impacts.

Recently Issued Accounting Pronouncements (Not Yet Adopted)

In December 2023, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2023-09, *Income Taxes (Topic 740): Improvements to Income Tax Disclosures*. This ASU enhances the transparency of income tax information through improvements to income tax disclosures primarily related to the rate reconciliation and income taxes paid. Entities are required to disaggregate the rate reconciliation (including percentages and reported amounts) by certain specified categories with additional disaggregation by nature and/or jurisdiction for items over a designated threshold. Income taxes paid (net of refunds received) must be disaggregated by federal (national), state, and foreign taxes and separately by individual jurisdiction in which that amount for a particular jurisdiction is equal to or greater than five percent of total income taxes paid (net of refunds received). This annual disclosure guidance is effective for the Company for the year ending December 31, 2025 and requires prospective application. Retrospective application is also permitted. Management will consider which method is appropriate for the Company. While the ASU implements further income tax disclosure requirements, it does not change how an entity determines its income tax obligation, and it will have no impact on the Company's consolidated financial condition, results of operations or cash flows.

In November 2023, the FASB issued ASU No. 2023-07, *Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures*. The ASU requires disclosure of additional segment level information, particularly regarding significant segment expenses. Entities must disclose significant expense categories and amounts that are regularly provided to the chief operating decision maker ("CODM") and included in the reported segment measure of profit or loss. Other segment items must also be reported, which are those items that make up the difference between segment revenues less significant segment expenses and reported segment profit or loss. Additionally, entities must disclose the identity of the CODM and how they use the reported measures of segment profit or loss for decision making and assessing segment performance. The guidance is effective for the Company for the year ending December 31, 2024, and interim periods thereafter and requires retrospective application. While the ASU implements further segment disclosure requirements, it does not change how an entity identifies its operating or reportable segments, and it will have no impact on the Company's consolidated financial condition, results of operations or cash flows.

In March 2023, the FASB issued ASU No. 2023-02, *Investments-Equity Method and Joint Ventures (Topic 323): Accounting for Investments in Tax Credit Structures Using the Proportional Amortization Method*. The ASU expands the use of the proportional amortization method of accounting for tax credit investments. Currently, the method is limited to Low Income Housing Tax Credit investments. Under the amended guidance, use of proportional amortization will be available to any qualifying tax credit investments, including but not limited to investments in New Markets Tax Credit and Renewable Energy Tax Credit programs. The ASU is effective for the Company on January 1, 2024. The Company will elect the proportional amortization method for any of its qualifying tax credit investments. Management has chosen a modified-retrospective application, meaning a cumulative-effect adjustment will be recorded to the opening balance of retained earnings as of the effective date without adjusting comparative periods. Management determined that the standard will not have a material impact on the Company's consolidated financial statements.

Recently Adopted Accounting Pronouncement

In March 2022, the FASB issued ASU No. 2022-02, *Financial Instruments-Credit Losses (Topic 326): Troubled Debt Restructurings and Vintage Disclosures*. The ASU eliminated the troubled debt restructuring ("TDR") recognition and measurement guidance and enhanced disclosures for modifications of receivables to borrowers experiencing

financial difficulty. Under ASU 2022-02, the use of a discounted cash flow method is no longer required when measuring expected credit losses on modified loans. The ASU also refined existing credit-related disclosures by requiring disclosure of current-period gross charge-offs of receivables by year of origination. The amendments in the ASU were applied prospectively to modifications and disclosures of gross charge-offs; however, adoption on a modified retrospective basis was applied for the effect on the allowance for credit losses related to the elimination of the TDR recognition and measurement guidance. The ASU became effective for the Company on January 1, 2023. Upon adoption, the Company recorded an adjustment to reduce the beginning balance of its allowance for credit losses by $68 million to reflect the elimination of the measurement guidance related to TDRs with an offsetting increase, net of tax, to beginning retained earnings.

2. Summary of Significant Accounting Policies

Cash and Cash Equivalents

Cash and cash equivalents is defined by the Company as cash on deposit with banks, including time deposits and other highly liquid investments with maturities of 90 days or less when purchased, excluding amounts restricted by certain contractual or other obligations. Cash and cash equivalents included $ 2.0 billion and $1.5 billion of cash and due from banks and $9.7 billion and $7.4 billion of interest-earning deposits at other banks at December 31, 2023 and 2022, respectively.

Restricted Cash

Restricted cash includes cash in accounts from which the Company's ability to withdraw funds at any time is contractually limited. Restricted cash is generally designated for specific purposes arising out of certain contractual or other obligations.

Investment Securities

At December 31, 2023, investment securities consisted of debt obligations of the U.S. Treasury and government-sponsored enterprises of the U.S. ("U.S. GSEs") and mortgage-backed securities issued by government agencies or U.S. GSEs. Investment securities that the Company has the positive intent and ability to hold to maturity are classified as held-to-maturity and are reported at amortized cost. All other investment securities are classified as available-for-sale, as the Company does not hold investment securities for trading purposes. Available-for-sale investment securities are reported at fair value with unrealized gains and losses, net of tax, reported as a component of accumulated other comprehensive income ("AOCI") included in stockholders' equity. The Company estimates the fair value of available-for-sale investment securities as more fully discussed in Note 20: Fair Value Measurements. The amortized cost for each held-to-maturity and available-for-sale investment security is adjusted for amortization of premiums or accretion of discounts, as appropriate. Such amortization or accretion is included in interest income. Interest on investment securities is accrued each month in accordance with their contractual terms and recorded in other assets in the consolidated statements of financial condition. The U.S. Treasury and U.S. GSE obligations and mortgage-backed securities issued by government agencies or U.S. GSEs in which the Company invests have long histories with no credit losses and are explicitly or implicitly guaranteed by the U.S. government. Therefore, management has concluded that there is no expectation of non-payment on its investment securities and does not record an allowance for credit losses on these investments.

Loan Receivables

Loan receivables consist of credit card receivables and other loan receivables. The carrying values of all classes of loan receivables include unamortized net deferred loan origination fees and costs (also see "- Significant Revenue Recognition Accounting Policies - Loan Interest and Fee Income"). The credit card loan receivables carrying amount includes the principal amounts outstanding and uncollected billed interest and fees and is reduced for unearned revenue related to balance transfer fees (also see "- Significant Revenue Recognition Accounting Policies - Loan Interest and Fee Income"). Other loans consist of private student loans, personal loans and other loans and the carrying amount of those loans includes principal amounts outstanding. For private student loans, principal amounts outstanding also include accrued interest that has been capitalized. The Company's loan receivables are deemed to be held-for-investment at origination or acquisition because management has the intent and ability to hold them for the foreseeable future. Cash flows associated with loans originated or acquired for investment are classified as cash flows from investing activities, regardless of a subsequent change in intent.

Delinquent Loans and Net Charge-Offs

The entire balance of an account is contractually past due if the minimum payment is not received by the specified date on the customer's billing statement. Delinquency is reported on loans that are 30 days or more past due.

Credit card loans are charged off at the end of the month during which an account becomes 180 days past due. Closed-end unsecured consumer loan receivables are charged off at the end of the month during which an account becomes 120 days contractually past due. Customer bankruptcies and probate accounts are charged off by the end of the month 60 days following the receipt of notification of the bankruptcy or death, but not later than the 180-day or 120-day time frame described above. Receivables associated with alleged or potential fraudulent transactions are reserved for at their net realizable value upon receipt of notification of such fraud through a charge to other expense and are subsequently written off at the end of the month 90 days following notification, but not later than the contractual 180-day or 120-day time frame described above. The Company's charge-off policies are designed to comply with guidelines established by the Federal Financial Institutions Examination Council ("FFIEC").

The Company's net charge-offs include the principal amount of loans charged off less principal recoveries and exclude charged-off interest and fees, recoveries of interest and fees and fraud losses.

The practice of re-aging an account also may affect loan delinquencies and charge-offs. A re-age is intended to assist delinquent customers who have experienced financial difficulties but who demonstrate both an ability and willingness to repay. Accounts meeting specific criteria are re-aged when the Company and the customer agree on a temporary repayment schedule that may include concessionary terms. With re-aging, the outstanding balance of a delinquent account is returned to a current status. Customers may also qualify for a workout re-age when either a longer term or permanent hardship exists. The Company's re-age practices are designed to comply with FFIEC guidelines.

Allowance for Credit Losses

The Company maintains an allowance for credit losses at a level that is appropriate to absorb net credit losses anticipated over the remaining expected life of loan receivables as of the balance sheet date. The estimate of expected credit losses considers uncollectible principal, interest and fees associated with the Company's loan receivables existing as of the balance sheet date. Additionally, the estimate includes expected recoveries of amounts that were either previously charged off or are expected to be charged off. The allowance is evaluated quarterly for appropriateness and is maintained through an adjustment to the provision for credit losses. Charge-offs of principal amounts of loans outstanding are deducted from the allowance and subsequent recoveries of such amounts increase the allowance. Charge-offs of loan balances representing unpaid interest and fees result in a reversal of interest and fee income, respectively, which is effectively a reclassification of the provision for credit losses.

The Company calculates its allowance for credit losses by estimating expected credit losses separately for classes of receivables with similar risk characteristics. This results in segmenting the portfolio by loan product type, which is the level that the Company develops and documents its methodology for determining the allowance for credit losses. The estimate of expected credit losses for each loan product type is based on: (i) a reasonable and supportable forecast period; (ii) a reversion period; and (iii) a post-reversion period based on historical information covering the remaining life of the loan, all of which is netted with expected recoveries. The lengths of the reasonable and supportable forecast and reversion periods can vary and are subject to a quarterly assessment that considers the economic outlook and level of variability among macroeconomic forecasts. The Company applies a weighted approach in reverting from the reasonable and supportable forecast period to the post-reversion period.

Several analyses are used to help estimate credit losses anticipated over the remaining expected life of loan receivables as of the balance sheet date. The Company's estimation process includes models that predict customer losses based on risk characteristics and portfolio attributes, macroeconomic variables and historical data and analysis. There is a significant amount of judgment applied in selecting inputs and analyzing the results produced by the models to determine the allowance.

For credit card loans, the Company uses a modeling framework that includes the following components for estimating expected credit losses:

- Probability of default: this component estimates the probability of charge-off at different points in time over the life of each loan.

- Exposure at default: this component estimates the balance on the loan at the time of default. Given that there is no stated life of a receivable balance on a revolving credit card account, the Company applies a percentage of expected payments to estimate the balance that would remain at the time of charge-off.
- Recoveries from charged-off accounts are estimated separately and are netted as part of the aggregation of all of the components of the card loss modeling framework.
- The output of the above three components is adjusted to remove post measurement date activity.

For private student loans and personal loans, the Company uses vintage-based models that estimate expected credit losses over the life of the loan, net of recovery estimates, impacted mainly by time elapsed since origination, credit quality of origination vintages and macroeconomic forecasts.

The components described above for credit card, private student and personal loans are developed utilizing historical data and applicable macroeconomic variable inputs based on statistical analysis and customer behavioral relationships with credit performance. Expected recoveries from loans charged off as of the balance sheet date are modeled separately and included in the allowance estimate. The Company leverages these models and recent macroeconomic forecasts for the portion of the estimate associated with the reasonable and supportable forecast period. To estimate expected credit losses for the remainder of the life of the credit card loans, the Company reverts to historical experience of credit card loans with characteristics similar to those as of the balance sheet date and observed over various phases of a credit cycle. To estimate expected credit losses for the remainder of the life of private student and personal loans, the Company generally reverts to use of average macroeconomic variables over an appropriate historical period.

The considerations in these models include past and current loan performance, loan growth and seasoning, risk management practices, account collection strategies, economic conditions, bankruptcy filings, policy changes and forecasting uncertainties. Consideration of past and current loan performance includes the post-modification performance of loans to borrowers experiencing financial difficulty. For the credit card loan portfolio, the Company estimates its credit losses on a loan-level basis, which includes loans that are delinquent and/or no longer accruing interest and/or loans that have been restructured. For the remainder of its portfolio, including private student, personal and other loans, the Company estimates its credit losses on a pooled basis. For all loan types, recoveries are estimated at a pooled level based on estimates of future cash flows derived using historical experience.

Accrued interest receivable on credit card loans is included in the estimate of expected credit losses once billed to the customer (i.e., once the interest becomes part of the loan balance). Except as noted in the following sentence, an allowance for credit losses is not recorded for unbilled credit card interest or accrued interest receivable on other loan classes as the impact to the allowance for credit losses is not material. Accrued interest receivable on student loans that have not yet entered repayment is included in the estimate of expected credit losses.

No liability for expected credit losses is required for unused lines of credit on the Company's credit card loans because they are unconditionally cancellable. The Company records a liability for expected credit losses for unfunded commitments on all other loans, which is presented as part of accrued expenses and other liabilities in the consolidated statements of financial condition. This liability is evaluated quarterly for appropriateness and is maintained through an adjustment to the provision for credit losses.

As part of certain collection strategies, the Company may modify the terms of loans to customers experiencing financial hardship. Temporary and permanent modifications on credit card and personal loans, as well as temporary modifications on private student loans and certain grants of private student loan forbearance are generally subject to disclosure as loan modifications to borrowers experiencing financial difficulty.

Loan receivables that have been modified are subject to the same requirements for the accrual of expected credit loss over their expected remaining lives as described above for unmodified loans. The effects of all loan modifications, whether or not they are subject to disclosure as loan modifications to borrowers experiencing financial difficulty, are reflected in the allowance for credit losses.

Premises and Equipment, net

Premises and equipment, net, are stated at cost less provisions for impairment and accumulated depreciation and amortization. Accumulated depreciation and amortization is computed using the straight-line method over the estimated useful lives of the assets. The Company periodically reviews the estimated useful lives and may adjust them as necessary. Buildings are depreciated over a period of thirty-nine years. The costs of improvements are capitalized and depreciated either over the asset's estimated useful life, typically ten years to fifteen years, or over the remaining term of the lease, when applicable. Furniture and fixtures are depreciated over a period of five years to ten years. Equipment is depreciated over three years to ten years. Maintenance and repairs are immediately expensed when incurred, while the costs of significant improvements are capitalized.

Purchased software and capitalized costs related to internally developed software are amortized over their useful lives of three years to ten years. Costs incurred during the application development stage related to internally developed software are capitalized. Costs are expensed as incurred during the preliminary project stage and post implementation stage. Once the capitalization criteria as defined in GAAP have been met, external direct costs incurred for materials and services used in developing or obtaining internal-use computer software and payroll and payroll-related costs for employees who are directly associated with the internal-use computer software project (to the extent those employees devoted time directly to the project) are capitalized. Amortization of capitalized costs begins when the software is ready for its intended use. Capitalized software is included in premises and equipment, net in the Company's consolidated statements of financial condition. See Note 6: Premises and Equipment for further information about the Company's premises and equipment.

Cloud computing arrangements involving the licensing of software that meet certain criteria are recognized as the acquisition of software. Such assets are measured at the present value of the license obligation, if the license is to be paid over time, in addition to any capitalized upfront costs and amortized over the life of the arrangement. Cloud computing arrangements that do not meet the criteria to be recognized as acquired software are accounted for as service contracts. To date, none of the Company's cloud computing arrangements have met the criteria to be recognized as acquired software.

Premises and equipment are subject to impairment testing when events or conditions indicate that the carrying value of the asset may not be fully recoverable from future cash flows. A test for recoverability is done by comparing the asset's carrying value to the sum of the undiscounted future net cash inflows expected to be generated from the use of the asset over its remaining useful life. Impairment exists if the sum of the undiscounted expected future net cash inflows is less than the carrying amount of the asset. Impairment would result in a write-down of the asset to its estimated fair value. The estimated fair values of these assets are based on the discounted present value of the stream of future net cash inflows expected to be derived over the remaining useful lives of the assets. If an impairment write-down is recorded, the remaining useful life of the asset will be evaluated to determine whether revision of the remaining amortization or depreciation period is appropriate.

Goodwill

Goodwill is recorded as part of the Company's acquisitions of businesses when the purchase price exceeds the fair value of the net tangible and separately identifiable intangible assets acquired. The Company's goodwill is not amortized, but rather is subject to an impairment test at the reporting unit level annually as of October 1, or between annual tests if an event occurs or circumstances change that would more likely than not reduce the fair value of a reporting unit below its carrying amount. The Company's reported goodwill relates to PULSE, which it acquired in 2005. The Company's goodwill is tested for impairment by comparing the fair value of the reporting unit to its carrying value. If the fair value of the reporting unit exceeds its carrying value, goodwill is not impaired. If the carrying value exceeds its fair value, an impairment loss must be recognized in an amount equal to that excess, limited to the total amount of goodwill allocated to that reporting unit. No impairment was identified during the impairment test conducted as of October 1, 2023.

Stock-based Compensation

The Company measures the cost of services received from employees and non-employee directors in exchange for an award of stock-based compensation based on the grant-date fair value of the award. The cost, net of estimated forfeitures, is recognized over the requisite service period. Awards to employees who are retirement-eligible at any point during the year are amortized over 12 months in accordance with the vesting terms that apply under those circumstances. No compensation cost is recognized for awards that are subsequently forfeited.

Advertising Costs

The Company expenses television and radio advertising costs in the period in which the advertising is first aired and all other advertising costs as incurred. Advertising costs are recorded in marketing and business development and were $359 million, $307 million and $262 million for the years ended December 31, 2023, 2022 and 2021, respectively.

Income Taxes

Income tax expense is provided for using the asset and liability method, under which deferred tax assets and liabilities are determined based on the temporary differences between the financial reporting and income tax bases of assets and liabilities using currently enacted tax rates. Deferred tax assets are recognized when their realization is determined to be more likely than not. A valuation allowance is provided if the Company believes it is more likely than not that all or some portion of the deferred tax asset will not be realized. An increase or decrease in the valuation allowance that results from a change in circumstances and which causes a change in management's judgment about the realizability of the related deferred tax asset is included in the current tax provision. Uncertain tax positions are measured at the highest amount of tax benefit for which realization is judged to be more likely than not. Tax benefits that do not meet these criteria are unrecognized tax benefits. The Company recognizes and reports interest and penalties, if necessary, related to uncertain tax positions within its provision for income tax expense. See Note 15: Income Taxes for more information about the Company's income taxes.

Accumulated Other Comprehensive Income

The Company records unrealized gains and losses on available-for-sale securities, changes in the fair value of cash flow hedges and certain pension and foreign currency translation adjustments in other comprehensive income ("OCI") on an after-tax basis where applicable. The Company's policy is to adjust the tax effects of a component of AOCI in the same period in which the item is sold or otherwise derecognized, or when the carrying value of the item is remeasured. Details of OCI, net of tax, are presented in the statement of comprehensive income and a roll forward of AOCI is presented in the consolidated statements of changes in stockholders' equity and Note 13: Accumulated Other Comprehensive Income.

Significant Revenue Recognition Accounting Policies

Loan Interest and Fee Income

Interest on loans is composed largely of interest on credit card loans and is recognized based on the amount of loans outstanding and their contractual interest rate. Interest on credit card loans is included in loan receivables when billed to the customer. The Company accrues unbilled interest revenue each month from a customer's billing cycle date to the end of the month. The Company applies an estimate of the percentage of loans that will revolve in the next cycle in the estimation of the accrued unbilled portion of interest revenue that is included in other assets on the consolidated statements of financial condition. Interest on other loan receivables is accrued each month in accordance with their contractual terms and recorded in other assets in the consolidated statements of financial condition.

The Company recognizes fees (except balance transfer fees and certain product fees) on loan receivables in interest income or loan fee income as the fees are assessed. Balance transfer fees and certain product fees are recognized in interest income or loan fee income ratably over the periods to which they relate. Balance transfer fees are accreted to interest income over the estimated life of the related balance. As of December 31, 2023 and 2022, deferred revenues related to balance transfer fees, recorded as a reduction of loan receivables, were $107 million and $85 million, respectively. Loan fee income consists of fees on credit card loans and includes late, cash advance, returned check and other miscellaneous fees and is reflected net of waivers and charge-offs.

Direct loan origination costs on credit card loans are deferred and amortized on a straight-line basis over a one year period and recorded in interest income from credit card loans. Direct loan origination costs on other loan receivables are deferred and amortized over the life of the loan using the interest method and are recorded in interest income from other loans. As of December 31, 2023 and 2022, the remaining unamortized deferred costs related to loan origination were $306 million and $298 million, respectively, and were recorded in loan receivables.

The Company accrues interest and fees on credit card and closed-end loan receivables until the loans are paid or charged off, except in instances of customer bankruptcy, death or suspected fraud, where no further interest and fee accruals occur following notification. Upon completion of the fraud investigation, non-fraudulent credit card and closed-end consumer loan receivables may resume accruing interest. Payments received on non-accrual loans are allocated

according to the same payment hierarchy applied to loans that are accruing interest. When loan receivables are charged off, unpaid accrued interest and fees are reversed against the income line items in which they were originally recorded in the consolidated statements of income. Charge-offs and recoveries of amounts that relate to capitalized interest on private student loans are treated as principal charge-offs and recoveries, affecting the provision for credit losses rather than interest income. The Company considers uncollectible interest and fee revenues in assessing the adequacy of the allowance for credit losses.

Interest income from loans disclosed as modifications to borrowers experiencing financial difficulty is accounted for in the same manner as other accruing loans. Cash collections on these loans are allocated according to the same payment hierarchy applied to loans that have not been modified.

Discount and Interchange Revenue

The Company earns discount revenue from fees charged to merchants with whom it has entered into card acceptance agreements for processing credit card purchase transactions. The Company earns acquirer interchange revenue primarily from merchant acquirers on Discover Network, Diners Club and PULSE transactions made by credit and debit card customers at merchants with whom merchant acquirers have entered into card acceptance agreements for processing payment card transactions. These card acceptance arrangements generally renew automatically and do not have fixed durations. Under these agreements, the Company stands ready to process payment transactions as and when each is presented. The Company earns discount, interchange and similar fees only when transactions are processed. Contractually defined per-transaction fee amounts typically apply to each type of transaction processed and are recognized as revenue at the time each transaction is captured for settlement. These fees are typically collected by the Company as part of the process of settling transactions daily with merchants and acquirers and are fully earned at the time settlement is made.

The Company pays issuer interchange to card-issuing entities that have entered into contractual arrangements to issue cards on the Discover Network and on certain transactions on the Diners Club and PULSE networks. This cost is contractually established and is based on the card-issuing organization's transaction volume. The Company classifies this cost as a reduction of discount and interchange revenue. Costs of cardholder reward arrangements, including the Cashback Bonus reward program, are classified as reductions of discount and interchange revenue pursuant to guidance under Accounting Standards Codification ("ASC") Topic 606 governing consideration payable to a customer. For both issuer interchange and transaction-based cardholder rewards, the Company accrues the cost at the time each underlying card transaction is captured for settlement.

Customer Rewards

The Company offers its customers various reward programs, including the Cashback Bonus reward program, pursuant to which the Company pays certain customers a reward equal to a percentage of their credit card purchase amounts based on the type and volume of the customer's purchases. The liability for customer rewards is recorded on an individual customer basis and is accumulated as qualified customers earn rewards through their ongoing credit card purchase activity or other defined actions. The Company recognizes customer rewards costs as a reduction of the related revenue, if any. In instances where a reward is not associated with a revenue-generating transaction, such as when a reward is given for opening an account, the reward cost is recorded as an operating expense. For the years ended December 31, 2023, 2022 and 2021, rewards costs amounted to $3.1 billion, $3.0 billion and $2.5 billion, respectively. The liability for customer rewards was $2.2 billion at December 31, 2023 and 2022, and is included in accrued expenses and other liabilities on the consolidated statements of financial condition.

Protection Products Revenue

The Company earns revenue related to fees received for providing ancillary products and services, including payment protection and identity theft protection services, to its credit card customers. A portion of this revenue comprises amounts earned for arranging for the delivery of products offered by third-party service providers. The amount of revenue recorded is generally based on either a percentage of a customer's outstanding balance or a flat fee, in either case assessed monthly and recognized as earned. These contracts are month-to-month arrangements that are cancellable at any time. The Company recognizes each monthly fee in the period to which the service or coverage relates.

Transaction Processing Revenue

Transaction processing revenue represents switch fees charged to financial institutions and merchants under network participation agreements for processing ATM and debit transactions over the PULSE network, as well as various participation and membership fees. Network participation agreements generally renew automatically and do not have fixed durations, although the Company does enter into fixed-term pricing or incentive arrangements with certain network participants. Similar to discount and interchange fees, switch fees are contractually defined per-transaction fee amounts and are assessed and recognized as revenue at the time each transaction is captured for settlement. These fees are typically collected by the Company as part of the process of settling transactions with network participants. Membership and other participation fees are recognized over the periods to which each fee relates.

Other Income

Other income includes gains and losses on equity investments, sales-based royalty revenues earned by Diners Club, merchant fees, revenues from network partners and other miscellaneous revenue items. Unrealized gains and losses on equity investments carried at fair value are recognized quarterly based on changes in their respective fair values. Sales-based royalty revenues are recognized as the related sales are reported by Diners franchisees. All remaining items of other income are recognized as the related performance obligations are satisfied.

Future Revenue Associated with Customer Contracts

For contracts under which the Company processes payment card transactions, the Company has the right to assess fees for services performed and to collect those fees through the settlement process. The Company generates essentially all of its discount and interchange revenue and transaction processing revenue, as well as some revenue reported as other income, through such contracts. There is no specified quantity of service promised in these contracts as the number of payment transactions is dependent upon cardholder behavior, which is outside the control of the Company and its network customers (i.e., merchants, acquirers, issuers and other network participants). As noted above, these contracts are typically without fixed durations and renew automatically. For these reasons, the Company does not make or disclose an estimate of revenue associated with performance obligations attributable to the remaining terms of these contracts. Future revenue associated with the Company's sales-based royalty revenues earned from Diners Club licensees is similarly variable and open-ended and therefore the Company does not make or disclose an estimate of royalties associated with performance obligations attributable to the remaining terms of the licensing and royalty arrangements. Because of the nature of the services and the manner of collection associated with the majority of the Company's revenue from contracts with customers, material receivables or deferred revenues are not generated.

Incentive Payments

The Company makes certain incentive payments under contractual arrangements with financial institutions, Diners Club licensees, merchants, acquirers and certain other customers. These payments are generally classified as contra-revenue unless a distinct good or service is received by the Company in exchange for the payment and the fair value of the good or service can be reasonably estimated. If no such good or service is identified, then the entire payment is classified as contra-revenue and included in the consolidated statements of income in the line item where the related revenues are recorded. If the payment gives rise to an asset because it is expected to directly or indirectly contribute to future net cash inflows, it is deferred and recognized over the expected benefit period. The unamortized portion of the deferred incentive payments included in other assets on the consolidated statements of financial condition was $27 million and $32 million at December 31, 2023 and 2022, respectively.

3. Investments

The Company's other short-term investments and investment securities consist of the following (dollars in millions):

	December 31,	
	2023	2022
U.S. Treasury[1] and U.S. GSE[2] securities	$ 12,937	$ 11,423
Residential mortgage-backed securities - Agency[3]	718	785
Total investment securities	$ 13,655	$ 12,208

(1) $320 million and $97 million of U.S. Treasury securities pledged as swap collateral as of December 31, 2023 and 2022, respectively.
(2) Consists of securities issued by the Federal Home Loan Bank ("FHLB").
(3) Consists of securities issued by Fannie Mae, Freddie Mac, or Ginnie Mae.

The amortized cost, gross unrealized gains and losses and fair value of available-for-sale and held-to-maturity investment securities are as follows (dollars in millions):

	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
December 31, 2023				
Available-for-Sale Investment Securities[1]				
U.S. Treasury and U.S. GSE securities	$ 12,971	$ 52	$ (86)	$ 12,937
Residential mortgage-backed securities - Agency	480	-	(15)	465
Total available-for-sale investment securities	$ 13,451	$ 52	$ (101)	$ 13,402
Held-to-Maturity Investment Securities[2]				
Residential mortgage-backed securities - Agency[3]	$ 253	$ -	$ (19)	$ 234
Total held-to-maturity investment securities	$ 253	$ -	$ (19)	$ 234
December 31, 2022				
Available-for-Sale Investment Securities[1]				
U.S. Treasury and U.S. GSE securities	$ 11,580	$ 21	$ (178)	$ 11,423
Residential mortgage-backed securities - Agency	587	-	(23)	564
Total available-for-sale investment securities	$ 12,167	$ 21	$ (201)	$ 11,987
Held-to-Maturity Investment Securities[2]				
Residential mortgage-backed securities - Agency[3]	$ 221	$ -	$ (22)	$ 199
Total held-to-maturity investment securities	$ 221	$ -	$ (22)	$ 199

(1) Available-for-sale investment securities are reported at fair value.
(2) Held-to-maturity investment securities are reported at amortized cost.
(3) Amounts represent residential mortgage-backed securities ("RMBS") that were classified as held-to-maturity as they were entered into as a part of the Company's community reinvestment initiatives.

The Company invests in U.S. Treasury obligations and securities issued by government agencies or U.S. GSEs, which have long histories with no credit losses and are explicitly or implicitly guaranteed by the U.S. federal government. Therefore, management has concluded that there is no expectation of non-payment on its investment securities and does not record an allowance for credit losses on these investments. In addition, the Company does not have the intent to sell any available-for-sale securities in an unrealized loss position and does not believe it is more likely than not that it will be required to sell any such security before recovery of its amortized cost basis.

The following table provides information about available-for-sale investment securities with aggregate gross unrealized losses and the length of time that individual investment securities have been in a continuous unrealized loss position (dollars in millions):

		Less than 12 months		More than 12 months	
	Number of Securities in a Loss Position	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses
December 31, 2023					
Available-for-Sale Investment Securities					
U.S. Treasury and U.S. GSE securities	105	$ 3,513	$ (13)	$ 3,978	$ (73)
Residential mortgage-backed securities - Agency	31	$ -	$ -	$ 465	$ (15)
December 31, 2022					
Available-for-Sale Investment Securities					
U.S. Treasury and U.S. GSE securities	123	$ 9,060	$ (175)	$ 106	$ (3)
Residential mortgage-backed securities - Agency	34	$ 559	$ (22)	$ 5	$ (1)

During the years ended December 31, 2023 and 2022, the Company had no sales of available-for-sale securities. The Company received $5 million of proceeds from the sale of available-for-sale securities during the year ended December 31, 2021. See Note 13: Accumulated Other Comprehensive Income for unrealized gains and losses on available-for-sale securities during the years ended December 31, 2023, 2022 and 2021.

Maturities and weighted-average yields of available-for-sale debt securities and held-to-maturity debt securities are provided in the following tables (dollars in millions):

At December 31, 2023	One Year or Less	After One Year Through Five Years	After Five Years Through Ten Years	After Ten Years	Total
Available-for-Sale Investment Securities - Amortized Cost					
U.S. Treasury and U.S. GSE securities	$ 2,127	$ 10,634	$ 210	$ -	$ 12,971
Residential mortgage-backed securities - Agency[1]	-	73	26	381	480
Total available-for-sale investment securities	$ 2,127	$ 10,707	$ 236	$ 381	$ 13,451
Held-to-Maturity Investment Securities - Amortized Cost					
Residential mortgage-backed securities - Agency[1]	$ -	$ -	$ -	$ 253	$ 253
Total held-to-maturity investment securities	$ -	$ -	$ -	$ 253	$ 253
Available-for-Sale Investment Securities - Fair Values					
U.S. Treasury and U.S. GSE securities	$ 2,093	$ 10,628	$ 216	$ -	$ 12,937
Residential mortgage-backed securities - Agency[1]	-	70	25	370	465
Total available-for-sale investment securities	$ 2,093	$ 10,698	$ 241	$ 370	$ 13,402
Held-to-Maturity Investment Securities - Fair Values					
Residential mortgage-backed securities - Agency[1]	$ -	$ -	$ -	$ 234	$ 234
Total held-to-maturity investment securities	$ -	$ -	$ -	$ 234	$ 234
Available-for-Sale Investment Securities - Weighted-Average Yields[2]					
U.S. Treasury and U.S. GSE securities	2.14 %	3.87 %	4.37 %	- %	3.59 %
Residential mortgage-backed securities - Agency[1]	- %	2.09 %	3.35 %	3.53 %	3.30 %
Total available-for-sale investment securities	2.14 %	3.86 %	4.26 %	3.53 %	3.58 %
Held-to-Maturity Investment Securities - Weighted-Average Yields					
Residential mortgage-backed securities - Agency[1]	- %	- %	- %	3.56 %	3.56 %
Total held-to-maturity investment securities	- %	- %	- %	3.56 %	3.56 %

(1) Maturities of RMBS are reflective of the contractual maturities of the investment.
(2) The weighted-average yield for available-for-sale investment securities is calculated based on the amortized cost.

Taxable interest on investment securities was $449 million, $179 million and $182 million for the years ended December 31, 2023, 2022 and 2021, respectively. There was no U.S. federal income tax-exempt interest on investment securities for the years ended December 31, 2023, 2022 and 2021.

Other Investments

As a part of the Company's community reinvestment initiatives, the Company has made equity investments in certain limited partnerships and limited liability companies that finance the construction and rehabilitation of affordable rental housing and stimulate economic development in low- to moderate-income communities. These investments are accounted for using the equity method of accounting and are recorded within other assets. The related commitment for future investments is recorded in accrued expenses and other liabilities within the consolidated statements of financial condition. The portion of each investment's operating results allocable to the Company reduces the carrying value of the investments and is recorded in other expense within the consolidated statements of income. The Company further reduces the carrying value of the investments by recognizing any amounts that are in excess of future net tax benefits in other expense. The Company earns a return primarily through tax credits allocated to the affordable housing projects and the community revitalization projects. The Company does not consolidate these investments as the Company does

not have a controlling financial interest in the investee entities. As of December 31, 2023 and 2022, the Company had outstanding investments in these entities of $514 million and $416 million, respectively, and related contingent liabilities for unconditional and legally binding delayed equity contributions of $187 million and $111 million, respectively. Of the above outstanding equity investments, the Company had $456 million and $375 million of investments related to affordable housing projects as of December 31, 2023 and 2022, respectively, which had $155 million and $100 million of related contingent liabilities for unconditional and legally binding delayed equity contributions, respectively.

The Company holds non-controlling equity positions in several payment services entities and third-party venture capital funds, which invest in such entities. Most of the direct investments in such entities are not subject to equity method accounting because the Company does not have significant influence over the investee. The Company's investments in third-party venture capital funds represent limited partnership interests and are accounted for under the equity method. The common or preferred equity securities that the Company holds typically do not have readily determinable fair values. As a result, these investments are carried at cost minus impairment, if any. As of December 31, 2023 and 2022, the carrying value of these investments, which are recorded within other assets on the Company's consolidated statements of financial condition, was $35 million and $39 million, respectively.

The Company also holds non-controlling equity positions in payment service entities that have actively traded stock and therefore have readily determinable fair values. As a result, these investments are carried at fair value based on the quoted share prices. As of December 31, 2023, the carrying values of these investments, which are recorded within other assets on the Company's consolidated statements of financial condition, were immaterial. As of December 31, 2022, the carrying values of these investments were $41 million. During the year ended December 31, 2023, the Company recognized an immaterial net loss on the consolidated statements of income related to these investments. The Company recognized a net loss of $214 million during the year ended December 31, 2022. The Company recognized a net gain of approximately $423 million during the year ended December 31, 2021.

4. Loan Receivables

The Company has two loan portfolio segments: credit card loans and other loans.

The Company's classes of receivables within the two portfolio segments are depicted in the following table (dollars in millions):

	December 31,	
	2023	2022
Credit card loans[1][2]	$ 102,259	$ 90,113
Other loans[3]		
Private student loans[4]	10,352	10,308
Personal loans	9,852	7,998
Other loans	5,946	3,701
Total other loans	26,150	22,007
Total loan receivables	128,409	112,120
Allowance for credit losses	(9,283)	(7,374)
Net loan receivables	$ 119,126	$ 104,746

(1) Amounts include carrying values of $14.8 billion and $13.5 billion underlying investors' interest in trust debt at December 31, 2023 and 2022, respectively, and $15.6 billion and $12.2 billion in seller's interest at December 31, 2023 and 2022, respectively. See Note 5: Credit Card and Private Student Loan Securitization Activities for additional information.
(2) Unbilled accrued interest receivable on credit card loans, which is presented as part of other assets in the Company's consolidated statements of financial condition, was $753 million and $611 million at December 31, 2023 and 2022, respectively.
(3) Accrued interest receivable on private student, personal and other loans, which is presented as part of other assets in the Company's consolidated statements of financial condition, was $522 million, $69 million and $21 million, respectively, at December 31, 2023 and $468 million, $49 million and $11 million, respectively, at December 31, 2022.
(4) Private student loans in repayment were $6.3 billion and $6.0 billion at December 31, 2023 and 2022, respectively.

Credit Quality Indicators

As part of credit risk management activities, on an ongoing basis, the Company reviews information related to the performance of a customer's account with the Company and information from credit bureaus, such as FICO or other credit scores, relating to the customer's broader credit performance. The Company actively monitors key credit quality indicators, including FICO scores and delinquency status, for credit card, private student and personal loans. These indicators are important to understand the overall credit performance of the Company's customers and their ability to repay.

FICO scores are generally obtained at the origination of the account and are refreshed monthly or quarterly thereafter to assist in predicting customer behavior. Historically, the Company has noted that accounts with FICO scores below 660 have larger delinquencies and credit losses than those with higher credit scores.

The following table provides the distribution of the amortized cost basis (excluding accrued interest receivable presented in other assets) by the most recent FICO scores available for the Company's customers for credit card, private student and personal loan receivables (dollars in millions):

	Credit Risk Profile by FICO Score							
	December 31,							
	2023				2022			
	660 and Above		Less than 660 or No Score		660 and Above		Less than 660 or No Score	
	$	%	$	%	$	%	$	%
Credit card loans	$ 82,238	80 %	$ 20,021	20 %	$ 73,827	82 %	$ 16,286	18 %
Private student loans by origination year[1]								
2023	$ 1,010	94 %	$ 69	6 %				
2022	1,495	95 %	85	5 %	$ 1,172	94 %	$ 77	6 %
2021	1,468	94 %	91	6 %	1,668	95 %	81	5 %
2020	1,180	94 %	75	6 %	1,365	95 %	65	5 %
2019	1,039	93 %	76	7 %	1,221	95 %	67	5 %
Prior	3,498	93 %	266	7 %	4,306	94 %	286	6 %
Total private student loans	$ 9,690	94 %	$ 662	6 %	$ 9,732	94 %	$ 576	6 %
Personal loans by origination year								
2023	$ 5,149	98 %	$ 100	2 %				
2022	2,604	93 %	187	7 %	$ 4,270	98 %	$ 77	2 %
2021	1,049	92 %	91	8 %	1,958	96 %	91	4 %
2020	355	92 %	29	8 %	790	95 %	40	5 %
2019	169	88 %	22	12 %	444	92 %	38	8 %
Prior	78	80 %	19	20 %	249	86 %	41	14 %
Total personal loans	$ 9,404	95 %	$ 448	5 %	$ 7,711	96 %	$ 287	4 %

(1) FICO score represents the higher credit score of the cosigner or borrower.

Delinquencies are an indicator of credit quality at a point in time. A loan balance is considered delinquent when contractual payments on the loan become 30 days past due.

The amortized cost basis (excluding accrued interest receivable presented in other assets) of delinquent loans in the Company's loan portfolio is shown below for credit card, private student and personal loan receivables (dollars in millions):

	December 31,					
	2023			2022		
	30-89 Days Delinquent	90 or More Days Delinquent	Total Past Due	30-89 Days Delinquent	90 or More Days Delinquent	Total Past Due
Credit card loans	$ 2,038	$ 1,917	$ 3,955	$ 1,250	$ 1,028	$ 2,278
Private student loans by origination year[1]						
2023	$ -	$ -	$ -			
2022	7	2	9	$ -	$ -	$ -
2021	18	6	24	6	1	7
2020	20	7	27	14	3	17
2019	24	9	33	19	5	24
Prior	132	46	178	128	36	164
Total private student loans	$ 201	$ 70	$ 271	$ 167	$ 45	$ 212
Personal loans by origination year						
2023	$ 26	$ 8	$ 34			
2022	44	16	60	$ 12	$ 3	$ 15
2021	20	8	28	15	6	21
2020	7	2	9	8	2	10
2019	5	2	7	6	2	8
Prior	2	3	5	6	3	9
Total personal loans	$ 104	$ 39	$ 143	$ 47	$ 16	$ 63

(1) Private student loans may include a deferment period, during which borrowers are not required to make payments while enrolled in school at least half time as determined by the school. During a deferment period, these loans do not advance into delinquency.

Allowance for Credit Losses

The following tables provide changes in the Company's allowance for credit losses (dollars in millions):

	For the Year Ended December 31, 2023				
	Credit Card Loans	Private Student Loans	Personal Loans	Other Loans	Total Loans
Balance at December 31, 2022	$ 5,883	$ 839	$ 595	$ 57	$ 7,374
Cumulative effect of ASU No. 2022-02 adoption[1]	(66)	-	(2)	-	(68)
Balance at January 1, 2023	5,817	839	593	57	7,306
Additions					
Provision for credit losses[2]	5,476	152	363	28	6,019
Deductions					
Charge-offs	(4,481)	(155)	(290)	(1)	(4,927)
Recoveries	807	22	56	-	885
Net charge-offs	(3,674)	(133)	(234)	(1)	(4,042)
Balance at December 31, 2023	$ 7,619	$ 858	$ 722	$ 84	$ 9,283

	For the Year Ended December 31, 2022				
	Credit Card Loans	Private Student Loans	Personal Loans	Other Loans	Total Loans
Balance at December 31, 2021	$ 5,273	$ 843	$ 662	$ 44	$ 6,822
Additions					
Provision for credit losses[2]	2,233	99	24	13	2,369
Deductions					
Charge-offs	(2,417)	(126)	(159)	-	(2,702)
Recoveries	794	23	68	-	885
Net charge-offs	(1,623)	(103)	(91)	-	(1,817)
Balance at December 31, 2022	$ 5,883	$ 839	$ 595	$ 57	$ 7,374

	For the Year Ended December 31, 2021				
	Credit Card Loans	Private Student Loans	Personal Loans	Other Loans	Total Loans
Balance at December 31, 2020	$ 6,491	$ 840	$ 857	$ 38	$ 8,226
Additions					
Provision for credit losses[2]	229	67	(75)	6	227
Deductions					
Charge-offs	(2,255)	(89)	(190)	-	(2,534)
Recoveries	808	25	70	-	903
Net charge-offs	(1,447)	(64)	(120)	-	(1,631)
Balance at December 31, 2021	$ 5,273	$ 843	$ 662	$ 44	$ 6,822

(1) Represents the adjustment to the allowance for credit losses as a result of the adoption of ASU No. 2020-02 on January 1, 2023, which eliminated the requirement to apply discounted cash flow measurements for certain troubled debt restructurings.

(2) Excludes a $1 million, $10 million and $9 million adjustment to the liability for expected credit losses on unfunded commitments for the years ended December 31, 2023, 2022 and 2021, respectively, as the liability is recorded in accrued expenses and other liabilities in the Company's consolidated statements of financial condition.

The allowance for credit losses was approximately $9.3 billion at December 31, 2023, which reflects a $1.9 billion build from the amount of the allowance for credit losses at December 31, 2022. The build in the allowance for credit losses between December 31, 2023 and December 31, 2022, was primarily driven by loan growth, increasing delinquencies, and macroeconomic variables impacting household cash flows.

The allowance estimation process begins with a loss forecast that uses certain macroeconomic variables and multiple macroeconomic scenarios among its inputs. In estimating the allowance at December 31, 2023, the Company used a macroeconomic forecast that projected the following weighted average amounts: (i) unemployment rate ending 2024 at 4.17% and, within the Company's reasonable and supportable period, peaking at 4.26% in the second quarter of 2025 and (ii) 1.36% growth rate in real gross domestic product in 2024.

In estimating expected credit losses, the Company considered the uncertainties associated with borrower behavior and payment trends, as well as recent and expected macroeconomic conditions, such as high consumer price inflation and the fiscal and monetary policy responses to that inflation. The Federal Reserve raised its federal funds rate target range substantially during 2022 and the first three quarters of 2023 in an effort to slow economic growth and reduce inflation. Although real GDP growth and labor market conditions have exceeded most economists' expectations this year, restrictive monetary policy, as manifested in relatively high interest rates, typically precedes weaker consumer credit conditions caused by rising unemployment as economic growth slows. Credit performance in the Company's lending portfolios has evolved in line with its expectations this year, but may weaken if the economy fails to avert a recession in response to tighter credit conditions or other factors. The Company assessed the prospects for various macroeconomic outcomes in setting its allowance for credit losses.

The forecast period the Company deemed to be reasonable and supportable was 18 months for all periods presented. The 18 months reasonable and supportable forecast period was deemed appropriate given the current economic conditions. For all periods presented, the Company determined that a reversion period of 12 months was appropriate for the same reason. The Company applied a weighted reversion method to provide a more reasonable transition to historical losses for all loan products for all periods presented.

The net charge-offs for credit card loans, private student loans and personal loans increased for the year ended December 31, 2023, when compared to the year ended December 31, 2022, primarily due to portfolio seasoning.

Net charge-offs of principal are recorded against the allowance for credit losses, as shown in the preceding table. Information regarding net charge-offs of interest and fee revenues on credit card and other loans is as follows (dollars in millions):

	For the Years Ended December 31,		
	2023	2022	2021
Interest and fees accrued subsequently charged off, net of recoveries (recorded as a reduction of interest income)	$ 681	$ 303	$ 286
Fees accrued subsequently charged off, net of recoveries (recorded as a reduction to other income)	$ 192	$ 100	$ 75

Gross principal charge-offs of the Company's loan portfolio are presented in the table below, on a year-to-date basis, for credit card, private student and personal loan receivables (dollars in millions):

	For the Twelve Months Ended December 31, 2023
Credit card loans	$ 4,481
Private student loans by origination year	
2023	$ -
2022	4
2021	17
2020	21
2019	24
Prior	89
Total private student loans	$ 155
Personal loans by origination year	
2023	$ 19
2022	119
2021	81
2020	33
2019	24
Prior	14
Total personal loans	$ 290

Delinquent and Non-Accruing Loans

The amortized cost basis (excluding accrued interest receivable presented in other assets) of delinquent and non-accruing loans in the Company's loan portfolio is shown below for each class of loan receivables (dollars in millions):[1]

	30-89 Days Delinquent	90 or More Days Delinquent	Total Past Due	90 or More Days Delinquent and Accruing	Total Non-accruing[2]
December 31, 2023					
Credit card loans	$ 2,038	$ 1,917	$ 3,955	$ 1,881	$ 197
Other loans					
Private student loans	201	70	271	69	8
Personal loans	104	39	143	37	11
Other loans	39	19	58	3	53
Total other loans	344	128	472	109	72
Total loan receivables	$ 2,382	$ 2,045	$ 4,427	$ 1,990	$ 269
December 31, 2022					
Credit card loans	$ 1,250	$ 1,028	$ 2,278	$ 1,003	$ 176
Other loans					
Private student loans	167	45	212	45	8
Personal loans	47	16	63	16	7
Other loans	13	12	25	1	23
Total other loans	227	73	300	62	38
Total loan receivables	$ 1,477	$ 1,101	$ 2,578	$ 1,065	$ 214

(1) The payment status of both modified and unmodified loans is included in this table.
(2) The Company estimates that the gross interest income that would have been recorded under the original terms of non-accruing credit card loans was $37 million, $23 million and $28 million for the years ended December 31, 2023, 2022 and 2021, respectively. The Company does not separately track the amount of gross interest income that would have been recorded under the original terms of loans. Instead, the Company estimated this amount based on customers' current balances and most recent interest rates.

Loan Modifications to Borrowers Experiencing Financial Difficulty

The Company has internal loan modification programs that provide relief to credit card, private student and personal loan borrowers who are experiencing financial hardship. The internal loan modification programs include both temporary and permanent programs, which vary by product. External loan modification programs, through third party consumer credit counseling agencies, are also available for credit card and personal loans. Those programs feature interest rate reductions, payment delays, term extensions, or a combination thereof.

For credit card customers, the Company offers both temporary and permanent hardship programs. The temporary hardship programs consist of an interest rate reduction lasting for a period no longer than 12 months. Charging privileges on these accounts are generally suspended while in the program. However, if the customer meets certain criteria, charging privileges may be reinstated following completion of the program.

The permanent modification program involves closing the account, changing the structure of the loan to a fixed payment loan with a maturity no longer than 72 months and reducing the interest rate on the loan. The permanent modification program does not typically provide for the forgiveness of unpaid principal, but may allow for the reversal of certain unpaid interest or fee assessments. The Company also makes permanent loan modifications for customers who request financial assistance through external sources, such as a consumer credit counseling agency program. These loans typically receive a reduced interest rate, typically continue to be subject to the original minimum payment terms and do not normally include waiver of unpaid principal, interest or fees.

To assist private student loan borrowers who are experiencing temporary financial difficulties but are willing to resume making payments, the Company has offered a payment delay (in the form of hardship forbearance or temporary payment reduction), or a payment delay (in the form of a temporary payment reduction) combined with a temporary interest rate reduction. During 2023, programs were offered up to six consecutive months at one time with a lifetime usage cap, most commonly, of 12 months.

For personal loan customers, the Company offers various payment programs, including temporary and permanent programs, in certain situations. The temporary programs normally consist of reducing the minimum payment for no longer than 12 months and, in certain circumstances, the interest rate on the loan is reduced. The permanent programs involve extending the loan term and, in certain circumstances, reducing the interest rate on the loan. The total term of the loan, including modification, may not exceed nine years. The Company also allows permanent loan modifications for customers who request financial assistance through external sources, similar to the credit card customers discussed above. Payments are modified based on the new terms agreed upon with the credit counseling agency.

In addition to the programs described above, the Company will in certain cases accept partial payment in full satisfaction of the outstanding receivable. This is a form of principal forgiveness also known as a settlement. The difference between the loan balance and the amount received in settlement is recorded as a charge-off.

The Company monitors borrower performance after using payment programs or forbearance. The Company believes the programs are useful in assisting customers experiencing financial difficulties and allowing them to make timely payments. In addition to helping customers with their credit needs, these programs are designed to maximize collections and ultimately the Company's profitability. The Company plans to continue to use payment programs to provide relief to customers experiencing financial difficulties.

ASU No. 2022-02, Financial Instruments-Credit Losses (Topic 326): Troubled Debt Restructurings and Vintage Disclosures, became effective for the Company on January 1, 2023. The new guidance eliminated Subtopic 310-40, Troubled Debt Restructurings, and implemented enhanced disclosure requirements regarding loan modifications to borrowers experiencing financial difficulty. The new disclosures are required to be applied on a prospective basis. There will be no comparative disclosures to prior periods until such time as both periods disclosed are subject to the new guidance.

The following table provides the period-end amortized cost basis, by modification category, of loans to borrowers experiencing financial difficulty that entered a modification program during the period (dollars in millions). Some of the loans presented in the table below may no longer be enrolled in a program at period-end:

	For the Twelve Months Ended December 31, 2023	
Credit card loans[1][2]		
Interest rate reduction	$ 2,330	
Total credit card loans[3]	$ 2,330	
% of total class of financing receivables	2.28	%
Private student loans[1]		
Payment delay[4]	$ 33	
Interest rate reduction and payment delay[4]	143	
Total private student loans[3]	$ 176	
% of total class of financing receivables	1.70	%
Personal loans[1]		
Payment delay[4]	$ 10	
Term extension[5]	29	
Interest rate reduction and payment delay[4]	65	
Interest rate reduction and term extension[5]	29	
Total personal loans[3]	$ 133	
% of total class of financing receivables	1.35	%

(1) Accrued interest receivable (including unbilled accrued interest receivable for credit card loans) on modified loans to borrowers experiencing financial difficulty, which is presented as part of other assets in the Company's condensed consolidated statements of financial condition, was immaterial at December 31, 2023.
(2) Accounts that entered a credit card loan modification program include $408 million that were converted from revolving line-of-credit arrangements to term loans during the year ended December 31, 2023.
(3) For settlements, the amortized cost basis is zero at period-end and therefore there is no amount reported for principal forgiveness in the table above. See financial effects table below for principal forgiveness to borrowers experiencing financial difficulty.
(4) The Company defines a payment delay as a temporary reduction in payments below the original contractually required payment amounts (e.g., interest only payments). The Company's credit card loan modification programs do not result in an other than insignificant delay in payment.
(5) The Company defines term extensions as only those modifications for which the maturity date is extended beyond the original contractual maturity date by virtue of a change in terms other than a payment delay as defined above. Modifications to credit card loans are not considered term extensions because credit card loans do not have a fixed repayment term.

The only non-cancellable commitments the Company has to lend additional funds to borrowers experiencing financial difficulty relate to certain private student loans. As of December 31, 2023, the amount of such commitments associated with loans modified during the periods presented was immaterial.

The following table provides information on the financial effects of loan modifications to borrowers experiencing financial difficulty, by modification type, made during the period (dollars in millions):

	For the Twelve Months Ended December 31, 2023	
Credit card loans		
Weighted-average interest rate reduction	13.85	%
Principal forgiven	$ 121	
Interest and fees forgiven[1]	$ 117	
Private student loans		
Weighted-average interest rate reduction	8.91	%
Payment delay duration (in months)[2]	6 to 12	
Principal forgiven	$ -	
Personal loans		
Weighted-average interest rate reduction	12.28	%
Weighted-average term extension (in months)	39	
Payment delay duration (in months)[2]	6 to 12	
Principal forgiven	$ -	

(1) Represents the amount of interest and fees forgiven resulting from accounts entering into a credit card loan modification program and pre-charge off settlements. Interest and fees forgiven are reversed against the respective line items in the consolidated statements of income.
(2) During 2023, private student loan payment delays were offered up to six consecutive months at one time with a lifetime usage cap, most commonly, of 12 months. For personal loan payment delays, the Company limits this assistance to a life of loan maximum of 12 months.

Loan receivables that have been modified are subject to the same requirements for the accrual of expected credit loss over their expected remaining lives as for unmodified loans. The allowance for credit losses incorporates modeling of historical loss data and thereby captures the higher risk associated with modified loans to borrowers experiencing financial difficulty based on their account attributes.

The following table presents the payment status and period-end amortized cost basis, by class of loan receivable, of loans that were modified on or after January 1, 2023 to borrowers experiencing financial difficulty (dollars in millions):[1]

	Current	30-89 Days Delinquent	90 or More Days Delinquent
At December 31, 2023			
Credit card loans	$ 1,882	$ 252	$ 196
Private student loans	147	18	8
Personal loans	109	20	4
Total	$ 2,138	$ 290	$ 208

(1) This table includes any loan that entered a modification program during the period without regard to whether it remained in a modification program as of the reporting date.

The following table presents the defaulted amount and period-end amortized cost basis, by modification category, of loans that defaulted during the period and were modified on or after January 1, 2023 through the end of the reporting period to borrowers experiencing financial difficulty (dollars in millions):

	For the Twelve Months Ended December 31, 2023	
	Defaulted Amount[1]	Period-end Amortized Cost Basis
Credit card loans		
Interest rate reduction	$ 383	$ 210
Total credit card loans	$ 383	$ 210
Private student loans		
Payment delay	$ 5	$ 4
Interest rate reduction and payment delay	20	17
Total private student loans	$ 25	$ 21
Personal loans		
Payment delay	$ 2	$ 1
Term extension	4	2
Interest rate reduction and payment delay	10	2
Interest rate reduction and term extension	7	3
Total personal loans	$ 23	$ 8

(1) For purposes of this disclosure, a loan is considered to be defaulted when it is 60 days or more delinquent at month end and has advanced two stages of delinquency subsequent to modification. Loans that entered a modification program in any stage of delinquency but did not experience a further payment default are included in the payment status table above but are not counted as defaulted for purposes of this disclosure.

Troubled Debt Restructurings (Prior to 2023)

Prior to the adoption of ASU 2022-02, the Company considered a modified loan in which a concession had been granted to the borrower to be a TDR based generally on the cumulative length of the concession period and credit quality of the borrower. Due to differences between the legacy TDR requirements and current loan modification disclosure requirements, information presented in the disclosures below is not directly comparable to the disclosures under the current guidance.

To evaluate the primary financial effects that resulted from credit card loans entering into a TDR program during the year ended December 31, 2022, the Company quantified the amount by which interest and fees were reduced during the periods. During the year ended December 31, 2022, the Company forgave approximately $29 million of interest and fees resulting from accounts entering into a credit card loan TDR program.

The following table provides information on loans that entered a TDR program during the period (dollars in millions):

	For the Year Ended December 31, 2022	
	Number of Accounts	Balances
Accounts that entered a TDR program during the period		
Credit card loans[1]	237,339	$ 1,545
Private student loans	6,841	$ 127
Personal loans	6,303	$ 86

(1) Accounts that entered a credit card TDR program include $322 million that were converted from revolving line-of-credit arrangements to term loans during the year ended December 31, 2022.

The following table presents the carrying value of loans that experienced a default during the period that had been modified in a TDR during the 15 months preceding the end of each period (dollars in millions):

	For the Year Ended December 31, 2022	
	Number of Accounts	Aggregated Outstanding Balances Upon Default
TDRs that subsequently defaulted		
Credit card loans[1][2]	28,231	$ 141
Private student loans[2]	1,145	$ 22
Personal loans[2]	1,140	$ 20

(1) For credit card loans that default from a temporary loan modification program, accounts revert back to the pre-modification terms and charging privileges remain suspended in most cases.
(2) For credit card loans and personal loans, a customer defaults from a loan modification program after either two consecutive missed payments or at charge-off, depending on the program. The outstanding balance upon default is generally the loan balance at the end of the month prior to default.
(3) For student loans, a customer defaults from a loan modification after they are 60 or more days delinquent. The outstanding balance upon default is generally the loan balance at the end of the month prior to default.

Of the account balances that defaulted as shown above for the year ended December 31, 2022, approximately 65%, of the total balances were charged off at the end of the month in which they defaulted from a TDR program. For the year ended December 31, 2022, for accounts that had defaulted from a TDR program and had not been subsequently charged off, the balances were included in the allowance for credit loss analysis.

Geographical Distribution of Loans

The Company originated credit card loans throughout the U.S. The geographic distribution of the Company's credit card loan receivables was as follows (dollars in millions):

	December 31,					
	2023			2022		
	$	%		$	%	
Texas	$ 9,150	8.9	%	$ 7,996	8.9	%
California	9,078	8.9		7,888	8.7	
Florida	7,496	7.3		6,465	7.2	
New York	6,538	6.4		5,895	6.5	
Illinois	5,012	4.9		4,528	5.0	
Pennsylvania	4,985	4.9		4,484	5.0	
Ohio	4,188	4.1		3,759	4.2	
New Jersey	3,499	3.4		3,127	3.5	
Georgia	3,294	3.2		2,849	3.2	
Michigan	2,821	2.8		2,521	2.8	
Other	46,198	45.2		40,601	45.0	
Total credit card loans	$ 102,259	100.0	%	$ 90,113	100.0	%

The Company originated private student, personal and other loans throughout the U.S. The geographic distribution of private student, personal and other loan receivables was as follows (dollars in millions):

	December 31,					
	2023			2022		
	$	%		$	%	
California	$ 2,449	9.4	%	$ 2,015	9.2	%
New York	2,074	7.9		1,900	8.6	
Texas	1,987	7.6		1,595	7.2	
Florida	1,607	6.1		1,248	5.7	
Pennsylvania	1,567	6.0		1,431	6.5	
Illinois	1,405	5.4		1,247	5.7	
New Jersey	1,285	4.9		1,114	5.1	
Ohio	975	3.7		849	3.9	
Georgia	851	3.3		647	3.0	
Virginia	778	3.0		654	2.8	
Other	11,172	42.7		9,307	42.3	
Total other loans	$ 26,150	100.0	%	$ 22,007	100.0	%

5. Credit Card and Private Student Loan Securitization Activities

The Company's securitizations are accounted for as secured borrowings and the related trusts are treated as consolidated subsidiaries of the Company. For a description of the Company's principles of consolidation with respect to VIEs, see Note 1: Background and Basis of Presentation.

Credit Card Securitization Activities

The Company accesses the term asset securitization market through DCMT and DCENT. Credit card loan receivables are transferred into DCMT and beneficial interests in DCMT are transferred into DCENT. DCENT issues debt securities to investors that are reported primarily in long-term borrowings.

The DCENT debt structure consists of four classes of securities (DiscoverSeries Class A, B, C and D notes), with the most senior class generally receiving a triple-A rating. To issue senior, higher-rated classes of notes, it is necessary to obtain the appropriate amount of credit enhancement, generally through the issuance of junior, lower-rated or more highly subordinated classes of notes. Wholly-owned subsidiaries of Discover Bank hold the subordinated classes of notes. The Company is exposed to credit risk associated with trust receivables as of the balance sheet date through the retention of these subordinated interests. The estimate of expected credit losses on trust receivables is included in the allowance for credit losses estimate.

The Company's retained interests in the trust's assets, consisting of investments in DCENT notes held by subsidiaries of Discover Bank, constitute intercompany positions that are eliminated in the preparation of the Company's consolidated statements of financial condition.

Upon transfer of credit card loan receivables to the trust, the receivables and certain cash flows derived from them become restricted for use in meeting obligations to the trust's creditors. Further, the transferred credit card loan receivables are owned by the trust and are not available to the Company's third-party creditors. The trusts have ownership of cash balances, the amounts of which are reported in restricted cash within the Company's consolidated statements of financial condition. Except for the seller's interest in trust receivables, the Company's interests in trust assets are generally subordinate to the interests of third-party investors in trust debt and, as such, may not be realized by the Company if needed to absorb deficiencies in cash flows that are allocated to those investors. Apart from the restricted assets related to securitization activities, the investors and the securitization trusts have no recourse to the Company's other assets or the Company's general credit for a shortage in cash flows.

The carrying values of these restricted assets, which are presented on the Company's consolidated statements of financial condition as relating to securitization activities, are shown in the following table (dollars in millions):

	December 31,	
	2023	2022
Restricted cash	$ 36	$ 33
Investors' interests held by third-party investors	11,725	10,200
Investors' interests held by wholly-owned subsidiaries of Discover Bank	3,117	3,341
Seller's interest	15,598	12,220
Loan receivables[1]	30,440	25,761
Allowance for credit losses allocated to securitized loan receivables[1]	(1,347)	(1,152)
Net loan receivables	29,093	24,609
Other assets	2	2
Carrying value of assets of consolidated variable interest entities	$ 29,131	$ 24,644

(1) The Company maintains its allowance for credit losses at an amount equal to lifetime expected credit losses associated with all loan receivables, which includes all loan receivables in the trusts. Therefore, the credit risk associated with the transferred receivables is fully reflected on the Company's statements of financial condition in accordance with GAAP.

The debt securities issued by the consolidated trusts are subject to credit, payment and interest rate risks on the transferred credit card loan receivables. To protect investors in the securities, there are certain features or triggering events that will cause an early amortization of the debt securities, including triggers related to the impact of the performance of the trust receivables on the availability and adequacy of cash flows to meet contractual requirements. As of December 31, 2023, no economic or other early amortization events have occurred.

The Company continues to own and service the accounts that generate the loan receivables held by the trusts. Discover Bank receives servicing fees from the trusts based on a percentage of the monthly investor principal balance outstanding. Although the fee income to Discover Bank offsets the fee expense to the trusts and thus is eliminated in consolidation, failure to service the transferred loan receivables in accordance with contractual requirements could lead to a termination of the servicing rights and the loss of future servicing income, net of related expenses.

Private Student Loan Securitization Activities

The Company's private student loan trust receivables reported in loan receivables and the related debt issued by the trust reported in long-term borrowings were immaterial as of December 31, 2023 and 2022. The amounts are included, together with amounts related to the Company's credit card securitizations, in the supplemental information about assets and liabilities of consolidated variable interest entities, which is presented with the Company's consolidated statements of financial condition.

6. Premises and Equipment

A summary of premises and equipment, net is as follows (dollars in millions):

	December 31,	
	2023	2022
Land	$ 37	$ 37
Buildings and improvements	605	587
Furniture, fixtures and equipment	1,155	1,111
Software	1,305	1,125
Premises and equipment	3,102	2,860
Less: accumulated depreciation	(1,409)	(1,339)
Less: accumulated amortization of software	(602)	(518)
Premises and equipment, net	$ 1,091	$ 1,003

Depreciation expense was $ 74 million, $80 million and $86 million for the years ended December 31, 2023, 2022 and 2021, respectively. Amortization expense on capitalized software was $113 million, $114 million and $103 million for the years ended December 31, 2023, 2022 and 2021, respectively.

7. Goodwill

As of December 31, 2023 and 2022, the Company had goodwill of $255 million related to PULSE, which is part of the Payment Services segment. The Company conducted its annual goodwill impairment test as of October 1, 2023 and 2022 and no impairments were identified.

8. Deposits

The Company obtains deposits from consumers directly or through affinity relationships ("direct-to-consumer deposits"). Additionally, the Company obtains deposits through third-party securities brokerage firms that offer the Company's deposits to their customers ("brokered deposits"). Direct-to-consumer deposit products include savings accounts, certificates of deposit, money market accounts, IRA savings accounts, IRA certificates of deposit and checking accounts. Brokered deposit products include certificates of deposit and sweep accounts.

Customer deposits held with Discover Bank are currently insured for up to $250,000 per account holder through the Federal Deposit Insurance Corporation ("FDIC"). Uninsured deposits are the portion of deposit accounts in U.S. offices that exceed the FDIC insurance limit or similar state deposit insurance regime, and amounts in any other uninsured investment or deposit accounts that are classified as deposits and not subject to any federal or state deposit insurance regime. At December 31, 2023 and 2022, Discover Bank had approximately $ 7.0 billion and $8.9 billion of uninsured deposits, respectively, a portion of which comprise intercompany deposits. The decrease in uninsured deposits reported was primarily driven by leveraging technological capabilities, beginning in the first quarter of 2023, enabling improved application of deposit account ownership attributes in deriving this amount. The amounts of uninsured deposits above were estimated based on the same methodologies and assumptions used for Discover Bank's regulatory reporting at each respective balance sheet date.

The following table summarizes certificates of deposit in uninsured accounts and accounts that are in excess of the FDIC insurance limit by time remaining until maturity (dollars in millions):

	At December 31, 2023
Three months or less	$ 146
Over three months through six months	73
Over six months through twelve months	368
Over twelve months	293
Total	$ 880

The following table summarizes certificates of deposit maturing over each of the next five years and thereafter (dollars in millions):

	At December 31, 2023
2024	$ 25,561
2025	8,153
2026	4,129
2027	4,347
2028	2,144
Thereafter	906
Total	$ 45,240

9. Long-Term Borrowings

Long-term borrowings consist of borrowings having original maturities of one year or more. The following table provides a summary of the Company's long-term borrowings and weighted-average interest rates on outstanding balances (dollars in millions):

	December 31,				
	2023				2022
	Maturity	Interest Rate	Weighted-Average Interest Rate	Outstanding Amount	Outstanding Amount
Securitized Debt					
Fixed-rate asset-backed securities[1]	2024-2026	0.58% - 5.03%	3.17%	$ 10,003	$ 8,401
Floating-rate asset-backed securities[2]	2024	6.08%	6.08%	925	1,774
Total Discover Card Master Trust I and Discover Card Execution Note Trust				10,928	10,175
Floating-rate asset-backed security[3][4]	2031	9.50%	9.50%	65	84
Total private student loan securitization trust				65	84
Total long-term borrowings - owed to securitization investors				10,993	10,259
Discover Financial Services (Parent Company)					
Fixed-rate senior notes	2024-2032	3.75% - 6.70%	4.68%	3,336	3,333
Fixed-rate retail notes	2025-2031	3.25% - 4.40%	3.82%	140	154
Fixed to floating-rate senior notes[5]	2034	7.96%	7.96%	993	-
Discover Bank					
Fixed-rate senior bank notes[1]	2024-2030	2.45% - 4.65%	3.53%	3,571	5,348
Fixed-rate subordinated bank notes	2028	5.97%	5.97%	500	489
Fixed-rate Federal Home Loan Bank advances	2030	4.77% - 4.82%	4.82%	523	-
Floating-rate Federal Home Loan Bank advances[6]	2024	5.55% - 5.65%	5.65%	525	525
Total long-term borrowings				$ 20,581	$ 20,108

(1) The Company uses interest rate swaps to hedge portions of these long-term borrowings against changes in fair value attributable to changes in the applicable benchmark interest rates. The use of these interest rate swaps impacts the carrying value of the debt. See Note 21: Derivatives and Hedging Activities.
(2) DCENT floating-rate asset-backed securities include issuances with the following interest rate terms: 1-month Term SOFR + 0.11448% Tenor Spread Adjustment + 60 basis points as of December 31, 2023.
(3) The private student loan securitization trust floating-rate asset-backed security includes an issuance with the following interest rate term: Prime rate + 100 basis points as of December 31, 2023.
(4) Repayment of this debt is dependent upon the timing of principal and interest payments on the underlying private student loans. The date shown represents the final maturity date.
(5) The fixed to floating-rate senior notes include a rate reset on November 2, 2033, to a floating rate based on compounded SOFR + 3.370%.
(6) The floating-rate FHLB advances include interest rate terms based on SOFR plus a spread ranging from 16 to 26 basis points as of December 31, 2023.

The following table summarizes long-term borrowings maturing over each of the next five years and thereafter (dollars in millions):

	At December 31, 2023
2024	$ 4,251
2025	6,146
2026	4,912
2027	1,001
2028	1,439
Thereafter	2,832
Total	$ 20,581

As a member of the FHLB of Chicago, the Company has access to both short- and long-term advance structures with maturities ranging from overnight to 30 years. As of December 31, 2023, the Company had total committed borrowing capacity of $
3.6 billion based on the amount and type of assets pledged, of which the outstanding balance was comprised of $1.0 billion in long-term advances. As of December 31, 2022, the Company had total committed borrowing capacity of $2.2 billion, of which the outstanding balance was comprised solely of a $525 million long-term advance. These advances are presented as short- or long-term borrowings on the consolidated statements of financial condition based on the contractual maturity at origination.

Additionally, the Company has access to committed borrowing capacity through private securitizations to support the funding of its credit card loan receivables. As of December 31, 2023, the total commitment of secured credit facilities through private providers was $3.5 billion, $750 million of which was outstanding as a short-term advance. This advance is presented as short-term borrowings on the consolidated statements of financial condition. As of December 31, 2022, the total commitment of secured credit facilities through private providers was $3.5 billion, none of which was drawn. Access to the unused portions of the secured credit facilities is subject to the terms of the agreements with each of the providers. The secured credit facilities have various expirations in 2025. Borrowings outstanding under each facility bear interest at a margin above the Term Secured Overnight Financing Rate ("SOFR") or the asset-backed commercial paper costs of each provider. The terms of each agreement provide for a commitment fee to be paid on the unused capacity and include various affirmative and negative covenants, including performance metrics and legal requirements similar to those required to issue any term securitization transaction.

10. Stock-Based Compensation Plans

The Company has
two stock-based compensation plans: the Discover Financial Services Omnibus Incentive Plan ("Omnibus Plan") and the Discover Financial Services Directors' Compensation Plan ("Directors' Compensation Plan").

Omnibus Plan

The Omnibus Plan, which is stockholder-approved, provides for the award of stock options, stock appreciation rights, restricted stock, restricted stock units ("RSUs"), performance stock units ("PSUs") and other stock-based and/or cash awards (collectively, "awards"). Currently, the Company does not have any stock options, stock appreciation rights or restricted stock outstanding. Effective May 11, 2023, the Discover Financial Services Amended and Restated 2014 Omnibus Incentive Plan (the "2014 Omnibus Plan") was replaced with the Discover Financial Services 2023 Omnibus Incentive Plan (the "2023 Omnibus Plan"). Subject to adjustments for certain transactions in the 2023 Omnibus Plan, the total number of shares that may be granted is 18 million shares reduced by the number of shares granted under the 2014 Omnibus Plan. Shares granted under the Omnibus Plan may be the following: (i) authorized but unissued shares and (ii) treasury shares that the Company acquires in the open market, in private transactions or otherwise.

Directors' Compensation Plan

The Directors' Compensation Plan, which is stockholder-approved, permits the grant of RSUs to non-employee directors. Under the Directors' Compensation Plan, the Company may issue awards of up to a total of 1 million shares of common stock to non-employee directors. Shares of stock that are issuable pursuant to the awards granted under the Directors' Compensation Plan may be one of the following: authorized but unissued shares, treasury shares or shares that the Company acquires in the open market. Annual awards for eligible directors are calculated by dividing $170,000 by the fair market value of a share of stock on the date of grant and are subject to a restriction period whereby 100% of such units shall vest in full on the earlier of the one year anniversary of the date of grant or immediately prior to the first annual meeting of shareholders following the date of grant. RSUs include the right to receive dividend equivalents in the same amount and at the same time as dividends paid to all Company common shareholders.

Stock-Based Compensation

The following table details the compensation cost, net of forfeitures (dollars in millions):

	For the Years Ended December 31,		
	2023	2022	2021
RSUs	$ 69	$ 58	$ 46
PSUs[1]	5	31	57
Total stock-based compensation expense	$ 74	$ 89	$ 103
Income tax benefit	$ 18	$ 16	$ 15

(1) Total PSU expense for the year ended December 31, 2021, includes an incremental $1 million, representing a modification to the 2019 PSU award. The nature of the modification was to adjust the payout to compensate for the 2020 current expected credit loss ("CECL") adoption impact on earnings per share ("EPS").

RSUs

The following table sets forth the activity related to vested and unvested RSUs:

	Number of Units	Weighted-Average Remaining Contractual Term (in years)	Aggregate Intrinsic Value (in millions)
RSUs at December 31, 2022	1,938,283		$ 190
Granted	728,993		
Conversions to common stock	(626,780)		
Forfeited	(96,379)		
RSUs at December 31, 2023	1,944,117	0.85	$ 219
Vested and convertible RSUs at December 31, 2023	664,962	0.00	$ 75

The following table sets forth the activity related to unvested RSUs:

	Number of Units	Weighted-Average Grant-Date Fair Value
Unvested RSUs at December 31, 2022[1]	1,059,683	$ 107.47
Granted	728,993	$ 104.20
Vested	(534,603)	$ 103.95
Forfeited	(96,379)	$ 109.43
Unvested RSUs at December 31, 2023[1]	1,157,694	$ 106.87

(1) Unvested RSUs represent awards where recipients have yet to satisfy either explicit vesting terms or retirement-eligibility requirements.

Compensation cost associated with RSUs is determined based on the number of units granted and the fair value on the date of grant. The fair value is amortized on a straight-line basis, net of estimated forfeitures, over the requisite service period for each separately vesting tranche of the award. The requisite service period is generally the vesting period.

The following table summarizes the total intrinsic value of the RSUs converted to common stock and the total grant-date fair value of RSUs vested (dollars in millions, except weighted-average grant-date fair value amounts):

	For the Years Ended December 31,		
	2023	2022	2021
Intrinsic value of RSUs converted to common stock	$ 68	$ 59	$ 62
Grant-date fair value of RSUs vested	$ 56	$ 41	$ 47
Weighted-average grant-date fair value of RSUs granted	$ 104.20	$ 116.50	$ 101.47

As of December 31, 2023, there was $46 million of total unrecognized compensation cost related to non-vested RSUs. The cost is expected to be recognized over a weighted-average period of 0.86 years.

RSUs provide for accelerated vesting if there is a change in control or upon certain terminations (as defined in the Omnibus Plan or the award certificate). RSUs include the right to receive dividend equivalents in the same amount and at the same time as dividends paid to all Company common shareholders.

PSUs

The following table sets forth the activity related to vested and unvested PSUs:

	Number of Units	Weighted-Average Grant-Date Fair Value	Weighted-Average Remaining Contractual Term (in years)	Aggregate Intrinsic Value (in millions)
PSUs at December 31, 2022[1]	716,472	$ 99.21		$ 70
Granted	384,085	$ 110.70		
Conversions to common stock	(406,543)	$ 85.34		
Forfeited	(113,337)	$ 109.55		
PSUs at December 31, 2023[1][2][3][4]	580,677	$ 108.56	0.98	$ 65

(1) All PSUs outstanding at December 31, 2023 and December 31, 2022, are unvested PSUs.
(2) Includes 227,082 PSUs granted in 2021 that are earned based on the Company's cumulative EPS as measured over the three-year performance period, which ended December 31, 2023, and are subject to the requisite service period, which ended February 1, 2024.
(3) Includes 187,128 PSUs granted in 2022 that are earned based on the Company's cumulative EPS as measured over the three-year performance period, which ends December 31, 2024, and are subject to the requisite service period, which ends February 1, 2025.
(4) Includes 166,467 PSUs granted in 2023 that may be earned based on the Company's cumulative EPS as measured over the three-year performance period, which ends December 31, 2025, and are subject to the requisite service period, which ends February 1, 2026.

Compensation cost associated with PSUs is determined based on the number of instruments granted, the fair value on the date of grant and the performance factor. The fair value is amortized on a straight-line basis, net of estimated forfeitures, over the requisite service period. Each PSU outstanding at December 31, 2023, is a restricted stock instrument that is subject to additional conditions and constitutes a contingent and unsecured promise by the Company to pay up to 1.5 shares per unit of the Company's common stock on the conversion date for the PSU, contingent on the number of PSUs to be issued. PSUs have a performance period of three years and a vesting period of three years. The requisite service period of an award having both performance and service conditions is the longest of the explicit, implicit and derived service periods.

The following table summarizes the total intrinsic value of the PSUs converted to common stock and the total grant-date fair value of PSUs vested (dollars in millions, except weighted-average grant-date fair value amounts):

	For the Years Ended December 31,		
	2023	2022	2021
Intrinsic value of PSUs converted to common stock	$ 47	$ 29	$ 15
Grant-date fair value of PSUs vested	$ 35	$ 17	$ 18
Weighted-average grant-date fair value of PSUs granted	$ 110.70	$ 124.01	$ 94.21

As of December 31, 2023, there was $7 million of total unrecognized compensation cost related to non-vested PSUs. The cost is expected to be recognized over a weighted-average period of 1.06 years.

PSUs provide for accelerated vesting if there is a change in control or upon certain terminations (as defined in the Omnibus Plan or the award certificate). PSUs include the right to receive dividend equivalents, which will accumulate and pay out in cash if and when the underlying shares are issued.

11. Employee Benefit Plans

The Company sponsors the Discover Financial Services Pension Plan (the "Discover Pension Plan"), which is a non-contributory defined benefit plan that is qualified under Section 401(a) of the Internal Revenue Code, for eligible employees in the U.S. Effective December 31, 2008, the Discover Pension Plan was amended to discontinue the accrual of future benefits. The Company also sponsors the Discover Financial Services 401(k) Plan (the "Discover 401(k) Plan"), which is a defined contribution plan that is qualified under Section 401(a) of the Internal Revenue Code, for its eligible U.S. employees.

Discover Pension Plan

The Discover Pension Plan generally provides retirement benefits that are based on each participant's years of credited service prior to 2009 and on compensation specified in the Discover Pension Plan. The Company's policy is to fund at least the amounts sufficient to meet minimum funding requirements under the Employee Retirement Income Security Act of 1974, as amended. Net periodic benefit cost (income) is recorded in employee compensation and benefits within the consolidated statements of income. For this plan, the net periodic benefit cost was immaterial for all periods presented.

The Company measures the funded status of the defined benefit pension plan as the difference between the fair value of plan assets and the projected benefit obligation and recognizes that amount as either an asset or liability in the consolidated statements of financial condition as appropriate. For the year ended December 31, 2023, the Company contributed approximately $
115 million to the defined benefit pension plan. The over-funded status related to the defined benefit pension plan recorded in other assets was $14 million as of December 31, 2023. The unfunded status related to the defined benefit pension plan recorded in accrued expenses and other liabilities was $101 million as of December 31, 2022. Expected benefit payments from the Discover Pension Plan for each of the next five years range from $27 million and $30 million annually.

Discover 401(k) Plan

Under the Discover 401(k) Plan, eligible U.S. employees receive 401(k) matching contributions. Eligible employees also receive fixed employer contributions. The pretax expense associated with the Company contributions for the years ended December 31, 2023, 2022 and 2021 was $128 million, $104 million and $97 million, respectively.

12. Common and Preferred Stock

Common Stock Repurchase Program

In April 2022, the Board of Directors approved a share repurchase program authorizing up to $4.2 billion of share repurchases. The program expired on April 18, 2023. In April 2023, the Company's Board of Directors approved a new share repurchase program authorizing the repurchase of up to $2.7 billion of its outstanding shares of common stock. This program expires on June 30, 2024. As reported in the second quarter of 2023, the Company decided to pause share repurchases while an internal review of compliance, risk management and corporate governance is ongoing. See Note 19: Litigation and Regulatory Matters for additional information on the card product misclassification. During the three months ended December 31, 2023, the Company did not repurchase any shares. During the year ended December 31, 2023, the Company repurchased approximately 18.1 million shares for approximately $1.9 billion.

Preferred Stock

The table below presents a summary of the Company's non-cumulative perpetual preferred stock that is outstanding at December 31, 2023 (dollars in millions, except per depositary share amounts):

Series	Description	Initial Issuance Date	Liquidation Preference and Redemption Price per Depositary Share[1]	Per Annum Dividend Rate in effect at December 31, 2023	Total Depositary Shares Authorized, Issued and Outstanding		Carrying Value	
					December 31, 2023	December 31, 2022	December 31, 2023	December 31, 2022
C[2][3][4]	Fixed-to-Floating Rate	10/31/2017	$ 1,000	5.500 %	570,000	570,000	$ 563	$ 563
D[2][5][6]	Fixed-Rate Reset	6/22/2020	$ 1,000	6.125 %	500,000	500,000	493	493
Total Preferred Stock					1,070,000	1,070,000	$ 1,056	$ 1,056

(1) Redeemable at the redemption price plus declared and unpaid dividends.
(2) Issued as depositary shares, each representing 1/100th interest in a share of the corresponding series of preferred stock. Each preferred share has a par value of $0.01.
(3) Redeemable at the Company's option, subject to regulatory approval, either (i) in whole or in part on any dividend payment date on or after October 30, 2027, or (ii) in whole but not in part, at any time within 90 days following a regulatory capital treatment event (as defined in the certificate of designations for the Series C preferred stock).
(4) Any dividends declared are payable semi-annually in arrears at a rate of 5.50% per annum until October 30, 2027. Thereafter, dividends declared will be payable quarterly in arrears at a floating rate equal to 3-month Term SOFR plus a spread of 3.338% per annum.
(5) Redeemable at the Company's option, subject to regulatory approval, either (i) in whole or in part during the three-month period prior to, and including, each reset date (as defined in the certificate of designations for the Series D preferred stock) or (ii) in whole but not in part, at any time within 90 days following a regulatory capital treatment event (as defined in the certificate of designations for the Series D Preferred Stock).
(6) Any dividends declared are payable semi-annually in arrears at a rate of 6.125% per annum until September 23, 2025, after which the dividend rate will reset every 5 years to a fixed annual rate equal to the 5-year Treasury plus a spread of 5.783%.

13. Accumulated Other Comprehensive Income

Changes in each component of AOCI were as follows (dollars in millions):

	Unrealized (Losses) Gains on Available-for-Sale Investment Securities, Net of Tax	Losses on Cash Flow Hedges, Net of Tax	Losses on Pension Plan, Net of Tax	AOCI
For the Year Ended December 31, 2023				
Balance at December 31, 2022	$ (136)	$ (14)	$ (189)	$ (339)
Net change	99	6	9	114
Balance at December 31, 2023	$ (37)	$ (8)	$ (180)	$ (225)
For the Year Ended December 31, 2022				
Balance at December 31, 2021	$ 114	$ (9)	$ (199)	$ (94)
Net change	(250)	(5)	10	(245)
Balance at December 31, 2022	$ (136)	$ (14)	$ (189)	$ (339)
For the Year Ended December 31, 2021				
Balance at December 31, 2020	$ 284	$ (12)	$ (227)	$ 45
Net change	(170)	3	28	(139)
Balance at December 31, 2021	$ 114	$ (9)	$ (199)	$ (94)

The following table presents each component of OCI before reclassifications and amounts reclassified from AOCI for each component of OCI before- and after-tax (dollars in millions):

	Before Tax	Tax (Expense) Benefit	Net of Tax
For the Year Ended December 31, 2023			
Available-for-Sale Investment Securities			
Net unrealized holding gains arising during the period	$ 131	$ (32)	$ 99
Net change	$ 131	$ (32)	$ 99
Cash Flow Hedges			
Net unrealized losses arising during the period	$ (74)	$ 18	$ (56)
Amounts reclassified from AOCI	82	(20)	62
Net change	$ 8	$ (2)	$ 6
Pension Plan			
Unrealized gains arising during the period	$ 12	$ (3)	$ 9
Net change	$ 12	$ (3)	$ 9
For the Year Ended December 31, 2022			
Available-for-Sale Investment Securities			
Net unrealized holding losses arising during the period	$ (331)	$ 81	$ (250)
Net change	$ (331)	$ 81	$ (250)
Cash Flow Hedges			
Net unrealized losses arising during the period	$ (13)	$ 3	$ (10)
Amounts reclassified from AOCI	4	1	5
Net change	$ (9)	$ 4	$ (5)
Pension Plan			
Unrealized gains arising during the period	$ 13	$ (3)	$ 10
Net change	$ 13	$ (3)	$ 10
For the Year Ended December 31, 2021			
Available-for-Sale Investment Securities			
Net unrealized holding losses arising during the period	$ (226)	$ 56	$ (170)
Net change	$ (226)	$ 56	$ (170)
Cash Flow Hedges			
Net unrealized losses arising during the period	$ (1)	$ 1	$ -
Amounts reclassified from AOCI	3	-	3
Net change	$ 2	$ 1	$ 3
Pension Plan			
Unrealized gains arising during the period	$ 37	$ (9)	$ 28
Net change	$ 37	$ (9)	$ 28

14. Other Expense

Total other expense includes the following components (dollars in millions):

	For the Years Ended December 31,		
	2023	2022	2021
Fraud losses and other charges	$ 131	$ 149	$ 92
Postage	115	97	91
Credit-related inquiry fees	40	31	24
Supplies	38	35	46
Impairment charges	-	-	95
Other expense	356	228	272
Total other expense	$ 680	$ 540	$ 620

15. Income Taxes

Income tax expense consisted of the following (dollars in millions):

	For the Years Ended December 31,		
	2023	2022	2021
Current			
U.S. federal	$ 1,254	$ 1,465	$ 1,084
U.S. state and local	258	312	204
Total	1,512	1,777	1,288
Deferred			
U.S. federal	(556)	(381)	280
U.S. state and local	(70)	(52)	38
Total	(626)	(433)	318
Income tax expense	$ 886	$ 1,344	$ 1,606

The following table reconciles the Company's effective tax rate to the U.S. federal statutory income tax rate:

	For the Years Ended December 31,					
	2023		2022		2021	
U.S. federal statutory income tax rate	21.0	%	21.0	%	21.0	%
U.S. state, local and other income taxes, net of U.S. federal income tax benefits	3.5		3.4		3.2	
Tax credits	(2.0)		(1.3)		(1.2)	
Other	0.6		0.4		(0.1)	
Effective income tax rate	23.1	%	23.5	%	22.9	%

Deferred income taxes reflect the net tax effects of temporary differences between the financial reporting and tax bases of assets and liabilities and are measured using the enacted tax rates and laws that will be in effect when such differences are expected to reverse. Valuation allowances are provided to reduce deferred tax assets to an amount that is more likely than not to be realized. The Company evaluates the likelihood of realizing its deferred tax assets by estimating sources of future taxable income and the impact of tax planning strategies.

Significant components of the Company's net deferred income taxes, which are included in other assets in the Company's consolidated statements of financial condition, were as follows (dollars in millions):

	December 31,	
	2023	2022
Deferred tax assets		
Allowance for credit losses	$ 2,245	$ 1,791
Customer fees and rewards	236	166
Depreciation and software amortization	60	-
Other	203	270
Total deferred tax assets before valuation allowance	2,744	2,227
Valuation allowance	(1)	(1)
Total deferred tax assets, net of valuation allowance	2,743	2,226
Deferred tax liabilities		
Depreciation and software amortization	-	(71)
Deferred loan origination costs	(40)	(48)
Other	(47)	(26)
Total deferred tax liabilities	(87)	(145)
Net deferred tax assets	$ 2,656	$ 2,081

A reconciliation of beginning and ending unrecognized tax benefits is as follows (dollars in millions):

	For the Years Ended December 31,		
	2023	2022	2021
Balance at beginning of period	$ 19	$ 39	$ 56
Additions			
Current year tax positions	4	4	13
Prior year tax positions	-	1	8
Reductions			
Prior year tax positions	(1)	(20)	(14)
Settlements with taxing authorities	(1)	-	(14)
Expired statute of limitations	(3)	(5)	(10)
Balance at end of period[1]	$ 18	$ 19	$ 39

(1) For the years ended December 31, 2023, 2022 and 2021, amounts included $18 million, $18 million and $37 million, respectively, of unrecognized tax benefits, which, if recognized, would favorably affect the effective tax rate.

The Company recognizes accrued interest and penalties related to unrecognized tax benefits as a component of income tax expense. Interest and penalties related to unrecognized tax benefits were $
2 million for the years ended December 31, 2023 and 2022.

The Company is subject to examination by the Internal Revenue Service and tax authorities in various state, local and foreign tax jurisdictions. The Company's federal income tax filings are open to examinations for the tax years ended December 31, 2020 and forward. The Company regularly assesses the likelihood of additional assessments or settlements in each of the taxing jurisdictions. At this time, the potential change in unrecognized tax benefits is expected to be immaterial over the next 12 months. The Company believes that its reserves are sufficient to cover any tax, penalties and interest that would result from such examinations.

The Company has an immaterial amount of state net operating loss carryforwards that are subject to a partial valuation allowance as of December 31, 2023 and 2022.

16. Earnings Per Share

The following table presents the calculation of basic and diluted EPS (dollars and shares in millions, except per share amounts):

	For the Years Ended December 31,		
	2023	2022	2021
Numerator			
Net income	$ 2,940	$ 4,374	$ 5,422
Preferred stock dividends	(62)	(62)	(69)
Net income available to common stockholders	2,878	4,312	5,353
Income allocated to participating securities	(19)	(26)	(30)
Net income allocated to common stockholders	$ 2,859	$ 4,286	$ 5,323
Denominator			
Weighted-average shares of common stock outstanding	254	277	300
Effect of dilutive common stock equivalents	-	1	-
Weighted-average shares of common stock outstanding and common stock equivalents	254	278	300
Basic earnings per common share	$ 11.27	$ 15.45	$ 17.75
Diluted earnings per common share	$ 11.26	$ 15.44	$ 17.74

Anti-dilutive securities were not material and had no impact on the computation of diluted EPS for the years ended December 31, 2023, 2022 and 2021.

17. Capital Adequacy

DFS is subject to the capital adequacy guidelines of the Federal Reserve. Discover Bank, the Company's banking subsidiary, is subject to various regulatory capital requirements as administered by the FDIC. Failure to meet minimum capital requirements can result in the initiation of certain mandatory and possibly additional discretionary actions by regulators that, if undertaken, could limit the Company's business activities and have a direct material effect on the financial condition and operating results of DFS and Discover Bank. Under capital adequacy guidelines and the regulatory framework for prompt corrective action, DFS and Discover Bank must meet specific risk-based capital requirements and leverage ratios that involve quantitative measures of assets, liabilities and certain off-balance sheet items, as calculated under regulatory guidelines. Capital amounts and classification are also subject to qualitative judgments by the regulators about components, risk weightings and other factors.

DFS and Discover Bank are subject to regulatory and capital rules issued by the Federal Reserve and FDIC, respectively, under the Basel Committee's December 2010 framework ("Basel III rules"). Under the Basel III rules, DFS and Discover Bank are classified as "standardized approach" entities. Standardized approach entities are defined as U.S. banking organizations with consolidated total assets over $50 billion but not exceeding $250 billion and consolidated total on-balance sheet foreign exposure less than $10 billion.

In accordance with the final rule on the impact of CECL on regulatory capital, the Company has elected to phase in the impact over three years beginning in 2022. Accordingly, the Company's Common Equity Tier 1 ("CET1") capital ratios are higher than they otherwise would have been. The Company's CET1 capital ratios will continue to be favorably impacted by this election over the phase-in period, which ends December 31, 2024.

As of December 31, 2023 and 2022, DFS and Discover Bank met all Basel III minimum capital ratio requirements to which they were subject. DFS and Discover Bank also met the requirements to be considered "well-capitalized" under Regulation Y and prompt corrective action rules, respectively. There have been no conditions or events that management believes have changed DFS' or Discover Bank's category. To be categorized as "well-capitalized," DFS and Discover Bank must maintain minimum capital ratios outlined in the table below.

The following table shows the actual capital amounts and ratios of DFS and Discover Bank and comparisons of each to the regulatory minimum and "well-capitalized" requirements (dollars in millions):

	Actual		Minimum Capital Requirements		Capital Requirements To Be Classified as Well-Capitalized	
	Amount	Ratio[1]	Amount	Ratio	Amount[2]	Ratio[2]
December 31, 2023						
Total capital (to risk-weighted assets)						
Discover Financial Services	$ 17,986	13.7 %	$ 10,471	≥8.0%	$ 13,088	≥10.0%
Discover Bank	$ 16,856	13.0 %	$ 10,352	≥8.0%	$ 12,939	≥10.0%
Tier 1 capital (to risk-weighted assets)						
Discover Financial Services	$ 15,872	12.1 %	$ 7,853	≥6.0%	$ 7,853	≥6.0%
Discover Bank	$ 13,910	10.8 %	$ 7,764	≥6.0%	$ 10,352	≥8.0%
Tier 1 capital (to average assets)						
Discover Financial Services	$ 15,872	10.7 %	$ 5,915	≥4.0%	N/A	N/A
Discover Bank	$ 13,910	9.5 %	$ 5,833	≥4.0%	$ 7,292	≥5.0%
Common Equity Tier 1 (to risk-weighted assets)						
Discover Financial Services	$ 14,816	11.3 %	$ 5,890	≥4.5%	N/A	N/A
Discover Bank	$ 13,910	10.8 %	$ 5,823	≥4.5%	$ 8,411	≥6.5%
December 31, 2022						
Total capital (to risk-weighted assets)						
Discover Financial Services[3]	$ 18,004	15.8 %	$ 9,139	≥8.0%	$ 11,424	≥10.0%
Discover Bank[3]	$ 16,344	14.5 %	$ 9,024	≥8.0%	$ 11,280	≥10.0%
Tier 1 capital (to risk-weighted assets)						
Discover Financial Services[3]	$ 16,039	14.0 %	$ 6,854	≥6.0%	$ 6,854	≥6.0%
Discover Bank[3]	$ 13,446	11.9 %	$ 6,768	≥6.0%	$ 9,024	≥8.0%
Tier 1 capital (to average assets)						
Discover Financial Services[3]	$ 16,039	12.5 %	$ 5,147	≥4.0%	N/A	N/A
Discover Bank[3]	$ 13,446	10.6 %	$ 5,086	≥4.0%	$ 6,357	≥5.0%
Common Equity Tier 1 (to risk-weighted assets)						
Discover Financial Services[3]	$ 14,983	13.1 %	$ 5,141	≥4.5%	N/A	N/A
Discover Bank[3]	$ 13,446	11.9 %	$ 5,076	≥4.5%	$ 7,332	≥6.5%

(1) Capital ratios are calculated based on the Basel III standardized approach rules, subject to applicable transition provisions, including CECL transition provisions.
(2) The Basel III rules do not establish well-capitalized thresholds for these measures for bank holding companies. Existing well-capitalized thresholds established in the Federal Reserve's Regulation Y have been included where available.
(3) Capital amounts and ratios have been updated to reflect the impact of the restatement described in Note 26: Immaterial Restatement of Prior Period Financial Statements. Discover Bank capital amounts and ratios presented as of December 31, 2022 have been updated from amounts previously disclosed in the Company's Form 10-Q for the period ended September 30, 2023, due to certain intercompany allocations recorded in the fourth quarter.

The amount of dividends that a bank may pay in any year is subject to certain regulatory restrictions. Under the current banking regulations, a bank may not pay dividends if such a payment would leave the bank inadequately capitalized. Discover Bank paid dividends of $ 1.7 billion, $4.0 billion and $3.3 billion in the years ended December 31, 2023, 2022 and 2021, respectively, to DFS.

18. Commitments, Contingencies and Guarantees

In the normal course of business, the Company enters into a number of off-balance sheet commitments, transactions and obligations under guarantee arrangements that expose the Company to varying degrees of risk. The Company's commitments, contingencies and guarantee relationships are described below.

Commitments

Unused Credit Arrangements

At December 31, 2023, the Company had unused credit arrangements for loans of approximately $229.8 billion. Such arrangements arise primarily from agreements with customers for unused lines of credit on certain credit cards and certain other loan products, provided there is no violation of conditions in the related agreements. These arrangements, substantially all of which the Company can terminate at any time and which do not necessarily represent future cash requirements, are periodically reviewed based on account usage, customer creditworthiness, loan qualification and the cost of capital. As the Company's credit card loans are unconditionally cancellable,
no liability for expected credit losses is required for unused lines of credit. For all other loans, the Company records a liability for expected credit losses for unfunded commitments, which is presented as part of accrued expenses and other liabilities in the consolidated statements of financial condition.

Contingencies

See Note 19: Litigation and Regulatory Matters for a description of potential liability arising from pending litigation or regulatory proceedings involving the Company.

Guarantees

The Company has obligations under certain guarantee arrangements, including contracts, indemnification agreements and representations and warranties, which contingently require the Company to make payments to the guaranteed party based on changes in an underlying asset, liability or equity security of a guaranteed party, rate or index. Also included as guarantees are contracts that contingently require the Company to make payments to a guaranteed party based on another entity's failure to perform under an agreement. The Company's use of guarantees is disclosed below by type of guarantee.

Securitizations Representations and Warranties

As part of the Company's financing activities, the Company provides representations and warranties that certain assets pledged as collateral in secured borrowing arrangements conform to specified guidelines. Due diligence is performed by the Company, which is intended to ensure that asset guideline qualifications are met. If the assets pledged as collateral do not meet certain conforming guidelines, the Company may be required to replace, repurchase or sell such assets. In its credit card securitization activities, the Company would replace nonconforming receivables through the allocation of excess seller's interest or from additional transfers from the unrestricted pool of receivables. If the Company could not add enough receivables to satisfy the requirement, an early amortization (or repayment) of investors' interests would be triggered. In its student loan securitizations, the Company would generally repurchase the loans from the trust at the outstanding principal amount plus interest.

The maximum potential amount of future payments the Company could be required to make would be equal to the current outstanding balances of third-party investor interests in credit card asset-backed securities and the principal amount of any private student loan secured borrowings, plus any unpaid interest for the corresponding secured borrowings. The Company has recorded substantially all of the maximum potential amount of future payments in long-term borrowings on the Company's consolidated statements of financial condition. The Company has not recorded any incremental contingent liability associated with its secured borrowing representations and warranties. Management believes that the probability of having to replace, repurchase or sell assets pledged as collateral under secured borrowing arrangements, including an early amortization event, is low.

Counterparty Settlement Guarantees

Diners Club and DFS Services LLC (on behalf of PULSE) have various counterparty exposures, which are listed below:

- *Merchant Guarantee.* Diners Club has entered into contractual relationships with certain international merchants, which generally include travel-related businesses, for the benefit of all Diners Club licensees. The licensees hold the primary liability to settle the transactions of their customers with these merchants. However, Diners Club retains a counterparty exposure if a licensee fails to meet its financial payment obligation to one of these merchants.
- *ATM Guarantee.* PULSE entered into contractual relationships with certain international ATM acquirers in which DFS Services LLC retains counterparty exposure if an issuer fails to fulfill its settlement obligation.
- *Global Network Alliance Guarantee.* Discover Network, Diners Club and PULSE have entered into contractual relationships with certain international payment networks in which DFS Services LLC retains the counterparty exposure if a network fails to fulfill its settlement obligation.

The maximum potential amount of future payments related to such contingent obligations is dependent upon the transaction volume processed between the time a potential counterparty defaults on its settlement and the time at which the Company disables the settlement of any further transactions for the defaulting party. The Company has some contractual remedies to offset these counterparty settlement exposures (such as letters of credit or pledged deposits), however, there is no limitation on the maximum amount the Company may be liable to pay.

The actual amount of the potential exposure cannot be quantified as the Company cannot determine whether particular counterparties will fail to meet their settlement obligations. In the event all licensees and/or issuers were to become unable to settle their transactions, the Company estimates its maximum potential counterparty exposures to these settlement guarantees would be approximately $100 million as of December 31, 2023.

The Company believes that the estimated amounts of maximum potential future payments are not representative of the Company's actual potential loss exposure given Diners Club's and PULSE's insignificant historical losses from these counterparty exposures. As of December 31, 2023, the Company had not recorded any contingent liability in the consolidated statements of financial condition for these counterparty exposures and management believes that the probability of any payments under these arrangements is low.

Discover Network Merchant Chargeback Guarantees

The Company operates the Discover Network, issues payment cards and permits third parties to issue payment cards. The Company is contingently liable for certain transactions processed on the Discover Network in the event of a dispute between the payment card customer and a merchant. The contingent liability arises if the disputed transaction involves a merchant or merchant acquirer with whom the Discover Network has a direct relationship. If a dispute is resolved in the customer's favor, the Discover Network will credit or refund the disputed amount to the Discover Network card issuer, who in turn credits its customer's account. The Discover Network will then charge back the disputed amount of the payment card transaction to the merchant or merchant acquirer, where permitted by the applicable agreement, to seek recovery of amounts already paid to the merchant for payment card transactions. If the Discover Network is unable to collect the amount subject to dispute from the merchant or merchant acquirer (e.g., in the event of merchant default or dissolution or after expiration of the time period for chargebacks in the applicable agreement), the Discover Network will bear the loss for the amount credited or refunded to the customer. In most instances, a loss by the Discover Network is unlikely to arise in connection with payments on card transactions because most products or services are delivered when purchased and credits are issued by merchants on returned items in a timely fashion, thus minimizing the likelihood of cardholder disputes with respect to amounts paid by the Discover Network. However, where the product or service is not scheduled to be provided to the customer until a later date following the purchase, the likelihood of a contingent payment obligation by the Discover Network increases. Losses related to merchant chargebacks were not material for the years ended December 31, 2023, 2022 and 2021.

The maximum potential amount of obligations of the Discover Network arising from such contingent obligations is estimated to be the portion of the total Discover Network transaction volume processed to date for which timely and valid disputes may be raised under applicable law and relevant issuer and customer agreements. There is no limitation on the maximum amount the Company may be liable to pay to issuers. However, the Company believes that such amount is not representative of the Company's actual potential loss exposure based on the Company's historical experience. The actual amount of the potential exposure cannot be quantified as the Company cannot determine whether the current or cumulative transaction volumes may include or result in disputed transactions.

The following table summarizes certain information regarding merchant chargeback guarantees (dollars in millions):

	For the Years Ended December 31,		
	2023	2022	2021
Aggregate sales transaction volume[1]	$ 257,611	$ 256,237	$ 223,360

(1) Represents transactions processed on the Discover Network for which a potential liability exists that, in aggregate, can differ from credit card sales volume.

The Company did not record any contingent liability in the consolidated financial statements for merchant chargeback guarantees as of December 31, 2023 and 2022. The Company mitigates the risk of potential loss exposure by withholding settlement from merchants, obtaining third-party guarantees, or obtaining escrow deposits or letters of credit from certain merchant acquirers or merchants that are considered a higher risk due to various factors such as time delays in the delivery of products or services. As of December 31, 2023 and 2022, the Company had escrow deposits and settlement withholdings of $10 million and $11 million, respectively, which are recorded in interest-bearing deposit accounts and accrued expenses and other liabilities on the Company's consolidated statements of financial condition.

19. Litigation and Regulatory Matters

In the normal course of business, from time to time, the Company has been named as a defendant in various legal actions, including arbitrations, class actions and other litigation, arising in connection with its activities. Certain of the actual or threatened legal actions include claims for substantial compensatory and/or punitive damages or claims for indeterminate amounts of damages. The litigation process is not predictable and can lead to unexpected results. The Company contests liability and/or the amount of damages as appropriate in each pending matter.

The Company has historically offered its customers an arbitration clause in its customer agreements. The arbitration clause allows the Company and its customers to quickly and economically resolve disputes. Additionally, the arbitration clause has in some instances limited the costs of, and the Company's exposure to, litigation. Future legal and regulatory challenges and prohibitions may cause the Company to discontinue its offering and use of such clauses. From time to time, the Company is involved in legal actions challenging its arbitration clause. Bills may be periodically introduced in Congress to directly or indirectly prohibit the use of pre-dispute arbitration clauses.

The Company is also involved, from time to time, in other reviews, investigations and proceedings (both formal and informal) by governmental agencies regarding the Company's business including, among other matters, regulatory, accounting, tax and other operational matters. The investigations and proceedings may result in significant adverse judgments, settlements, fines, penalties, injunctions, decreases in regulatory ratings, customer restitution or other relief. These outcomes could materially impact the Company's consolidated financial statements, increase its cost of operations, or limit the Company's ability to execute its business strategies and engage in certain business activities. Certain subsidiaries of the Company are subject to consent orders with the Consumer Financial Protection Bureau ("CFPB") and FDIC, as described below. Pursuant to powers granted under federal banking laws, regulatory agencies have broad and sweeping discretion and may assess civil money penalties, require changes to certain business practices or require customer restitution at any time.

In accordance with applicable accounting guidance, the Company establishes a liability for legal and regulatory matters when those matters create loss contingencies that are both probable and estimable. Litigation and regulatory settlement-related expense was $ 17 million, $15 million and $59 million for the years ended December 31, 2023, 2022 and 2021, respectively.

There may be an exposure to loss in excess of any amounts accrued. The Company believes the estimate of the aggregate range of reasonably possible losses (meaning the likelihood of losses is more than remote but less than likely), in excess of the amounts that the Company has accrued for legal and regulatory proceedings, is up to $230 million as of December 31, 2023. This estimated range of reasonably possible losses is based on currently available information for those proceedings in which the Company is involved and considers the Company's best estimate of such losses for those matters for which an estimate can be made. It does not represent the Company's maximum potential loss exposure. Various aspects of the legal proceedings underlying the estimated range will change from time to time and actual results may vary significantly from the estimate.

The Company's estimated range noted above involves significant judgment, given the varying stages of the proceedings, the existence of numerous yet to be resolved issues, the breadth of the claims (often spanning multiple years and, in some cases, a wide range of business activities), unspecified damages and/or the novelty of the legal issues presented. The outcome of pending matters could adversely affect the Company's reputation and be material to the Company's consolidated financial condition, operating results and cash flows for a particular future period, depending on, among other things, the level of the Company's income for such period.

In July 2015, the Company announced that its subsidiaries, Discover Bank, The Student Loan Corporation and Discover Products Inc. (the "Discover Subsidiaries"), agreed to a consent order with the CFPB with respect to certain private student loan servicing practices (the "2015 Order"). The 2015 Order expired in July 2020. In December 2020, the Discover Subsidiaries agreed to a consent order (the "2020 Order") with the CFPB resolving the agency's investigation into Discover Bank's compliance with the 2015 Order. In connection with the 2020 Order, Discover is required to implement a redress and compliance plan and must pay at least $10 million in consumer redress to consumers who may have been harmed and has paid a $25 million civil money penalty to the CFPB.

On September 25, 2023, following the consent of the Board of Directors of Discover Bank, the FDIC issued a consent order (the "2023 Order") to Discover Bank, a subsidiary of the Company. The 2023 Order addresses shortcomings in Discover Bank's compliance management system for consumer protection laws and related matters. It does not contain any monetary penalties or fines. As part of the 2023 Order, Discover Bank agreed to improve its consumer compliance management system and enhance related corporate governance and enterprise risk management practices, and increase the level of Board oversight over such matters. Discover Bank has been taking significant steps to strengthen the organization's compliance management system and address the other issues identified in the 2023 Order. In addition, Discover added two new independent directors with significant banking experience to the Boards of Discover and Discover Bank in the third quarter of 2023.

Management and the Board are committed to meeting all the requirements of the 2023 Order. Discover Bank is working diligently to complete items required by the 2023 Order. This includes having retained third party consultants to conduct independent reviews and the submission of action plans to the FDIC by the required deadlines for review and feedback. The actions completed to date, taken together with actions previously undertaken to improve and enhance its compliance management system and enhance related corporate governance, address multiple consent order objectives, however, many provisions require longer term implementation. Depending on regulatory feedback, the timing of approvals and sustainability periods, necessary work is not likely to be completed until at least 2025.

On March 8, 2016, a class-action lawsuit was filed against the Company, other credit card networks, other issuing banks and EMVCo in the U.S. District Court for the Northern District of California (B&R Supermarket, Inc., d/b/a Milam's Market, et al. v. Visa, Inc., et al.) alleging a conspiracy by defendants to shift fraud liability to merchants with the migration to the EMV security standard and chip technology. The plaintiffs assert joint and several liability among the defendants and seek unspecified damages, including treble damages, attorneys' fees, costs and injunctive relief. The Company filed its motion to compel arbitration, motion for summary judgment, and Daubert challenges on November 30, 2022, and awaits rulings. The Company is not in a position at this time to assess the likely outcome or its exposure, if any, with respect to this matter. However, the Company will seek to defend itself vigorously against all claims asserted by the plaintiffs.

Card Product Misclassification

As reported in the second quarter of 2023, beginning in 2007, the Company incorrectly classified certain credit card accounts into its highest merchant and merchant acquirer pricing tier. The misclassification affected pricing for certain merchants and merchant acquirers, but not for cardholders. In the second quarter of 2023, the Company recorded a liability of $365 million within accrued expenses and other liabilities to provide refunds to merchants and merchant acquirers as a result of the card product misclassification. As of December 31, 2023, the balance of the

liability was $375 million, reflecting an additional $11 million for the estimated effect of the current price tiering on discount and interchange assessments recorded in each of the third and fourth quarters of 2023. As of December 31, 2023, $12 million of disbursements had been made against this liability as the Company continues to develop its plan to provide refunds to merchants and merchant acquirers and engage in ongoing discussions about such plans with its regulators. Regulators may impose other requirements that may result in additional charges or a remediation amount that differs, possibly materially, from the Company's current estimate.

Management has corrected the card product misclassification as of November 2023, and the Company remains in discussions with its regulators regarding this matter. The Company expects these discussions will likely result in enforcement actions, which may include, among other remedies, monetary penalties, the amount of which cannot be estimated at this time.

In addition, the Company and its subsidiaries have been named as defendants in various lawsuits, including putative class actions on behalf of affected merchants, a putative class action on behalf of shareholders and shareholder derivative actions. The Company also is cooperating with a Securities and Exchange Commission ("SEC") investigation into the card product misclassification matter. The Company believes that additional losses are probable as a result of these actions but is not able to make a reasonable estimate of such losses as of December 31, 2023.

20. Fair Value Measurements

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. ASC Topic 820, *Fair Value Measurement*, provides a three-level hierarchy for classifying the inputs to valuation techniques used to measure fair value of financial instruments based on whether the inputs are observable or unobservable. It also requires certain disclosures about those measurements. The three-level valuation hierarchy is as follows:

- *Level 1*: Fair values determined by Level 1 inputs are defined as those that utilize quoted prices (unadjusted) in active markets for identical assets or liabilities that the Company has the ability to access.
- *Level 2*: Fair values determined by Level 2 inputs are those that utilize inputs other than quoted prices included in Level 1 that are observable for the asset or liability, either directly or indirectly. Level 2 inputs include quoted prices for similar assets and liabilities in active or inactive markets, quoted prices for the identical assets in an inactive market and inputs other than quoted prices that are observable for the asset or liability, such as interest rates and yield curves that are observable at commonly quoted intervals. The Company evaluates factors such as the frequency of transactions, the size of the bid-ask spread and the significance of adjustments made when considering transactions involving similar assets or liabilities to assess the relevance of those observed prices. If relevant and observable prices are available, the fair values of the related assets or liabilities would be classified as Level 2.
- *Level 3*: Fair values determined by Level 3 inputs are those based on unobservable inputs and include situations where there is little, if any, market activity for the asset or liability being valued. In instances where the inputs used to measure fair value may fall into different levels of the fair value hierarchy, the level in the fair value hierarchy in which the measurements are classified is based on the lowest level input that is significant to the fair value measurement in its entirety. Accordingly, the Company may utilize both observable and unobservable inputs in determining the fair values of financial instruments classified within the Level 3 category.

The Company evaluates the classification of each fair value measurement within the hierarchy at least quarterly.

The Company's assessment of the significance of a particular input to the fair value measurement in its entirety requires judgment and involves consideration of factors specific to the asset or liability. Furthermore, certain techniques used to measure fair value involve some degree of judgment and, as a result, are not necessarily indicative of the amounts the Company would realize in a current market exchange.

Assets and Liabilities Measured at Fair Value on a Recurring Basis

Assets and liabilities measured at fair value on a recurring basis are as follows (dollars in millions):

	Quoted Price in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Total
Balance at December 31, 2023				
Assets				
Fair value - OCI				
U.S. Treasury and U.S. GSE securities	$ 12,928	$ 9	$ -	$ 12,937
Residential mortgage-backed securities - Agency	-	465	-	465
Available-for-sale investment securities	$ 12,928	$ 474	$ -	$ 13,402
Derivative financial instruments - cash flow hedges[1]	$ -	$ 2	$ -	$ 2
Fair value - Net income				
Marketable equity securities	$ 1	$ -	$ -	$ 1
Derivative financial instruments - fair value hedges[1]	$ -	$ 2	$ -	$ 2
Balance at December 31, 2022				
Assets				
Fair value - OCI				
U.S. Treasury and U.S. GSE securities	$ 11,416	$ 7	$ -	$ 11,423
Residential mortgage-backed securities - Agency	-	564	-	564
Available-for-sale investment securities	$ 11,416	$ 571	$ -	$ 11,987
Derivative financial instruments - cash flow hedges[1]	$ -	$ 1	$ -	$ 1
Fair value - Net income				
Marketable equity securities	$ 41	$ -	$ -	$ 41
Liabilities				
Fair value - OCI				
Derivative financial instruments - cash flow hedges[1]	$ -	$ 3	$ -	$ 3
Fair value - Net income				
Derivative financial instruments - fair value hedges[1]	$ -	$ 2	$ -	$ 2

(1) Derivative instrument carrying values in an asset or liability position are presented as part of other assets or accrued expenses and other liabilities, respectively, in the Company's consolidated statements of financial condition.

Available-for-Sale Investment Securities

Investment securities classified as available-for-sale consist of U.S. Treasury and U.S. GSE securities and RMBS. The fair value estimates of investment securities classified as Level 1, consisting of U.S. Treasury securities, are determined based on quoted market prices for the same securities. The fair value estimates of U.S. GSE securities and RMBS are classified as Level 2 and are valued by maximizing the use of relevant observable inputs, including quoted prices for similar securities, benchmark yield curves and market-corroborated inputs.

The Company validates the fair value estimates provided by pricing services primarily by comparing to valuations obtained through other pricing sources. The Company evaluates pricing variances among different pricing sources to ensure that the valuations utilized are reasonable. The Company also corroborates the reasonableness of the fair value estimates with analysis of trends of significant inputs, such as market interest rate curves. The Company further performs due diligence in understanding the procedures and techniques performed by the pricing services to derive fair value estimates.

At December 31, 2023, amounts reported in RMBS reflect U.S. government agency and U.S. GSE obligations issued by Ginnie Mae, Fannie Mae and Freddie Mac with an aggregate par value of $480 million, a weighted-average coupon of 4.09% and a weighted-average remaining maturity of four years.

Marketable Equity Securities

The Company holds non-controlling equity positions in payment service entities that have actively traded stock and therefore have readily determinable fair values. The Company classifies these equity securities as Level 1, the fair value estimates of which are determined based on quoted share prices for the same securities.

Derivative Financial Instruments

The Company's derivative financial instruments consist of interest rate swaps and foreign exchange forward contracts. These instruments are classified as Level 2 as their fair values are estimated using proprietary pricing models, containing certain assumptions based on readily observable market-based inputs, including interest rate curves, option volatility and foreign currency forward and spot rates. In determining fair values, the pricing models use widely accepted valuation techniques, including discounted cash flow analysis on the expected cash flows of each derivative. This analysis reflects the contractual terms of the derivatives, including the period to maturity and the observable market-based inputs. The fair values of the interest rate swaps are determined using the market standard methodology of netting the discounted future fixed cash receipts (or payments) and the discounted expected variable cash payments (or receipts). The variable cash payments are based on an expectation of future interest rates derived from the observable market interest rate curves. The Company considers collateral and master netting agreements that mitigate credit exposure to counterparties in determining the counterparty credit risk valuation adjustment. The fair values of the currency instruments are valued by comparing the contracted forward exchange rate pertaining to the specific contract maturities to the current market exchange rate.

The Company validates the fair value estimates of interest rate swaps primarily through comparison to the fair value estimates computed by the counterparties to each of the derivative transactions. The Company evaluates pricing variances among different pricing sources to ensure that the valuations utilized are reasonable. The Company also corroborates the reasonableness of the fair value estimates with analysis of trends of significant inputs, such as market interest rate curves. The Company performs due diligence in understanding the impact of any changes to the valuation techniques performed by proprietary pricing models before implementation, working closely with the third-party valuation service and reviewing the service's control objectives at least annually. The Company corroborates the fair value of foreign exchange forward contracts through independent calculation of the fair value estimates.

Assets and Liabilities Measured at Fair Value on a Non-Recurring Basis

The Company also has assets that, under certain conditions, are subject to measurement at fair value on a non-recurring basis. These assets include those associated with acquired businesses, including goodwill. For these assets, measurement at fair value in periods subsequent to the initial recognition of the assets may be applicable whenever one is tested for impairment.
No impairments were recognized related to these assets for the years ended December 31, 2023 and 2022.

Financial Instruments Measured at Other Than Fair Value

The following tables disclose the estimated fair value of the Company's financial assets and financial liabilities that are not required to be carried at fair value (dollars in millions):

Balance at December 31, 2023	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Total	Carrying Value
Assets					
Amortized cost					
Residential mortgage-backed securities - Agency	$ -	$ 234	$ -	$ 234	$ 253
Held-to-maturity investment securities	$ -	$ 234	$ -	$ 234	$ 253
Net loan receivables	$ -	$ -	$ 126,940	$ 126,940	$ 119,126
Carrying value approximates fair value[1]					
Cash and cash equivalents	$ 11,685	$ -	$ -	$ 11,685	$ 11,685
Restricted cash	$ 43	$ -	$ -	$ 43	$ 43
Accrued interest receivables[2]	$ -	$ 1,450	$ -	$ 1,450	$ 1,450
Liabilities					
Amortized cost					
Time deposits[3]	$ -	$ 45,333	$ -	$ 45,333	$ 45,240
Short-term borrowings	$ -	$ 750	$ -	$ 750	$ 750
Long-term borrowings - owed to securitization investors	$ -	$ 10,770	$ 65	$ 10,835	$ 10,993
Other long-term borrowings	-	9,469	-	9,469	9,588
Long-term borrowings	$ -	$ 20,239	$ 65	$ 20,304	$ 20,581
Carrying value approximates fair value[1]					
Accrued interest payables[2]	$ -	$ 421	$ -	$ 421	$ 421
Balance at December 31, 2022					
Assets					
Amortized cost					
Residential mortgage-backed securities - Agency	$ -	$ 199	$ -	$ 199	$ 221
Held-to-maturity investment securities	$ -	$ 199	$ -	$ 199	$ 221
Net loan receivables	$ -	$ -	$ 110,796	$ 110,796	$ 104,746
Carrying value approximates fair value[1]					
Cash and cash equivalents	$ 8,856	$ -	$ -	$ 8,856	$ 8,856
Restricted cash	$ 41	$ -	$ -	$ 41	$ 41
Accrued interest receivables[2]	$ -	$ 1,211	$ -	$ 1,211	$ 1,211
Liabilities					
Amortized cost					
Time deposits[3]	$ -	$ 32,710	$ -	$ 32,710	$ 33,070
Long-term borrowings - owed to securitization investors	$ -	$ 9,862	$ 84	$ 9,946	$ 10,259
Other long-term borrowings	-	9,468	-	9,468	9,849
Long-term borrowings	$ -	$ 19,330	$ 84	$ 19,414	$ 20,108
Carrying value approximates fair value[1]					
Accrued interest payables[2]	$ -	$ 308	$ -	$ 308	$ 308

(1) The carrying values of these assets and liabilities approximate fair value due to their short-term nature.
(2) Accrued interest receivable and payable carrying values are presented as part of other assets and accrued expenses and other liabilities, respectively, in the Company's consolidated statements of financial condition.
(3) Excludes deposits without contractually defined maturities for all periods presented.

21. Derivatives and Hedging Activities

The Company uses derivatives to manage its exposure to various financial risks. The Company does not enter into derivatives for trading or speculative purposes. Certain derivatives used to manage the Company's exposure to foreign currency are not designated as hedges and do not qualify for hedge accounting.

Derivatives may give rise to counterparty credit risk, which generally is mitigated through collateral arrangements as described under the sub-heading "-Collateral Requirements and Credit-Risk Related Contingency Features." The Company enters into derivative transactions with established dealers that meet minimum credit criteria established by the Company. All counterparties must be pre-approved before engaging in any transaction with the Company. The Company regularly monitors counterparties to ensure compliance with the Company's risk policies and limits. In determining the counterparty credit risk valuation adjustment for the fair values of derivatives, if any, the Company considers collateral and legally enforceable master netting agreements that mitigate credit exposure to related counterparties.

All derivatives are recorded in other assets at their gross positive fair values and in accrued expenses and other liabilities at their gross negative fair values. See Note 20: Fair Value Measurements for a description of the valuation methodologies used for derivatives. Cash collateral amounts associated with derivative positions that are cleared through an exchange are legally characterized as settlement of the derivative positions. Such collateral amounts are reflected as offsets to the associated derivatives balances recorded in other assets or in accrued expenses and other liabilities. Other cash collateral posted and held balances are recorded in other assets and deposits, respectively, in the consolidated statements of financial condition. Collateral amounts recorded in the consolidated statements of financial condition are based on the net collateral posted or held position for each applicable legal entity's master netting arrangement with each counterparty.

Derivatives Designated as Hedges

Derivatives designated and qualifying as a hedge of the exposure to variability in expected future cash flows arising from changes in interest rates, or other types of forecasted transactions, are considered cash flow hedges. Derivatives designated and qualifying as a hedge of the exposure to changes in the fair value of an asset, liability, or firm commitment attributable to a particular risk, such as interest rate risk, are considered fair value hedges.

Cash Flow Hedges

The Company uses interest rate swaps to manage its exposure to variability in cash flows related to changes in interest rates on interest-earning assets and funding instruments. These interest rate swaps qualify for hedge accounting in accordance with ASC Topic 815, *Derivatives and Hedging* ("ASC 815"). At December 31, 2023 and 2022, the Company's outstanding cash flow hedges primarily relate to interest receipts from credit card receivables and had an initial maximum period of five years and three years, respectively.

The change in the fair value of derivatives designated as cash flow hedges is recorded in OCI and is subsequently reclassified into earnings in the period that the hedged forecasted cash flows affect earnings. Amounts reported in AOCI related to derivatives at December 31, 2023, will be reclassified to interest income and interest expense as interest receipts and payments are accrued on the Company's then outstanding credit card receivables and certain floating-rate debt, respectively. During the next 12 months, the Company estimates it will reclassify $
79 million into pretax earnings related to its cash flow hedges.

Fair Value Hedges

The Company is exposed to changes in the fair value of its fixed-rate debt obligations due to changes in interest rates. The Company uses interest rate swaps to manage its exposure to changes in the fair value of certain fixed-rate long-term borrowings, including securitized debt and bank notes, attributable to changes in the respective benchmark rates. These interest rate swaps qualify as fair value hedges in accordance with ASC 815. Changes in the fair values of both (i) the derivatives and (ii) the hedged long-term borrowings attributable to the interest rate risk being hedged are recorded in interest expense and generally provide substantial offset to one another.

Derivatives Not Designated as Hedges

Foreign Exchange Forward Contracts

The Company has foreign exchange forward contracts that are economic hedges and are not designated as accounting hedges. The Company enters into foreign exchange forward contracts to manage foreign currency risk. Changes in the fair value of these contracts are recorded in other income on the consolidated statements of income.

Derivatives Cleared Through an Exchange

Cash variation margin payments on derivatives cleared through an exchange are legally considered settlement payments and are accounted for with corresponding derivative positions as one unit of account and not presented separately as collateral. With settlement payments on derivative positions cleared through this exchange reflected as offsets to the associated derivative asset and liability balances, the fair values of derivative instruments and collateral balances shown are generally reduced.

Derivatives Activity

The following table summarizes the fair value (including accrued interest) and outstanding notional amounts of derivative instruments and related collateral balances (dollars in millions):

	December 31,							
	2023				2022			
	Notional Amount	Number of Outstanding Derivative Contracts	Derivative Assets	Derivative Liabilities	Notional Amount	Derivative Assets	Derivative Liabilities
Derivatives designated as hedges							
Interest rate swaps - cash flow hedge	$ 10,650	17	$ 2	$ -	$ 5,000	$ 1	$ 3
Interest rate swaps - fair value hedge	$ 8,650	10	2	-	$ 4,425	-	2
Derivatives not designated as hedges							
Foreign exchange forward contracts[1]	$ 29	7	-	-	$ 25	-	-
Total gross derivative assets/liabilities[2]			4	-		1	5
Less: collateral held/posted[3]			-	-		-	(5)
Total net derivative assets/liabilities			$ 4	$ -		$ 1	$ -

(1) The foreign exchange forward contracts have notional amounts of EUR 6 million, GBP 6 million, SGD 1 million, INR 1.1 billion and AUD 2 million as of December 31, 2023, and notional amounts of EUR 6 million, GBP 6 million, SGD 1 million, INR 788 million and AUD 2 million as of December 31, 2022.

(2) In addition to the derivatives disclosed in the table, the Company enters into forward contracts to purchase when-issued mortgage-backed securities and tax exempt single family mortgage revenue bonds as part of its community reinvestment initiatives. At December 31, 2023, the Company had one outstanding contract with a total notional amount of $35 million and an immaterial fair value. At December 31, 2022, the Company had one outstanding contract with a total notional amount of $48 million and an immaterial fair value.

(3) Collateral amounts, which consist of cash and investment securities, are limited to the related derivative asset/liability balance and do not include excess collateral received/pledged.

The following amounts were recorded on the statements of financial condition related to cumulative basis adjustments for fair value hedges (dollars in millions):

	December 31,			
	2023		2022	
	Carrying Amount of Hedged Liabilities	Cumulative Amount of Fair Value Hedging Adjustment (Decreasing) the Carrying Amount of Hedged Liabilities[1]	Carrying Amount of Hedged Liabilities	Cumulative Amount of Fair Value Hedging Adjustment (Decreasing) the Carrying Amount of Hedged Liabilities[1]
Long-term borrowings	$ 8,620	$ -	$ 4,386	$ (3)

(1) The balance includes $12 million and $28 million of cumulative hedging adjustments related to discontinued hedging relationships as of December 31, 2023 and 2022, respectively.

The following table summarizes the impact of the derivative instruments on income and indicates where within the consolidated financial statements such impact is reported (dollars in millions):

	Location and Amount of (Losses) Gains Recognized on the Consolidated Statements of Income		
	Interest Expense		
	Long-Term Borrowings	Interest Income (Credit Card)	Other Income
For the Year Ended December 31, 2023			
Total amounts of income and expense line items presented in the consolidated statements of income, where the effects of fair value or cash flow hedges are recorded	$ (855)	$ 14,438	$ 85
The effects of cash flow and fair value hedging			
Gains (losses) on cash flow hedging relationships			
Amounts reclassified from OCI into earnings	$ 9	$ (91)	$ -
(Losses) gains on fair value hedging relationships			
(Losses) gains on hedged items	$ (19)	$ -	$ -
(Losses) gains on interest rate swaps	(80)	-	-
Total (losses) gains on fair value hedging relationships	$ (99)	$ -	$ -
For the Year Ended December 31, 2022			
Total amounts of income and expense line items presented in the consolidated statements of income, where the effects of fair value or cash flow hedges are recorded	$ (606)	$ 10,632	$ 75
The effects of cash flow and fair value hedging			
(Losses) gains on cash flow hedging relationships			
Amounts reclassified from OCI into earnings	$ (2)	$ (2)	$ -
Gains (losses) on fair value hedging relationships			
Gains on hedged items	$ 66	$ -	$ -
(Losses) gains on interest rate swaps	(70)	-	-
Total (losses) gains on fair value hedging relationships	$ (4)	$ -	$ -
The effects of derivatives not designated in hedging relationships			
Gains on derivatives not designated as hedges	$ -	$ -	$ 1
For the Year Ended December 31, 2021			
Total amounts of income and expense line items presented in the consolidated statements of income, where the effects of fair value or cash flow hedges are recorded	$ (473)	$ 8,717	$ 66
The effects of cash flow and fair value hedging			
(Losses) gains on cash flow hedging relationships			
Amounts reclassified from OCI into earnings	$ (3)	$ -	$ -
Gains (losses) on fair value hedging relationships			
Gains on hedged items	$ 246	$ -	$ -
(Losses) gains on interest rate swaps	(93)	-	-
Total gains on fair value hedging relationships	$ 153	$ -	$ -

For the impact of the derivative instruments on OCI, see Note 13: Accumulated Other Comprehensive Income.

Collateral Requirements and Credit-Risk Related Contingency Features

The Company has master netting arrangements and minimum collateral posting thresholds with its counterparties for its fair value and cash flow hedge interest rate swaps and foreign exchange forward contracts. The Company has not sought a legal opinion in relation to the enforceability of its master netting arrangements and, as such, does not report any of these positions on a net basis. Collateral is required by either the Company or its subsidiaries or the counterparty depending on the net fair value position of the derivatives held with that counterparty. These collateral receivable or payable amounts are generally not offset against the fair value of these derivatives but are recorded separately in other assets or deposits. Most of the Company's cash collateral amounts relate to positions cleared through an exchange and are reflected as offsets to the associated derivatives balances recorded in other assets and accrued expenses and other liabilities.

The Company also has agreements with certain of its derivative counterparties that contain a provision under which the Company could be declared in default on any of its derivative obligations if the Company defaults on any of its indebtedness, including default where the lender has not accelerated repayment of the indebtedness.

22.
Segment Disclosures

The Company manages its business activities in two segments: Digital Banking and Payment Services.

- *Digital Banking:* The Digital Banking segment includes Discover-branded credit cards issued to individuals on the Discover Network and other consumer products and services, including private student loans, personal loans, home loans and deposit products. The majority of Digital Banking revenues relate to interest income earned on the segment's loan products. Additionally, the Company's credit card products generate substantially all revenues related to discount and interchange, protection products and loan fee income.
- *Payment Services:* The Payment Services segment includes PULSE, an ATM, debit and electronic funds transfer network; Diners Club, a global payments network; and the Company's Network Partners business, which provides payment transaction processing and settlement services on the Discover Network. The majority of Payment Services revenues relate to transaction processing revenue from PULSE and royalty and licensee revenue from Diners Club.

The business segment reporting provided to and used by the Company's chief operating decision-maker is prepared using the following principles and allocation conventions:

- The Company aggregates operating segments when determining reportable segments.
- Corporate overhead is not allocated between segments; all corporate overhead is included in the Digital Banking segment.
- Through its operation of the Discover Network, the Digital Banking segment incurs fixed marketing, servicing and infrastructure costs that are not specifically allocated among the segments, except for an allocation of direct and incremental costs driven by the Company's Payment Services segment.
- The Company's assets are not allocated among the operating segments in the information reviewed by the Company's chief operating decision-maker.
- The revenues of each segment are derived from external sources. The segments do not earn revenue from intercompany sources.
- Income taxes are not specifically allocated between the operating segments in the information reviewed by the Company's chief operating decision maker.

The following table presents segment data (dollars in millions):

	Digital Banking	Payment Services	Total
For the Year Ended December 31, 2023			
Interest income			
Credit card loans	$ 14,438	$ -	$ 14,438
Private student loans	1,033	-	1,033
Personal loans	1,156	-	1,156
Other loans	326	-	326
Other interest income	892	-	892
Total interest income	17,845	-	17,845
Interest expense	4,746	-	4,746
Net interest income	13,099	-	13,099
Provision for credit losses	6,018	-	6,018
Other income	2,311	450	2,761
Other expense	5,822	194	6,016
Income before income taxes	$ 3,570	$ 256	$ 3,826
For the Year Ended December 31, 2022			
Interest income			
Credit card loans	$ 10,632	$ -	$ 10,632
Private student loans	831	-	831
Personal loans	872	-	872
Other loans	167	-	167
Other interest income	362	-	362
Total interest income	12,864	-	12,864
Interest expense	1,865	-	1,865
Net interest income	10,999	-	10,999
Provision for credit losses	2,359	-	2,359
Other income	2,118	176	2,294
Other expense	5,049	167	5,216
Income before income taxes	$ 5,709	$ 9	$ 5,718
For the Year Ended December 31, 2021			
Interest income			
Credit card loans	$ 8,717	$ -	$ 8,717
Private student loans	742	-	742
Personal loans	878	-	878
Other loans	114	-	114
Other interest income	200	-	200
Total interest income	10,651	-	10,651
Interest expense	1,134	-	1,134
Net interest income	9,517	-	9,517
Provision for credit losses	218	-	218
Other income	1,745	789	2,534
Other expense	4,549	256	4,805
Income before income taxes	$ 6,495	$ 533	$ 7,028

23. Revenue from Contracts with Customers

ASC Topic 606, *Revenue from Contracts with Customers* ("ASC 606"), generally applies to the sales of any good or service for which no other specific accounting guidance is provided. ASC 606 defines a principles-based model under which revenue from a contract is allocated to the distinct performance obligations within the contract and recognized in income as each performance obligation is satisfied. The Company's revenue that is subject to this model includes discount and interchange, protection products fees, transaction processing revenue and certain amounts classified as other income.

The following table presents revenue from contracts with customers disaggregated by business segment and reconciles revenue from contracts with customers to total other income (dollars in millions):

	Digital Banking	Payment Services	Total
For the Year Ended December 31, 2023			
Other income subject to ASC 606			
Discount and interchange revenue, net[1]	$ 1,360	$ 87	$ 1,447
Protection products revenue	172	-	172
Transaction processing revenue	-	303	303
Other income	16	69	85
Total other income subject to ASC 606[2]	1,548	459	2,007
Other income not subject to ASC 606			
Loan fee income	763	-	763
Gains (losses) on equity investments	-	(9)	(9)
Total other income (loss) not subject to ASC 606	763	(9)	754
Total other income by operating segment	$ 2,311	$ 450	$ 2,761
For the Year Ended December 31, 2022			
Other income subject to ASC 606			
Discount and interchange revenue, net[1]	$ 1,301	$ 79	$ 1,380
Protection products revenue	172	-	172
Transaction processing revenue	-	249	249
Other income	11	64	75
Total other income subject to ASC 606[2]	1,484	392	1,876
Other income not subject to ASC 606			
Loan fee income	632	-	632
Gains (losses) on equity investments	2	(216)	(214)
Total other income not subject to ASC 606	634	(216)	418
Total other income by operating segment	$ 2,118	$ 176	$ 2,294
For the Year Ended December 31, 2021			
Other income subject to ASC 606			
Discount and interchange revenue, net[1]	$ 1,115	$ 73	$ 1,188
Protection products revenue	165	-	165
Transaction processing revenue	-	227	227
Other income	-	66	66
Total other income subject to ASC 606[2]	1,280	366	1,646
Other income not subject to ASC 606			
Loan fee income	464	-	464
Gains on equity investments	1	423	424
Total other income not subject to ASC 606	465	423	888
Total other income by operating segment	$ 1,745	$ 789	$ 2,534

(1) Net of rewards, including Cashback Bonus rewards, of $3.1 billion, $3.0 billion and $2.5 billion for the years ended December 31, 2023, 2022 and 2021, respectively.
(2) Excludes $15 million, $10 million and $2 million deposit product fees that are reported within net interest income for the years ended December 31, 2023, 2022 and 2021, respectively.

For a detailed description of the Company's significant revenue recognition accounting policies, see Note 2: Summary of Significant Accounting Policies.

24. Related Party Transactions

In the ordinary course of business, the Company offers consumer financial products to its directors, executive officers and certain members of their families. These products are offered on substantially the same terms as those prevailing at the time for comparable transactions with unrelated parties and these receivables are included in the loan receivables in the Company's consolidated statements of financial condition. They were not material to the Company's financial position or results of operations.

25. Parent Company Condensed Financial Information

The following Parent Company financial statements are provided in accordance with SEC rules, which require such disclosure when the restricted net assets of consolidated subsidiaries exceed 25% of consolidated net assets.

Discover Financial Services
(Parent Company Only)
Condensed Statements of Financial Condition

	December 31,	
	2023	2022
	(dollars in millions)	
Assets		
Cash and cash equivalents[1]	$ 3,509	$ 3,155
Restricted cash	75	20
Notes receivable from subsidiaries[2]	1,650	1,759
Investment in bank subsidiary[3]	12,791	11,685
Investments in non-bank subsidiaries[3]	1,116	877
Other assets	871	811
Total assets	$ 20,012	$ 18,307
Liabilities and Stockholders' Equity		
Non-interest-bearing deposit accounts	$ 2	$ 2
Short-term borrowings from subsidiaries	390	115
Long-term borrowings	4,469	3,487
Accrued expenses and other liabilities	323	359
Total liabilities	5,184	3,963
Stockholders' equity	14,828	14,344
Total liabilities and stockholders' equity	$ 20,012	$ 18,307

(1) The Parent Company had $3.5 billion and $3.1 billion in a money market deposit account at Discover Bank as of December 31, 2023 and 2022, respectively, which is included in cash and cash equivalents. These funds are available to the Parent for liquidity purposes.
(2) The Parent Company had a balance of $1.3 billion representing advances to Discover Bank as of December 31, 2023 and 2022, which is included in notes receivable from subsidiaries.
(3) Figures presented as of December 31, 2022 have been updated from amounts previously disclosed in Part II Item 5 - Other Information in the Company's Form 10-Q for the period ended September 30, 2023, due to certain intercompany allocations recorded in the fourth quarter.

Discover Financial Services
(Parent Company Only)
Condensed Statements of Comprehensive Income

	For the Years Ended December 31,		
	2023	2022	2021
	(dollars in millions)		
Interest income	$ 240	$ 98	$ 33
Interest expense	189	189	199
Net interest expense	51	(91)	(166)
Dividends from bank subsidiary	1,700	4,000	3,250
Dividends from non-bank subsidiaries	11	688	-
Other income	4	-	-
Total income	1,766	4,597	3,084
Other expense	(2)	6	10
Income before income tax benefit and equity in undistributed net income of subsidiaries	1,768	4,591	3,074
Income tax benefit (expense)	(7)	25	25
Equity in undistributed net income of subsidiaries	1,179	(242)	2,323
Net income	2,940	4,374	5,422
Other comprehensive (loss) income, net	114	(245)	(139)
Comprehensive income	$ 3,054	$ 4,129	$ 5,283

Discover Financial Services
(Parent Company Only)
Condensed Statements of Cash Flows

	For the Years Ended December 31,		
	2023	2022	2021
	(dollars in millions)		
Cash flows provided by operating activities			
Net income	$ 2,940	$ 4,374	$ 5,422
Adjustments to reconcile net income to net cash provided by operating activities:			
Equity in undistributed net income of subsidiaries	(1,179)	242	(2,323)
Non-cash dividend from subsidiary	(11)	(188)	-
Stock-based compensation expense	74	89	103
Deferred income taxes	2	(8)	(13)
Depreciation and amortization	4	32	47
Net gains on investments and other assets	(4)	-	-
Changes in assets and liabilities:			
Increase in other assets	(65)	(143)	(91)
(Decrease) increase in accrued expenses and other liabilities	(41)	27	24
Net cash provided by operating activities	1,720	4,425	3,169
Cash flows (used for) provided by investing activities[1]			
Return of capital from sale of subsidiary	2	-	-
Decrease (increase) in loans to subsidiaries	109	(982)	114
Proceeds from sale of subsidiary	3	-	-
Net cash provided by (used for) investing activities	114	(982)	114
Cash flows used for financing activities			
Net increase (decrease) in short-term borrowings from subsidiaries	275	(324)	156
Proceeds from issuance of common stock	12	10	9
Proceeds from issuance of long-term borrowings	993	740	-
Maturities and repayment of long-term borrowings	(15)	(834)	(172)
Purchases of treasury stock	(1,938)	(2,359)	(2,260)
Dividends paid on common and preferred stock	(752)	(703)	(636)
Net cash used for financing activities	(1,425)	(3,470)	(2,903)
Increase (decrease) in cash, cash equivalents and restricted cash	409	(27)	380
Cash, cash equivalents and restricted cash, at beginning of period	3,175	3,202	2,822
Cash, cash equivalents and restricted cash, at end of period	$ 3,584	$ 3,175	$ 3,202
Reconciliation of cash, cash equivalents and restricted cash			
Cash and cash equivalents	$ 3,509	$ 3,155	$ 3,182
Restricted cash	75	20	20
Cash, cash equivalents and restricted cash, at end of period	$ 3,584	$ 3,175	$ 3,202
Supplemental disclosure of cash flow information			
Cash paid during the period for:			
Interest expense	$ 175	$ 159	$ 156
Income taxes, net of income tax refunds	$ 22	$ (39)	$ (70)

(1) Subsequent to the issuance of the audited financial statements for the year ended December 31, 2021, the Company identified an immaterial classification error within cash flows (used for)/provided by investing activities. The correction of this error had no impact on the net cash (used for)/provided by investing activities. Management has evaluated the materiality of this misstatement and concluded it was not material to the prior period.

26. Immaterial Restatement of Prior Period Financial Statements

As reported in the second quarter of 2023, beginning in 2007, the Company incorrectly classified certain credit card accounts into its highest merchant and merchant acquirer pricing tier. The card product classification impacts the pricing and charging of discount and interchange revenue, which is recorded within discount and interchange revenue, net, on the consolidated statements of income. The Company determined the revenue impact of the incorrect card product classification was immaterial to the consolidated financial statements for all impacted prior periods. For comparative purposes, the Company has made these immaterial corrections to the recognition of discount and interchange revenue, as well as the related impacts to assets, liabilities and retained earnings in the prior periods presented in this Form 10-K. Assets were impacted by adjustments to deferred tax assets, and liabilities were impacted by an adjustment to the liability for estimated refunds to merchants and merchant acquirers.

The prior period impacts to the Company's consolidated statement of financial condition were as shown below (dollars in millions):

	December 31, 2022		
	As Previously Reported	Restatement Impacts	As Restated
Assets			
Other Assets	$ 4,519	$ 78	$ 4,597
Total Assets	$ 131,628	$ 78	$ 131,706
Liabilities and Stockholders' Equity			
Liabilities			
Accrued Expenses and other liabilities	$ 5,294	$ 324	$ 5,618
Total Liabilities	$ 117,038	$ 324	$ 117,362
Stockholders' Equity			
Retained Earnings	$ 28,453	$ (246)	$ 28,207
Total Stockholders' Equity	$ 14,590	$ (246)	$ 14,344
Total Liabilities and Stockholders' Equity	$ 131,628	$ 78	$ 131,706

The prior period impacts to the Company's consolidated statements of income and the related impacts to the consolidated statements of comprehensive income were as shown below (dollars in millions):

	For the Year Ended December 31, 2022			For the Year Ended December 31, 2021		
	As Previously Reported	Restatement Impacts	As Restated	As Previously Reported	Restatement Impacts	As Restated
Other income						
Discount and interchange revenue, net	$ 1,424	$ (44)	$ 1,380	$ 1,224	$ (36)	$ 1,188
Total other income	$ 2,338	$ (44)	$ 2,294	$ 2,570	$ (36)	$ 2,534
Other expense						
Other expense	$ 560	$ (20)	$ 540	$ 620	$ -	$ 620
Total other expense	$ 5,236	$ (20)	$ 5,216	$ 4,805	$ -	$ 4,805
Income before income taxes	$ 5,742	$ (24)	$ 5,718	$ 7,064	$ (36)	$ 7,028
Income tax expense	$ 1,350	$ (6)	$ 1,344	$ 1,615	$ (9)	$ 1,606
Net Income	$ 4,392	$ (18)	$ 4,374	$ 5,449	$ (27)	$ 5,422
Net income allocated to common stockholders	$ 4,304	$ (18)	$ 4,286	$ 5,351	$ (28)	$ 5,323
Basic earnings per common share	$ 15.52	$ (0.07)	$ 15.45	$ 17.85	$ (0.10)	$ 17.75
Diluted earnings per common share	$ 15.50	$ (0.06)	$ 15.44	$ 17.83	$ (0.09)	$ 17.74

The prior period impacts to the Company's consolidated statements of changes in stockholders' equity were as shown below (dollars in millions):

	Retained Earnings	Total Stockholders' Equity
As Previously Reported		
For the Year Ended December 31, 2020		
Balance at December 31, 2019	$ 21,290	$ 11,859
Net income	$ 1,141	$ 1,141
Balance at December 31, 2020	$ 19,955	$ 10,884
Restatement Impacts		
For the Year Ended December 31, 2020		
Balance at December 31, 2019	$ (185)	$ (185)
Net income	$ (16)	$ (16)
Balance at December 31, 2020	$ (201)	$ (201)
As Restated		
For the Year Ended December 31, 2020		
Balance at December 31, 2019	$ 21,105	$ 11,674
Net income	$ 1,125	$ 1,125
Balance at December 31, 2020	$ 19,754	$ 10,683

	Retained Earnings	Total Stockholders' Equity
As Previously Reported		
For the Year Ended December 31, 2021		
Balance at December 31, 2020	$ 19,955	$ 10,884
Net income	$ 5,449	$ 5,449
Balance at December 31, 2021	$ 24,766	$ 13,408
Restatement Impacts		
For the Year Ended December 31, 2021		
Balance at December 31, 2020	$ (201)	$ (201)
Net income	$ (27)	$ (27)
Balance at December 31, 2021	$ (228)	$ (228)
As Restated		
For the Year Ended December 31, 2021		
Balance at December 31, 2020	$ 19,754	$ 10,683
Net income	$ 5,422	$ 5,422
Balance at December 31, 2021	$ 24,538	$ 13,180

	Retained Earnings	Total Stockholders' Equity
As Previously Reported		
For the Year Ended December 31, 2022		
Balance at December 31, 2021	$ 24,766	$ 13,408
Net income	$ 4,392	$ 4,392
Balance at December 31, 2022	$ 28,453	$ 14,590
Restatement Impacts		
For the Year Ended December 31, 2022		
Balance at December 31, 2021	$ (228)	$ (228)
Net income	$ (18)	$ (18)
Balance at December 31, 2022	$ (246)	$ (246)
As Restated		
For the Year Ended December 31, 2022		
Balance at December 31, 2021	$ 24,538	$ 13,180
Net income	$ 4,374	$ 4,374
Balance at December 31, 2022	$ 28,207	$ 14,344

The prior period impacts to the Company's consolidated statements of cash flows were as follows (dollars in millions):

	For the Year Ended December 31, 2022			For the Year Ended December 31, 2021		
	As Previously Reported	Restatement Impacts	As Restated	As Previously Reported	Restatement Impacts	As Restated
Cash flows provided by operating activities						
Net Income	$ 4,392	$ (18)	$ 4,374	$ 5,449	$ (27)	$ 5,422
Adjustments to reconcile net income to net cash provided by operating activities:						
Deferred income taxes	$ (427)	$ (6)	$ (433)	$ 327	$ (9)	$ 318
Changes in assets and liabilities:						
Increase in accrued expenses and liabilities	$ 1,080	$ 24	$ 1,104	$ 410	$ 36	$ 446
Net cash provided by operating activities	$ 7,140	$ -	$ 7,140	$ 6,019	$ -	$ 6,019

The following tables reflect the impacts of the card product misclassification and subsequent restatements of certain prior period amounts reported on the Parent Company's financial statements.

The prior period impacts to the Parent Company's condensed statement of financial condition were as follows (dollars in millions):

	December 31, 2022		
	As Previously Reported	Restatement Impacts	As Restated
Investment in bank subsidiary[1]	$ 11,922	$ (237)	$ 11,685
Investments in non-bank subsidiaries[1]	$ 886	$ (9)	$ 877
Total assets	$ 18,553	$ (246)	$ 18,307
Liabilities and Stockholders' Equity			
Stockholders' equity	$ 14,590	$ (246)	$ 14,344
Total liabilities and stockholders' equity	$ 18,553	$ (246)	$ 18,307

(1) Figures presented have been updated from amounts previously disclosed in Part II Item 5 - Other Information in the Company's Form 10-Q for the period ended September 30, 2023, due to certain intercompany allocations recorded in the fourth quarter.

The prior period impacts to the Parent Company's condensed statements of income and the related impacts to the condensed statements of comprehensive income were as follows (dollars in millions):

	For the Year Ended December 31, 2022			For the Year Ended December 31, 2021		
	As Previously Reported	Restatement Impacts	As Restated	As Previously Reported	Restatement Impacts	As Restated
Equity in undistributed net income of subsidiaries	$ (224)	$ (18)	$ (242)	$ 2,350	$ (27)	$ 2,323
Net income	$ 4,392	$ (18)	$ 4,374	$ 5,449	$ (27)	$ 5,422
Comprehensive income	$ 4,147	$ (18)	$ 4,129	$ 5,310	$ (27)	$ 5,283

The prior period impacts to the Parent Company's condensed statements of cash flows were as follows (dollars in millions):

	For the Year Ended December 31, 2022			For the Year Ended December 31, 2021		
	As Previously Reported	Restatement Impacts	As Restated	As Previously Reported	Restatement Impacts	As Restated
Cash flows provided by operating activities						
Net income	$ 4,392	$ (18)	$ 4,374	$ 5,449	$ (27)	$ 5,422
Adjustments to reconcile net income to net cash provided by operating activities:						
Equity in undistributed net income of subsidiaries	$ 224	$ 18	$ 242	$ (2,350)	$ 27	$ (2,323)
Net cash provided by operating activities	$ 4,425	$ -	$ 4,425	$ 3,169	$ -	$ 3,169

27. Subsequent Events

On February 19, 2024, the Company and Capital One Financial Corporation jointly announced that they entered into an agreement and plan of merger (the "Merger Agreement"), under which the companies will combine in an all-stock merger, which values Discover at $35.3 billion. Under the terms of the Merger Agreement, holders of Discover common stock will receive 1.0192 shares of Capital One common stock for each share of Discover common stock they own. Capital One shareholders will own approximately 60% of the combined company and Discover shareholders will own approximately 40% of the combined company. The Merger Agreement contains customary representations and warranties, covenants and closing conditions. The Board of Directors of the combined company will have fifteen directors, consisting of the current twelve Capital One Board members and three of the Company's Board members to be named at a later date.

Glossary of Acronyms

- **AI**: Artificial Intelligence
- **ALCO**: Asset and Liability Management Committee
- **AOCI**: Accumulated Other Comprehensive Income (Loss)
- **ASC**: Accounting Standards Codification
- **ASU**: Accounting Standards Update
- **ATM**: Automated Teller Machine
- **BCBS**: Basel Committee on Banking Supervision
- **BTFP**: Bank Term Funding Program
- **CCAR**: Comprehensive Capital Analysis and Review
- **CCPA**: California Consumer Privacy Act
- **CECL**: Current Expected Credit Loss
- **CEO**: Chief Executive Officer
- **CET1**: Common Equity Tier 1
- **CFO**: Chief Financial Officer
- **CFPB**: Consumer Financial Protection Bureau
- **CIO**: Chief Information Officer
- **CISO**: Chief Information Security Officer
- **CLDC**: Compensation and Leadership Development Committee
- **CME**: Chicago Mercantile Exchange
- **CODM**: Chief Operating Decision Maker
- **COSO**: Committee of Sponsoring Organizations of the Treadway Commission
- **CPPA**: California Privacy Protection Agency
- **CPRA**: California Privacy Rights Act
- **CRM**: Corporate Risk Management
- **CRO**: Chief Risk Officer
- **DCENT**: Discover Card Execution Note Trust
- **DCMT**: Discover Card Master Trust
- **DE&I**: Diversity, Equity and Inclusion
- **DFS**: Discover Financial Services
- **DRR**: Designated Reserve Ratio
- **EPS**: Earnings Per Share
- **ESG**: Environmental, Social and Governance
- **EWI**: Early Warning Indicator
- **FASB**: Financial Accounting Standards Board
- **FDIA**: Federal Deposit Insurance Act
- **FDIC**: Federal Deposit Insurance Corporation
- **FFIEC**: Federal Financial Institutions Examination Council
- **FHLB**: Federal Home Loan Bank
- **FRB**: Federal Reserve Board
- **GAAP**: Accounting Principles Generally Accepted in the United States
- **GLBA**: Gramm-Leach-Bliley Act
- **IRM**: Information Risk Management
- **KRI**: Key Risk Indicator
- **LFI**: Large Financial Institution
- **LIBOR**: London Interbank Offered Rate
- **NPI**: Nonpublic Personal Information
- **OCC**: Office of the Comptroller of the Currency
- **OCI**: Other Comprehensive Income (Loss)
- **PCAOB**: Public Company Accounting Oversight Board
- **POS**: Point-of-sale
- **PSU**: Performance Stock Unit
- **Repo**: Repurchase Agreement
- **RMBS**: Residential Mortgage-Backed Securities
- **RSU**: Restricted Stock Unit
- **SCB**: Stress Capital Buffer
- **SEC**: Securities and Exchange Commission
- **SOFR**: Secured Overnight Financing Rate
- **TDR**: Troubled Debt Restructuring
- **TIRC**: Technology and Information Risk Committee
- **UDAAP**: Unfair, Deceptive or Abusive Acts or Practices
- **U.S.**: United States of America
- **USD**: United States Dollar
- **U.S. GSE**: Government-sponsored Enterprise of the U.S.
- **VIE**: Variable Interest Entity
- **VP-ISTR**: VP, Information Security and Technology Risk

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None.

Item 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of the effectiveness of our disclosure controls and procedures (as defined in Rule 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")), which are designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified by the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure. Based on this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of the end of the period covered by this report.

Management's Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting (as such term is defined in Exchange Act Rule 13a-15(f) and 15d-15(f)) for the Company. Our internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements in accordance with generally accepted accounting principles. There are inherent limitations to the effectiveness of any system of internal control over financial reporting. These limitations include the possibility of human error, the circumvention or overriding of the system and reasonable resource constraints. Because of its inherent limitations, our internal control over financial reporting may not prevent or detect misstatements. Projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions or that the degree of compliance with policies or procedures may deteriorate.

Management assessed the effectiveness of our internal control over financial reporting as of December 31, 2023. In making this assessment, management used the criteria set forth in *Internal Control - Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on management's assessments and those criteria, management has concluded that our internal control over financial reporting was effective as of December 31, 2023.

The effectiveness of our internal control over financial reporting as of December 31, 2023, has been audited by Deloitte & Touche LLP, an independent registered public accounting firm, and the firm's report on this matter is included in Item 8 of this annual report on Form 10-K.

Changes in Internal Control over Financial Reporting

There have been no changes in our internal control over financial reporting (as such term is defined in Exchange Act Rule 13a-15(f) and 15d-15(f)) that occurred during the period covered by this report that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Item 9B. Other Information

Insider Trading Arrangements

During the period covered by this report, none of the Company's directors or executive officers has adopted or terminated a Rule 10b5-1 trading arrangement or a non-Rule 10b5-1 trading arrangement (each as defined in Item 408 of Regulation S-K under the Securities Exchange Act of 1934, as amended).

Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections

Not applicable.

Part III.

Part III | Item 10. Directors, Executive Officers and Corporate Governance

Information regarding our executive officers is included under the heading "Information About Our Executive Officers" in Item 1 of this annual report on Form 10-K. Information regarding our directors and corporate governance under the following captions in our proxy statement for our annual meeting of stockholders to be held on May 9, 2024 ("Proxy Statement") is incorporated by reference herein.

"Election of directors - Our board of directors"

"Corporate governance - Board structure and operations"

"Other matters - Family relationships"

Our Code of Conduct and Business Ethics applies to all directors, officers and employees, including our Chief Executive Officer and our Chief Financial Officer. You can find our Code of Conduct and Business Ethics on our internet site, *www.discover.com*. We will post any amendments to the Code of Conduct and Business Ethics and any waivers that are required to be disclosed by the rules of either the SEC or the New York Stock Exchange, on our internet site.

Item 11. Executive Compensation

Information regarding executive compensation under the following captions in our Proxy Statement is incorporated by reference herein.

"Election of directors - Director compensation"

"Executive compensation"

"Compensation discussion and analysis"

"2023 Executive compensation tables"

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

Information related to the compensation plans under which our equity securities are authorized for issuance as of December 31, 2023, is set forth in the table below.

Plan Category	Number of securities to be issued upon exercise of outstanding warrants and rights[1]	Weighted-average exercise price of outstanding warrants and rights	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))
	(a)	(b)	(c)
Equity compensation plans approved by security holders	2,524,794	N/A	40,053,462
Equity compensation plans not approved by security holders	N/A	N/A	N/A
Total	2,524,794	N/A	40,053,462

(1) Includes 1,944,117 vested and unvested RSUs and 580,677 vested and unvested PSUs that can be converted to up to 1.5 shares per each unit dependent on the performance factor.

Information related to the beneficial ownership of our common stock is presented under the caption "Stock ownership information - Beneficial ownership of company common stock" in our Proxy Statement and is incorporated by reference herein.

Item 13. Certain Relationships and Related Transactions, and Director Independence

Information regarding certain relationships and related transactions, and director independence under the following captions in our Proxy Statement is incorporated by reference herein.

"Other matters - Certain transactions"

"Election of directors - Our board of directors - Director independence"

Item 14. Principal Accounting Fees and Services

Information regarding principal accounting fees and services is presented under the caption “Audit matters” in our Proxy Statement and is incorporated by reference herein.

Part IV.

Part IV | Item 15. Exhibits, Financial Statement Schedules

(a) Documents filed as part of this Form 10-K:

1. Consolidated Financial Statements

The consolidated financial statements required to be filed in this annual report on Form 10-K are listed below and appear on pages 81 through 147 herein.

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2. Financial Statement Schedules

Separate financial statement schedules have been omitted either because they are not applicable or because the required information is included in the consolidated financial statements.

3. Exhibits

See the Exhibit Index below for a list of the exhibits being filed or furnished with or incorporated by reference into this annual report on Form 10-K.

Exhibit Index

Exhibit Number	Description
2.1*	Separation and Distribution Agreement, dated as of June 29, 2007, between Morgan Stanley and Discover Financial Services (filed as Exhibit 2.1 to Discover Financial Services' Current Report on Form 8-K filed on July 5, 2007 and incorporated herein by reference thereto), as amended by the First Amendment to the Separation and Distribution Agreement dated as of June 29, 2007 between Discover Financial Services and Morgan Stanley, dated February 11, 2010 (filed as Exhibit 10.2 to Discover Financial Services' Current Report on Form 8-K filed on February 12, 2010 and incorporated herein by reference thereto).
2.2*	Agreement for the Sale and Purchase of the Goldfish Credit Card Business, dated February 7, 2008, among Discover Financial Services, Goldfish Bank Limited, Discover Bank, SCFC Receivables Corporation, and Barclays Bank Plc (filed as Exhibit 2.1 to Discover Financial Services' Current Report on Form 8-K filed on February 7, 2008 and incorporated herein by reference thereto), as amended and restated by Amended and Restated Agreement for the Sale and Purchase of the Goldfish Credit Card Business, dated March 31, 2008, among Discover Financial Services, Goldfish Bank Limited, Discover Bank, SCFC Receivables Corporation, Barclays Bank PLC, and Barclays Group US Inc. (filed as Exhibit 2.1 to Discover Financial Services' Quarterly Report on Form 10-Q filed on April 14, 2008 and incorporated herein by reference thereto).
2.3	Agreement and Plan of Merger by and among Discover Bank, Academy Acquisition Corp. and The Student Loan Corporation dated as of September 17, 2010 (filed as Exhibit 2.3 to Discover Financial Services' Annual Report on Form 10-K for the fiscal year ended November 30, 2010 filed on January 26, 2011 and incorporated herein by reference thereto).

Exhibit Number	Description
2.4*	Agreement and Plan of Merger, dated as of February 19, 2024, by and among Discover Financial Services, Capital One Financial Corporation and Vega Merger Sub, Inc. (filed as Exhibit 2.1 to Discover Financial Services' Current Report on Form 8-K filed on February 22, 2024 and incorporated herein by reference thereto).
3.1	Restated Certificate of Incorporation of Discover Financial Services (filed as Exhibit 3.2 to Discover Financial Services' Current Report on Form 8-K filed on May 21, 2019 and incorporated herein by reference thereto).
3.2	Amended and Restated By-Laws of Discover Financial Services, as amended and restated on October 26, 2023 (filed as Exhibit 3.1 to Discover Financial Services' Quarterly Report on Form 10-Q filed on October 26, 2023 and incorporated herein by reference thereto).
3.3	Certificate of Elimination of the Fixed Rate Cumulative Perpetual Preferred Stock, Series A, of Discover Financial Services (filed as Exhibit 3.2 to Discover Financial Services' Quarterly Report on Form 10-Q filed on June 26, 2012 and incorporated herein by reference thereto).
3.4	Certificate of Designations of Fixed Rate Non-Cumulative Perpetual Preferred Stock, Series B (filed as Exhibit 3.1 to Discover Financial Services' Current Report on Form 8-K filed on October 16, 2012 and incorporated herein by reference thereto).
3.5	Certificate of Designations of Fixed-to-Floating Rate Non-Cumulative Perpetual Preferred Stock, Series C (filed as Exhibit 3.1 to Discover Financial Services' Current Report on Form 8-K filed on October 31, 2017 and incorporated herein by reference thereto).
3.6	Certificate of Elimination of the Fixed Rate Non-Cumulative Perpetual Preferred Stock, Series B (filed as Exhibit 3.1 to Discover Financial Services' Current Report on Form 8-K filed on December 4, 2017 and incorporated herein by reference thereto).
3.7	Certificate of Designations of Fixed-Rate Reset Non-Cumulative Perpetual Preferred Stock, Series D (filed as Exhibit 3.1 to Discover Financial Services' Current Report on Form 8-K filed on June 22, 2020 and incorporated herein by reference thereto).
4.1	Description of Discover Financial Services' Securities.
4.2	Senior Indenture, dated as of June 12, 2007, by and between Discover Financial Services and U.S. Bank National Association, as trustee (filed as Exhibit 4.1 to Discover Financial Services' Current Report on Form 8-K filed on June 12, 2007 and incorporated herein by reference thereto).
4.3	Subordinated Indenture, dated as of September 8, 2015, by and between Discover Financial Services and U.S. Bank National Association (filed as Exhibit 4.1 to Discover Financial Services' Current Report on Form 8-K filed on September 8, 2015 and incorporated herein by reference thereto).
4.4	Second Supplemental Indenture, dated as of November 2, 2023, between the Company and U.S. Bank Trust Company, National Association.
4.5	Deposit Agreement (Series C), dated October 31, 2017 (filed as Exhibit 4.1 to Discover Financial Services' Current Report on Form 8-K filed on October 31, 2017 and incorporated herein by reference thereto).
4.6	Form of Certificate Representing the Fixed-to-Floating Rate Non-Cumulative Perpetual Preferred Stock, Series C (filed as Exhibit 4.2 to Discover Financial Services' Current Report on Form 8-K filed on October 31, 2017 and incorporated herein by reference thereto).
4.7	Deposit Agreement (Series D), dated June 22, 2020 (filed as Exhibit 4.1 to Discover Financial Services' Current Report on Form 8-K filed on June 22, 2020 and incorporated herein by reference thereto).
4.8	Form of Certificate Representing the Fixed-Rate Reset Non-Cumulative Perpetual Preferred Stock, Series D (filed as Exhibit 4.2 to Discover Financial Services' Current Report on Form 8-K filed on June 22, 2020 and incorporated herein by reference thereto).
4.9	Other instruments defining the rights of holders of long-term debt securities of Discover Financial Services and its subsidiaries are omitted pursuant to Section (b)(4)(iii)(A) of Item 601 of Regulation S-K. Discover Financial Services agrees to furnish copies of these instruments to the SEC upon request.
10.1	Tax Sharing Agreement, dated as of June 30, 2007, between Morgan Stanley and Discover Financial Services (filed as Exhibit 10.1 to Discover Financial Services' Current Report on Form 8-K filed on July 5, 2007 and incorporated herein by reference thereto).

Exhibit Number	Description
10.2	U.S. Employee Matters Agreement, dated as of June 30, 2007, between Morgan Stanley and Discover Financial Services (filed as Exhibit 10.2 to Discover Financial Services' Current Report on Form 8-K filed on July 5, 2007 and incorporated herein by reference thereto).
10.3	Transition Services Agreement, dated as of June 30, 2007, between Morgan Stanley and Discover Financial Services (filed as Exhibit 10.3 to Discover Financial Services' Current Report on Form 8-K filed on July 5, 2007 and incorporated herein by reference thereto).
10.4	Transitional Trade Mark License Agreement, dated as of June 30, 2007, between Morgan Stanley & Co. International PLC and Goldfish Bank Limited (filed as Exhibit 10.4 to Discover Financial Services' Current Report on Form 8-K filed on July 5, 2007 and incorporated herein by reference thereto).
10.5	Amended and Restated Trust Agreement, dated as of December 22, 2015, between Discover Funding LLC, as Beneficiary, and Wilmington Trust Company, as Owner Trustee (filed as Exhibit 4.6 to Discover Bank's Current Report on Form 8-K filed on December 23, 2015 and incorporated herein by reference thereto).
10.6	Third Amended and Restated Pooling and Servicing Agreement, dated as of December 22, 2015, between Discover Bank, as Master Servicer and Servicer, Discover Funding LLC, as Transferor, and U.S. Bank National Association, as Trustee (filed as Exhibit 4.2 to Discover Bank's Current Report on Form 8-K filed on December 23, 2015 and incorporated herein by reference thereto).
10.7	Amended and Restated Series Supplement for Series 2007-CC, dated as of December 22, 2015, among Discover Bank, as Master Servicer and Servicer, Discover Funding LLC, as Transferor, and U.S. Bank National Association, as Trustee (filed as Exhibit 4.3 to Discover Bank's Current Report on Form 8-K filed on December 23, 2015 and incorporated herein by reference thereto).
10.8†	Discover Financial Services Omnibus Incentive Plan (filed as an attachment to Discover Financial Services' Proxy Statement on Schedule 14A filed on February 27, 2009 and incorporated herein by reference thereto).
10.9†	Amended Form of Restricted Stock Unit Award Under Discover Financial Services Omnibus Incentive Plan (filed as Exhibit 10.6 to Discover Financial Services' Quarterly Report on Form 10-Q filed on July 12, 2007 and incorporated herein by reference thereto).
10.10†	Directors' Compensation Plan of Discover Financial Services (filed as Exhibit 10.3 to Discover Financial Services' Current Report on Form 8-K filed on June 19, 2007 and incorporated herein by reference thereto).
10.11†	Discover Financial Services Directors' Compensation Plan, as amended and restated as of January 20, 2011 (filed as Exhibit A to the Discover Financial Services' definitive proxy statement filed on February 18, 2011 and incorporated herein by reference thereto).
10.12†	Amendment No. 2 to the Discover Financial Services Directors' Compensation Plan, effective as of December 1, 2011 (filed as Exhibit 10.10 to the Discover Financial Services' Annual Report on Form 10-K filed on January 26, 2012 and incorporated herein by reference thereto).
10.13†	Discover Financial Services Employee Stock Purchase Plan (filed as Exhibit 10.2 to Discover Financial Services' Current Report on Form 8-K filed on June 19, 2007 and incorporated herein by reference thereto).
10.14†	Amendment No. 1 to Discover Financial Services Employee Stock Purchase Plan, effective as of May 1, 2008 (filed as Exhibit 10.12 to Discover Financial Services' Annual Report on Form 10-K filed on January 28, 2009 and incorporated herein by reference thereto).
10.15†	Amendment No. 2 to Discover Financial Services Employee Stock Purchase Plan, effective as of December 1, 2009 (filed as Exhibit 10.2 to Discover Financial Services' Quarterly Report on Form 10-Q filed on April 9, 2010 and incorporated herein by reference thereto).
10.16†	Amendment No. 3 to Discover Financial Services Employee Stock Purchase Plan (filed as Exhibit 10.3 to Discover Financial Services' Quarterly Report on Form 10-Q filed on September 28, 2011 and incorporated herein by reference thereto).
10.17†	Offer of Employment, dated as of January 8, 1999 (filed as Exhibit 10.2 to Discover Financial Services' Current Report on Form 8-K filed on June 12, 2007 and incorporated herein by reference thereto).

Exhibit Number	Description
10.18†	Waiver of Change of Control Benefits, dated September 24, 2007 (filed as Exhibit 10.15 to Discover Financial Services' Registration Statement on Form S-4 filed on November 27, 2007 and incorporated herein by reference thereto).
10.19	Collateral Certificate Transfer Agreement, dated as of July 26, 2007 between Discover Bank, as Depositor and Discover Card Execution Note Trust (filed as Exhibit 4.4 to Discover Bank's Current Report on Form 8-K filed on July 27, 2007 and incorporated herein by reference thereto).
10.20	Amended and Restated Indenture, dated as of December 22, 2015, between Discover Card Execution Note Trust, as Issuer, and U.S. Bank National Association, as Indenture Trustee (filed as Exhibit 4.4 to Discover Bank's Current Report on Form 8-K filed on December 23, 2015 and incorporated herein by reference thereto).
10.21	Second Amended and Restated Indenture Supplement for the Discover Series Notes, dated as of December 22, 2015, between Discover Card Execution Note Trust, as Issuer, and U.S. Bank National Association, as Indenture Trustee (filed as Exhibit 4.5 to Discover Bank's Current Report on Form 8-K filed on December 23, 2015 and incorporated herein by reference thereto).
10.22	Omnibus Amendment to Indenture Supplement and Terms Documents, dated as of July 2, 2009, between Discover Card Execution Note Trust, as Issuer, and U.S. Bank National Association, as Indenture Trustee (filed as Exhibit 4.1 to Discover Bank's Current Report on Form 8-K filed on July 6, 2009 and incorporated herein by reference thereto).
10.23†	Discover Financial Services Change-in-Control Severance Policy Amended and Restated October 15, 2014 (filed as Exhibit 10.1 to Discover Financial Services' Current Report on Form 8-K filed on October 16, 2014 and incorporated herein by reference thereto).
10.24	Release and Settlement Agreement, executed as of October 27, 2008, by and among Discover Financial Services, DFS Services, LLC, Discover Bank, and their Subsidiaries and Affiliates; MasterCard Incorporated and MasterCard International Incorporated and their Affiliates; and Visa Inc. and its Affiliates and Predecessors including Visa U.S.A. Inc. and Visa International Service Association (filed as Exhibit 99.1 to Discover Financial Services' Current Report on Form 8-K filed on October 28, 2008 and incorporated herein by reference thereto).
10.25	Settlement Agreement and Mutual Release between Discover Financial Services and Morgan Stanley, dated February 11, 2010 (filed as Exhibit 10.1 to Discover Financial Services' Current Report on Form 8-K filed on February 12, 2010 and incorporated herein by reference thereto).
10.26	Purchase Price Adjustment Agreement by and among Citibank, N.A., The Student Loan Corporation and Discover Bank, dated September 17, 2010 (filed as Exhibit 10.32 to Discover Financial Services' Annual Report on Form 10-K filed on January 26, 2011 and incorporated herein by reference thereto).
10.27	Amendment to Purchase Price Adjustment Agreement by and among Citibank, N.A., The Student Loan Corporation and Discover Bank, dated December 30, 2010 (filed as Exhibit 10.33 to Discover Financial Services' Annual Report on Form 10-K filed on January 26, 2011 and incorporated herein by reference thereto).
10.28	Indemnification Agreement by and between Citibank, N.A. and Discover Bank, dated September 17, 2010 (filed as Exhibit 10.34 to Discover Financial Services' Annual Report on Form 10-K filed on January 26, 2011 and incorporated herein by reference thereto).
10.29	First Amendment to Indemnification Agreement by and between Citibank, N.A. and Discover Bank, dated December 30, 2010 (filed as Exhibit 10.35 to Discover Financial Services' Annual Report on Form 10-K filed on January 26, 2011 and incorporated herein by reference thereto).
10.30	Asset Purchase Agreement between Discover Bank and Citibank, N.A. dated August 31, 2011 (filed as Exhibit 10.2 to Discover Financial Services' Quarterly Report on Form 10-Q filed on September 28, 2011 and incorporated herein by reference thereto).
10.31†	Amendment No. 3 to the Directors' Compensation Plan of Discover Financial Services, effective as of July 1, 2013 (filed as Exhibit 10.1 to Discover Financial Services' Quarterly Report on Form 10-Q filed on July 30, 2013 and incorporated herein by reference thereto).
10.32†	Discover Financial Services Amended and Restated 2014 Omnibus Incentive Plan (filed as an attachment to Discover Financial Services' Proxy Statement on Schedule 14A filed on March 19, 2014 and incorporated herein by reference thereto).

Exhibit Number	Description
10.33†	Amendment No. 4 to the Directors' Compensation Plan of Discover Financial Services, effective as of May 7, 2014 (filed as Exhibit 10.2 to Discover Financial Services' Quarterly Report on Form 10-Q filed on August 1, 2014 and incorporated herein by reference thereto).
10.34†	Amendment No. 4 to Discover Financial Services Employee Stock Purchase Plan (filed as Exhibit 10.1 to Discover Financial Services' Quarterly Report on Form 10-Q filed on October 29, 2015 and incorporated herein by reference thereto).
10.35	Receivables Sale and Contribution Agreement, dated as of December 22, 2015 between Discover Bank and Discover Funding LLC (filed as Exhibit 4.1 to Discover Bank's Current Report on Form 8-K filed on December 23, 2015 and incorporated herein by reference thereto).
10.36†	Amendment No. 5 to Directors' Compensation Plan of Discover Financial Services, effective as of January 1, 2017 (filed as Exhibit 10.54 to Discover Financial Services' Annual Report on Form 10-K filed on February 23, 2017 and incorporated herein by reference thereto).
10.37†	Form 2018 Award Certificate for Restricted Stock Units under Discover Financial Services Director's Compensation Plan (filed as Exhibit 10.1 to Discover Financial Services' Quarterly Report on Form 10-Q filed on May 1, 2018 and incorporated herein by reference thereto).
10.38†	Amendment No. 6 to the Directors' Compensation Plan of Discover Financial Services, effective as of February 22, 2018 (filed as Exhibit 10.5 to Discover Financial Services' Quarterly Report on Form 10-Q filed on May 1, 2018 and incorporated herein by reference thereto).
10.39†	Amendment No. 7 to the Directors' Compensation Plan of Discover Financial Services, effective as of January 1, 2019 (filed as Exhibit 10.62 to Discover Financial Services' Annual Report on Form 10-K filed on February 20, 2019 and incorporated herein by reference thereto).
10.40†	Amendment No. 8 to the Directors' Compensation Plan of Discover Financial Services, effective as of January 1, 2019 (filed as Exhibit 10.63 to Discover Financial Services' Annual Report on Form 10-K filed on February 20, 2019 and incorporated herein by reference thereto).
10.41†	Amendment No. 9 to the Directors' Compensation Plan of Discover Financial Services, effective as of January 1, 2022 (filed as Exhibit 10.58 to Discover Financial Services' Annual Report on Form 10-K filed on February 24, 2022 and incorporated herein by reference thereto).
10.42†	Amendment No. 10 to the Directors' Compensation Plan of Discover Financial Services, effective as of December 14, 2022 (filed as Exhibit 10.59 to Discover Financial Services' Annual Report on Form 10-K filed on February 23, 2023 and incorporated herein by reference thereto).
10.43†	Amendment No. 11 to the Directors' Compensation Plan of Discover Financial Services, effective as of October 25, 2023.
10.44†	Discover Financial Services Directors' Voluntary Nonqualified Deferred Compensation Plan, effective as of April 10, 2008.
10.45†	Form 2020 Award Certificate for Restricted Stock Units under Discover Financial Services Amended and Restated 2014 Omnibus Incentive Plan (filed as Exhibit 10.1 to Discover Financial Services' Quarterly Report on Form 10-Q filed on April 30, 2020 and incorporated herein by reference thereto).
10.46†	Form 2020 Award Certificate for Performance Stock Units under Discover Financial Services Amended and Restated 2014 Omnibus Incentive Plan (filed as Exhibit 10.2 to Discover Financial Services' Quarterly Report on Form 10-Q filed on April 30, 2020 and incorporated herein by reference thereto).
10.47†	Form 2021 Award Certificate for Restricted Stock Units under Discover Financial Services Amended and Restated 2014 Omnibus Incentive Plan (filed as Exhibit 10.1 to Discover Financial Services' Quarterly Report on Form 10-Q filed on May 4, 2021 and incorporated herein by reference thereto).
10.48†	Form 2021 Award Certificate for Performance Stock Units under Discover Financial Services Amended and Restated 2014 Omnibus Incentive Plan (filed as Exhibit 10.2 to Discover Financial Services' Quarterly Report on Form 10-Q filed on May 4, 2021 and incorporated herein by reference thereto).
10.49†	Form 2022 Award Certificate for Restricted Stock Units under Discover Financial Services Amended and Restated 2014 Omnibus Incentive Plan (filed as Exhibit 10.1 to Discover Financial Services' Quarterly Report on Form 10-Q filed on April 28, 2022 and incorporated herein by reference thereto).

Exhibit Number	Description
10.50†	Form 2022 Award Certificate for Performance Stock Units under Discover Financial Services Amended and Restated 2014 Omnibus Incentive Plan (filed as Exhibit 10.2 to Discover Financial Services' Quarterly Report on Form 10-Q filed on April 28, 2022 and incorporated herein by reference thereto).
10.51†	Form 2022 Special Award Certificate for Restricted Stock Units under Discover Financial Services Amended and Restated 2014 Omnibus Incentive Plan (filed as Exhibit 10.3 to Discover Financial Services' Quarterly Report on Form 10-Q filed on April 28, 2022 and incorporated herein by reference thereto).
10.52†	Form 2023 Award Certificate for Restricted Stock Units under Discover Financial Services Amended and Restated 2014 Omnibus Incentive Plan (filed as Exhibit 10.1 to Discover Financial Services' Quarterly Report on Form 10-Q filed on April 25, 2023 and incorporated herein by reference thereto).
10.53†	Form 2023 Award Certificate for Performance Stock Units under Discover Financial Services Amended and Restated 2014 Omnibus Incentive Plan (filed as Exhibit 10.2 to Discover Financial Services' Quarterly Report on Form 10-Q filed on April 25, 2023 and incorporated herein by reference thereto).
10.54†	Form 2023 Special Award Certificate for Restricted Stock Units under Discover Financial Services Amended and Restated 2014 Omnibus Incentive Plan (filed as Exhibit 10.3 to Discover Financial Services' Quarterly Report on Form 10-Q filed on April 25, 2023 and incorporated herein by reference thereto).
10.55†	Discover Financial Services 2023 Omnibus Incentive Plan (filed as Annex B to Discover Financial Services' Proxy Statement filed on March 17, 2023, and incorporated herein by reference thereto).
10.56†	Form 2023 Special Award Certificate for Restricted Stock Units under Discover Financial Services 2023 Omnibus Incentive Plan (filed as Exhibit 10.2 to Discover Financial Services' Quarterly Report on Form 10-Q filed on July 28, 2023 and incorporated herein by reference thereto).
10.57†	Discover Financial Services Severance Plan (filed as Exhibit 10.3 to Discover Financial Services' Quarterly Report on Form 10-Q filed on July 28, 2023 and incorporated herein by reference thereto).
10.58†	Transition Letter, dated as of August 13, 2023 between Discover Financial Services and Roger C. Hochschild (filed as Exhibit 10.1 to Discover Financial Services' Current Report on Form 8-K filed on August 14, 2023 and incorporated herein by reference thereto).
10.59†	Letter Agreement, dated as of December 7, 2023 between Discover Financial Services and Michael Rhodes (filed as Exhibit 10.1 to Discover Financial Services' Current Report on Form 8-K filed on December 11, 2023 and incorporated herein by reference thereto).
10.60†	Form 2024 Award Certificate for Restricted Stock Units under Discover Financial Services 2023 Omnibus Incentive Plan.
10.61†	Form 2024 Award Certificate for Performance Stock Units under Discover Financial Services 2023 Omnibus Incentive Plan.
10.62†	Form 2024 Special Award Certificate for Restricted Stock Units under Discover Financial Services 2023 Omnibus Incentive Plan.
21	Subsidiaries of the Registrant.
23	Consent of Independent Registered Public Accounting Firm.
24	Powers of Attorney (included on signature page).
31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934.
31.2	Certification of Chief Financial Officer pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934.
32.1	Certification of Chief Executive Officer and Chief Financial Officer pursuant to Section 1350 of Chapter 63 of Title 18 of the United States Code.
97†	Discover Financial Services' Compensation Recoupment Policy.

Exhibit Number	Description
101	Interactive Data File - the following financial statements from Discover Financial Services Annual Report on Form 10-K formatted in inline XBRL: (1) Consolidated Statements of Financial Condition, (2) Consolidated Statements of Income, (3) Consolidated Statements of Comprehensive Income, (4) Consolidated Statements of Changes in Stockholders' Equity, (5) Consolidated Statements of Cash Flows and (6) Notes to the Consolidated Financial Statements.
104	Cover Page Interactive Data File - the cover page from Discover Financial Services Annual Report on Form 10-K formatted in inline XBRL and contained in Exhibit 101.

* Exhibits and schedules have been omitted pursuant to Items 601(a)(5) or 601(b)(2) of Regulation S-K. A copy of any omitted exhibit or schedule will be furnished supplementally to the SEC upon request; provided, however, that the parties may request confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended, for any document so furnished.

† Management contract or compensatory plan or arrangement required to be filed as an exhibit to Form 10-K pursuant to Item 15(b) of this report.

Item 16. Form 10-K Summary

None.

Signature

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Discover Financial Services
(Registrant)

By: /s/ JOHN T. GREENE
John T. Greene
Executive Vice President, Chief Financial Officer

Date: February 23, 2024

Power of Attorney

We, the undersigned, hereby severally constitute Hope D. Mehlman and Efie Vainikos, and each of them singly, our true and lawful attorneys with full power to them and each of them to sign for us, and in our names in the capacities indicated below, any and all amendments to the annual report on Form 10-K filed with the Securities and Exchange Commission, hereby ratifying and confirming our signatures as they may be signed by our said attorneys to any and all amendments to said Annual Report on Form 10-K.

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities indicated on February 23, 2024.

Signature	Title
/s/ Michael G. Rhodes	Chief Executive Officer and President, Director
Michael G. Rhodes	
/s/ John T. Greene	Executive Vice President, Chief Financial Officer (Principal Financial Officer)
John T. Greene	
/s/ Shifra C. Kolsky	Senior Vice President, Controller and Chief Accounting Officer (Principal Accounting Officer)
Shifra C. Kolsky	
/s/ Thomas G. Maheras	Chairman of the Board
Thomas G. Maheras	
/s/ Jeffrey S. Aronin	Director
Jeffrey S. Aronin	
/s/ Gregory C. Case	Director
Gregory C. Case	
/s/ Candace H. Duncan	Director
Candace H. Duncan	
/s/ Joseph F. Eazor	Director
Joseph F. Eazor	
/s/ Kathy L. Lonowski	Director
Kathy L. Lonowski	
/s/ Daniela O'Leary-Gill	Director
Daniela O'Leary-Gill	
/s/ John B. Owen	Director
John B. Owen	
/s/ David L. Rawlinson II	Director
David L. Rawlinson II	
/s/ J. Michael Shepherd	Director
J. Michael Shepherd	
/s/ Beverley A. Sibblies	Director
Beverley A. Sibblies	
/s/ Mark A. Thierer	Director
Mark A. Thierer	
/s/ Jennifer L. Wong	Director
Jennifer L. Wong	