

Testimony of John G. Finneran, Jr. General Counsel, Capital One Financial Corporation
Before the United States House Subcommittee on Financial Institutions
March 13, 2008

Chairwoman Maloney, Ranking Member Biggert, and members of the Committee, my name is John Finneran. I am the General Counsel of Capital One Financial Corporation. I want to thank you for inviting me back to testify before the Subcommittee, this time about pending credit card legislation. As you may recall, I testified before you in June of 2007, and participated in the Credit Card Summit hosted by Chairwoman Maloney, in July.

This Subcommittee has played a constructive role in identifying problems that consumers have with their credit cards. We have been a willing, active participant in the dialogue about how to improve on the remarkable value delivered to millions of American consumers by credit card products.

With respect to the practices that have been central to the debate, Capital One has worked diligently to establish a high standard of customer sensitivity.

- We do not engage in any form of “Universal Default” repricing.
- We have never done 2-cycle billing.
- We have a single, clear penalty repricing policy. We will impose a penalty rate on a customer only if the customer pays late twice by three or more days in a twelve month period with respect to that specific card. We will provide the customer with a prominent warning on the billing statement after the first infraction. In many cases, we choose not to reprice a customer even if the customer pays us late twice in a twelve month period. If a customer is

repriced, but pays us on time for 12 consecutive months, we will take the customer back to the prior rate. This “unrepricing” is automatic.

- We have supported the Federal Reserve’s proposed 45-day notice for penalty repricing, and have gone beyond the Fed’s proposal to urge that customers be given the opportunity to reject any repricing, close the account, and pay down the outstanding balance at the old rate over time.
- We provide our customers notice and the ability to opt out of overlimit transactions.

Across our entire portfolio of customers—more than 30 million--we work very hard to provide important notices in plain English that capture attention at critical moments. We do so because we believe—as Chairman Bernanke said to this Committee--that card holders must understand the terms under which they are borrowing, and be empowered to manage their credit wisely—as the overwhelming majority of our customers do.

Capital One has never been a voice for the status quo. We have long advocated for changes in the way credit cards are marketed to consumers. We believe that the banking regulators have the statutory authority right now to implement an advanced consumer choice regime that effectively solves the most critical credit card problems identified by the Committee with minimal risk of over steering or unintended consequences.

Toward that end, we have led the industry in recommending that consumers have clear, conspicuous 45-day notice and the right to opt out of all types of repricing. And we believe that such a regulatory initiative may be on the horizon.

But Madame Chairwoman, we also believe that it is unwise—especially at this time—to enact broad legislation that sets payment formulas in statute, redefines critical product features, and limits the tools of risk management for consumer credit.

Capital One must therefore oppose H.R. 5244 and we do so for three fundamental reasons:

1. The legislation sets multiple statutory limits on a lender's ability to price for the cost of credit. For example, under the heading of eliminating "double cycle billing," the bill actually redefines the concept of "grace period" and arbitrarily expands the degree to which all issuers--even those that don't engage in double cycle billing--must extend credit interest-free. Similarly, the bill mandates a formula for allocating a customer's payments for different types of borrowing in a way that will certainly result in reducing the availability of deeply discounted introductory and balance transfer rates. Other provisions also raise the specter of price controls.
2. The consequence of so sweeping a bill would be to force the industry to raise the cost of credit for everyone, including those who present less risk of default to the lender, and reduce the availability of credit for those customers who present a greater risk of default.
3. This result would be exactly the wrong policy prescription, particularly in this economic environment. As the mortgage crisis has unfolded, we've had a progressive tightening in the credit markets and many believe we are near or in a recession. To ease the impact of a slow-down in our economy, the Fed has aggressively lowered the federal funds rate and the Congress has passed a

bipartisan stimulus package. H.R. 5244 could significantly counteract the positive effects of both of those policy initiatives.

Madame Chairwoman, that would be especially unfortunate since the regulators—those policy makers uniquely positioned to evaluate the complex and dynamic credit card industry—are poised to address all of the issues targeted by H.R. 5244.

Under its new Reg Z rule, the Fed proposes a 45-day notice period before all types of repricing. The new rule also offers improved disclosure requirements for payment allocation, minimum payment, and “fixed” and introductory interest rates. And that’s just a partial list.

Equally important, Chairman Bernanke has confirmed before this Committee that the Fed will soon supplement its Reg Z rule with new credit card rules under its UDAP authority. It seems likely that those rules will go to the core of the Committee’s concerns. We believe that such rules may provide the best, safest and most direct road to reform.

Capital One has publicly called for balanced, reasoned change that can be implemented quickly, would improve disclosure and enhance consumer choice. We have also sought to work cooperatively with you and the Committee. Though we must respectfully disagree about the impact of H.R. 5244, I want to thank you for this opportunity to express our views.

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