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

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Chairwoman Maloney, Ranking Member Gillmor and Members of the Committee, good morning. My name is John Finneran and I am the General Counsel of Capital One Financial Corporation. Thank you for this opportunity to address the Subcommittee. Capital One is the 11th largest diversified financial institution in the country and the 5th largest issuer of credit cards.

Today, the credit card is among the most popular forms of payment in America. It is valued by consumers and merchants alike for its convenience, efficiency and security.

As the GAO noted in their recent report on this topic, the past decade has seen substantial change in the availability and pricing of credit cards. Today, many more Americans have access to credit through credit cards than at any previous time. As the GAO found, interest rates have come down significantly for the majority of consumers and most pay no annual fees. Consumers who choose to pay in full each month, as more than half of all credit card holders do, pay no interest.

Credit cards have also become more complex, with a variety of benefits and terms. The disclosure regime under the Truth in Lending Act, as implemented by Regulation Z, did not contemplate this complexity. In recent years, Capital One has implemented a "dynamic disclosure" regime – focused on simple and timely communication of critical information – but has found itself constrained by outdated requirements and the current limits of the Schumer Box.

Today we focus on the Federal Reserve's proposed comprehensive overhaul of Regulation Z. We at Capital One want to join with those who have praised the Board for the depth and thoroughness of its proposal. Capital One commented in advance of the rule with its own recommendations for comprehensive change, and we are pleased to find in this Proposal rules that incorporate many of our recommendations.

For years, Capital One has been focused on two critical priorities which we believe to be essential to the empowerment of our customers and the health of our industry – disclosure and default repricing. Although we have not had time to assess the full implications of this Proposal, we believe that the Board has focused appropriately on these issues, as well.

Consumers, regulators and the industry all agree that disclosures must be improved. The Federal Reserve's effort marks a landmark advance in how disclosures are developed. To craft its model disclosures and notices, the

Federal Reserve went directly to consumers, administered focus groups and tests, and drafted recommendations based on what they learned. Consumer testing has been an integral part of Capital One's business strategy since its inception, and we are strong believers in its merits.

The Federal Reserve's proposal, if adopted, would transform the basic concept of disclosure altogether. It would move to a targeted regime of plain English notices that are delivered to customers at the moment when they are most relevant to them. We strongly support the Board's proposal in this regard.

As importantly, the Federal Reserve's proposal has identified what Capital One believes to be the most challenging practice in the industry today – aggressive default repricing. Requiring card issuers to notify consumers forty five days prior to default repricing is a bold proposal. Capital One has addressed this issue in a different way – with a single, simple default repricing policy that provides our customers with a warning before we will consider taking any action. Our policy is that Capital One will <u>not</u> default reprice any customer <u>unless</u> they pay 3 or more days late <u>twice</u> in a 12 month period. After their first infraction, customers are provided with a prominent statement on their monthly bill alerting them that they may be repriced if they pay late again. Furthermore, the decision to reprice someone is not automatic. For many customers, Capital One chooses not to do so. If we do reprice someone, we will let them earn back their prior rate by paying us on time for twelve consecutive months. This process <u>is</u> automatic.

To be clear, Capital One does not practice any form of "universal default." This has been our long-standing policy. We will not reprice a customer if they pay late on another account with us or any other lender, or because their credit score goes down for any reason. In addition, Capital One will not reprice customers if they go over their limit or bounce a check.

While the Federal Reserve offers a different approach, we share the same goal: ensuring that customers receive a warning before they are repriced, and an opportunity to learn about the potential consequences of their behavior. We hope the Federal Reserve will consider the merits of our current approach, and determine whether some additional flexibility in the final rule is warranted.

Although the optimal means of eliminating aggressive default repricing may be the subject of some debate during this hearing, Capital One recommends that the Federal Reserve go one step further: issuers should be required to tell customers the specific type of infraction that caused the change in their interest rates. Today, when a customer is repriced for breaking a contractual rule, such as paying late, going over their limit or defaulting on another account, the issuer is under no obligation to explain why. We believe that disclosing the infraction that caused the repricing will create a "teachable moment" and will enable customers to gain the full benefits of greater transparency.

With these achievements alone – a new disclosure regime and an extended warning period for repricing - the Fed has broken significant new ground. As issuers, however, we have an obligation to ensure that customers not only understand the products we offer, but that our practices meet the standards of reasonableness and fairness our customers expect. To this end, Capital One continuously reviews and makes changes to its practices in light of changing customer preferences.

Consistent with the Board's proposal, Capital One has adopted strict policies regarding the marketing and treatment of fixed rates. Our fixed rates are not subject to any form of repricing during the specific period for which they are promised. This policy has been in effect for several years, and we are pleased that the Board has sought to achieve consistency across the industry on the use of this term.

Similarly, another practice that may cause customer confusion is double-cycle billing. Capital One has never used double-cycle billing.

The overwhelming majority of Capital One's customers use their accounts responsibly and enjoy the many benefits this form of payment offers. Capital One looks for early indications, however, that a particular customer may be experiencing challenges. For example, any customer who pays us only the minimum for three consecutive months receives a notice on their statement that emphasizes the consequences of this practice and encourages them to pay down their balance more quickly. Capital One also provides them with a web address where they can use our online calculator to see for themselves the cost of paying only the minimum, as well as the benefits of paying additional principal. While we support the Federal Reserve's efforts to provide more information in this regard, we believe that our current approach – providing notice only to those who actually routinely pay the minimum – enhances the relevancy of the disclosure and better advances the Federal Reserve's stated objective of developing a more targeted and dynamic disclosure regime.

In conclusion, we believe that the Federal Reserve's proposal represents a positive step forward for consumers and our industry. At Capital One, however, we do not view it as a substitute for continuously adapting our practices and policies to keep up with consumer demand, the rigors of competition and the standards of sound banking. Capital One has over 30 million credit card customers, the vast majority of whom have a good experience with our product. When they don't, we regard that as a failure and seek to find out why. In a highly competitive market, we must continuously strive to improve our products and services if we are to attract and retain the best customers.

Thank you and I look forward to answering any questions you may have.