

UNITED STATES OF AMERICA
BEFORE THE
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
WASHINGTON, D.C.

In the Matter of

CAPITAL ONE FINANCIAL CORPORATION
McLean, Virginia

Docket No. 20-014-B-HC

Cease and Desist Order Issued
Upon Consent Pursuant to the
Federal Deposit Insurance Act, as
amended

WHEREAS, Capital One Financial Corporation, McLean, Virginia (“COF”), a registered bank holding company, owns and controls Capital One N.A., McLean, Virginia, and Capital One Bank N.A. (USA), Glen Allen, Virginia (together, the “Banks”), both national banks regulated by the Office of the Comptroller of the Currency (“OCC”), and various nonbank subsidiaries (collectively with the Banks, “Capital One”);

WHEREAS, the Board of Governors of the Federal Reserve System (the “Board of Governors”) is the appropriate federal supervisor of COF;

WHEREAS, consistent with section 252.33(a)(2) of Regulation YY of the Board of Governors (12 C.F.R. § 252.33(a)(2)), COF is required to adopt an enterprise-wide risk management program designed to identify and manage risks across the consolidated organization;

WHEREAS, the Federal Reserve Bank of Richmond (the “Reserve Bank”) previously identified deficiencies in COF’s enterprise-wide risk management program;

WHEREAS, on July 19, 2019, Capital One determined that, in March 2019, an outside individual gained unauthorized access and obtained certain types of personal information about Capital One credit card customers and individuals who had applied for Capital One credit card products affecting approximately 100 million individuals in the United States and approximately 6 million individuals in Canada;

WHEREAS, the Banks have consented to the issuance of a Consent Order by the Office of the Comptroller of the Currency (the “OCC”) to remedy deficiencies with the Banks’ technology risk management governance and controls, and consented to the assessment of a civil money penalty (the “OCC Orders”);

WHEREAS, COF, the Board of Governors, and the Reserve Bank have the common goal to ensure that Capital One conducts its activities in a safe and sound manner and complies with all applicable federal and state laws, rules, and regulations;

WHEREAS, COF and the Board of Governors have mutually agreed to enter into this consent Cease and Desist Order (the “Order”); and

WHEREAS, the board of directors of COF, at a duly constituted meeting, adopted a resolution authorizing and directing Richard D. Fairbank, to enter into this Order on behalf of COF, and consenting to compliance with each and every provision of this Order by COF, and waiving any and all rights that COF may have pursuant to section 8 of the Federal Deposit Insurance Act, as amended (the “FDI Act”) (12 U.S.C. § 1818), including, but not limited to: (i) the issuance of a notice of charges on any matters set forth in this Order; (ii) a hearing for the purpose of taking evidence on any matters set forth in this Order; (iii) judicial review of this Order; and (iv) challenge or contest, in any manner, the basis, issuance, validity, terms, effectiveness or enforceability of the Order or any provision hereof.

NOW, THEREFORE, it is hereby ordered that, before the filing of any notices, or taking of any testimony or adjudication of or finding on any issues of fact or law herein, and solely for the purpose of settling this matter without a formal proceeding being filed and without the necessity for protracted or extended hearings or testimony, pursuant to sections 8(b)(1) and (3) of the FDI Act (12 U.S.C. §§1818(b)(1) and 1818(b)(3)), COF shall cease and desist and take affirmative action as follows:

Source of Strength

1. The board of directors of COF shall take appropriate steps to fully utilize COF's financial and managerial resources, pursuant to section 38A of the FDI Act (12 U.S.C. § 1831o-1) and section 225.4(a) of Regulation Y of the Board of Governors (12 C.F.R. § 225.4(a)), to serve as a source of strength to the Banks, including, but not limited to, taking steps to ensure that the Banks comply with the OCC Orders and any other supervisory action taken by the OCC.

Board Oversight

2. Within 90 days of this Order, COF's board of directors shall submit a written plan to strengthen oversight of COF's risk management program acceptable to the Reserve Bank. The plan shall describe the actions that the board of directors will take to improve COF's risk management program and internal controls. The plan shall, at a minimum, address, consider, and include:

- (a) actions that the board of directors will take to ensure that senior management maintains an effective operational risk management program and internal controls;
- (b) actions that the board of directors will take to ensure senior management improves, and thereafter maintains, an effective and independent operational risk management

function that has the requisite stature, authority, and resources, with clearly defined roles and responsibilities, and staffing with the appropriate level of expertise;

(c) a description of the information and reports regarding operational risk management and internal control effectiveness to be regularly reviewed by the board of directors in its oversight of COF's operational risk management and internal controls; and

(d) measures to ensure that operational risk management and internal control issues are appropriately tracked, escalated, and reviewed by COF senior management, and reported to COF's board of directors.

Governance and Internal Controls

3. Within 90 days of the effective date of this Order, COF's senior management shall submit a written plan to strengthen COF's governance and internal controls with respect to COF's risk management program acceptable to the Reserve Bank. The plan shall provide for a sustainable governance and internal control framework that, at a minimum, addresses, considers, and includes:

(a) clearly defined operational risk roles and responsibilities to ensure an appropriate internal control environment, including, but not limited to, roles and responsibilities assigned to each applicable business line (first line), independent risk (second line), and audit (third line), within Capital One's risk management function;

(b) an effective operational risk testing and validation process to assess compliance with internal controls;

(c) measures to ensure effective training for all operational risk personnel to ensure compliance with policies, procedures, and processes;

(d) improvements to the information, reports, systems, and data provided to COF's board of directors and senior management concerning operational risk management and internal control effectiveness;

(e) enhanced controls, including, but not limited to, timelines and milestones for improving COF's cybersecurity and data loss protection program; and

(f) effective testing and validation measures of such cybersecurity controls to ensure business lines, as relevant, follow applicable data privacy laws, regulations, policies, and procedures related to cybersecurity and the protection of customer information.

Risk Management Program

4. Within 90 days of this Order, COF's senior management shall submit a written plan to improve COF's risk management program, acceptable to the Reserve Bank. The plan shall, at a minimum, address, consider, and include:

(a) comprehensive risk identification and assessment processes that adequately capture end-to-end business processes and associated operational risks, including technology risks and applicable controls;

(b) clear ownership and accountability for the aggregation, escalation, and reporting of operational risk management issues, including technology risks, to COF's board of directors and senior management; and

(c) measures to ensure that the individuals or groups charged with carrying out COF's operational risk management program, including technology risk management, are supported by adequate resources and staffing levels with the requisite expertise.

Internal Audit

5. Within 90 days of this Order, COF shall jointly submit written revisions to COF's

internal audit program with respect to auditing COF's risk management program, including technology risk management, acceptable to the Reserve Bank. The revised program shall, at a minimum, provide for:

(a) an effective validation and testing process to assess the actions taken by COF senior management to comply with this Order; and

(b) enhanced escalation procedures for the timely resolution of material audit exceptions and recommendations in connection with COF's operational risk management program.

Progress Reports

6. Within 45 days after the end of each calendar quarter following the date of this Order, COF's board of directors, or an authorized committee thereof, shall submit to the Reserve Bank written progress reports detailing the form and manner of all actions taken to secure compliance with this Order, a timetable and schedule to implement specific remedial actions to be taken, and the results thereof. The Reserve Bank may, in writing, discontinue the requirement for progress reports or modify the reporting schedule.

Approval and Implementation of Plans and Programs

7. (a) COF shall submit written plans and program that are acceptable to the Reserve Bank within the applicable time periods set forth in paragraphs 2, 3, 4 and 5 of this Order. Each plan and program shall contain a timeline for full implementation of the plan or program with specific deadlines for the completion of each component of the plan or program.

(b) Within 10 days of approval by the Reserve Bank, COF shall adopt the approved plans or program. Upon adoption, COF shall promptly implement the approved plans and program, and thereafter fully comply with them.

(c) During the term of this Order, the approved plans or program shall not be amended or rescinded without the prior written approval of the Reserve Bank.

Communications

8. All communications regarding this Order shall be sent to:

- (a) Richard M. Ashton
Deputy General Counsel
Jason Gonzalez
Senior Special Counsel
Board of Governors of the Federal Reserve System
20th & C Streets, N.W.
Washington, D.C. 20551
- (b) Richard D. Fairbank
Chairman and Chief Executive Officer
Capital One Corporation
1680 Capital One Drive
McLean, VA 22102
- (c) Richard B. Gilbert
Vice President
Federal Reserve Bank of Richmond
701 East Byrd Street
Richmond, VA 23219

Miscellaneous

9. Notwithstanding any provision of this Order to the contrary, the Reserve Bank may, in its sole discretion, grant written extensions of time to COF to comply with any provision of this Order.

10. The provisions of this Order shall be binding on COF and each of its institution-affiliated parties, as defined in sections 3(u) and 8(b)(3) of the FDI Act (12 U.S.C. §§ 1813(u) and 1818(b)(3)), in their capacities as such, and their successors and assigns.

11. Each provision of this Order shall remain effective and enforceable until stayed, modified, terminated, or suspended in writing by the Reserve Bank.

12. The provisions of this Order shall not bar, estop, or otherwise prevent the Board of Governors, the Reserve Bank, or any other federal or state agency from taking any other action affecting COF or any of its current or former institution-affiliated parties and their successors and assigns.

By order of the Board of Governors of the Federal Reserve System effective this 4th day of August, 2020.

CAPITAL ONE FINANCIAL
CORPORATION

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM

By: /s/ Richard D. Fairbank
Richard D. Fairbank
Chairman and Chief Executive Officer

By: /s/ Margaret McCloskey Shanks
Margaret McCloskey Shanks
Deputy Secretary of the Board