



Capital One Financial Corporation  
1680 Capital One Drive  
McLean, VA 22102

November 27, 2007

Office of the Comptroller of the Currency  
250 E Street, SW.  
Mail Stop 1—5  
Washington, DC 20219  
Attn: Docket ID OCC-2007-0015  
regs.comments@OCC.treas.gov

Ms. Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal  
Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551  
Attn: Docket No. OP-1294  
regs.comments@federalreserve.gov

Mr. Robert E. Feldman  
Executive Secretary  
Attn: Comments  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, NW  
Washington, DC 20429  
comments@FDIC.gov

Regulation Comments  
Chief Counsel's Office  
Office of Thrift Supervision  
1700 G Street, NW  
Washington, DC 20552  
Attn: ID OTS-2007-0018  
regs.comments@ots.treas.gov

Ms. Mary Rupp  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria, VA 22314-3428  
regcomments@ncua.gov

**Re: Proposed Guidance on Garnishment of Exempt Federal Benefit Funds**

Ladies and Gentlemen:

Capital One Financial Corporation (“Capital One”) is pleased to submit comments on the federal financial regulatory agencies’ (“the Agencies”) Proposed Guidance on Garnishment of Exempt Federal Benefit Funds.<sup>1</sup>

<sup>1</sup> 72 Fed. Reg. 55273 (Sept. 28, 2007).

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Garnishment of Exempt Federal Benefit Funds

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Capital One Financial Corporation is a financial holding company whose principal subsidiaries, Capital One, N.A., Capital One Bank, and Capital One Auto Finance, Inc., offer a broad spectrum of financial products and services to consumers, small businesses, and commercial clients. As of September 30, 2007, Capital One's subsidiaries collectively had \$83.3 billion in deposits and \$146.4 billion in managed loans outstanding, and operated more than 730 retail bank branches in New York, New Jersey, Connecticut, Texas, and Louisiana. Capital One is a Fortune 500 company and is included in the S&P 100 index.

Capital One commends the Agencies for their attempt to address the tension between state garnishment proceedings and the protected status of exempt federal benefit funds. In our experience, however, it is not possible to reliably identify the exempt status of incoming deposits, nor is it possible to reliably identify what amount of a deposit account constitutes exempt federal benefit funds. For those reasons, many of the "best practices" that the Agencies propose to identify<sup>2</sup> cannot feasibly be performed.

The practical difficulties surrounding this subject are ably set out in comment letters by other parties, such as the American Bankers Association and the Financial Services Roundtable, and need not be repeated here. Suffice to say that the obstacles to identifying and tracking exempt federal benefit funds identified in those letters are confirmed by Capital One's own experience.

A handful of the identified best practices can be implemented:

- It is feasible to promptly notify a consumer when we receive a garnishment order and place a freeze on the consumer's account, and we do so.
- It is feasible to lift a freeze on an account as soon as permissible under state law, and we do this too.
- We believe that it would be possible to provide the consumer with information about types of exempt federal benefit funds in order to aid the consumer in asserting federal protections, but we ask that the Agencies provide more detailed guidance on this point, as well as a form or example, to protect institutions from objections that they have mischaracterized the content and complex interplay of federal law and its exceptions, and state laws and their exceptions.

More generally, we ask that the Agencies revisit the proposed guidance in light of the practical difficulties that the industry is identifying, and propose an approach to this

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<sup>2</sup> 72 Fed. Reg. at 55275.

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subject that does not suggest as “best practices,” practices that cannot feasibly be performed.

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Capital One appreciates the opportunity to comment on the proposed guidance. If you have questions about this matter and our comments, please call me at 703-720-2255.

Sincerely,



Christopher T. Curtis  
Associate General Counsel  
Policy Affairs