



Neighborhood Economic Development Advocacy Project

176 Grand Street, Suite 300, New York, NY 10013

Tel: (212) 680-5100 Fax: (212) 680-5104

www.nedap.org

BY EMAIL

August 18, 2011

Adam M. Drimer
Assistant Vice President
Federal Reserve Bank of Richmond
701 East Byrd Street
Richmond, Virginia 23261-4528

Re: Application by Capital One Financial Corporation, to acquire 100% of the voting securities of ING Bank, FSB, Wilmington, Delaware, and subsidiaries, and thereby engage in the activities related to operating a federal savings bank, investment financial advisory and securities brokerage services

Dear Mr. Drimer:

We write to call on the Federal Reserve Bank of Richmond to extend the public comment period and hold public hearings on Capital One Financial Corporation's proposed merger with ING Bank. According to Capital One, the merger would make the bank the fifth largest in the country by deposits – turning Capital One into yet another bank that is too big to fail.

The days of the Federal Reserve's simply rubber-stamping enormous merger applications, notwithstanding significant evidence of banks' predatory products and practices, are over. There is too much at stake – in terms of systemic risk, as well as community reinvestment and fair credit access across the country – for the Federal Reserve to proceed without the public input that a proposed merger of this magnitude demands.

The initial 30-day period was wholly insufficient to enable the public a meaningful opportunity to comment. We call on the Richmond Fed to extend the comment period to October 22, 2011, at the earliest, and to hold a series of public hearings, for the following reasons:

- If we have learned anything from the financial meltdown and ensuing bank bailouts, it is that banks should not be permitted to operate at a scale that is too big to fail. It boggles the mind that the Fed would even contemplate permitting the creation of yet another behemoth banking institution.

- Capital One has announced two gigantic acquisitions – of ING Bank and HSBC’s domestic credit card business – which the Richmond Fed should consider together, not as isolated or unrelated acquisitions.
- In the time allotted to date, the public could not possibly produce meaningful comments on a merger of this magnitude, including on the combined banks’ meeting of community credit and banking services needs; Capital One’s abusive credit card and debt collection practices (as well as HSBC’s); and vital questions about Community Reinvestment Act assessment areas for internet banks.
- People harmed by Capital One’s abusive credit card and debt collection practices, and there are thousands in New York City alone, should be afforded an opportunity to present verbal testimony at a public hearing. We urge the Federal Reserve to ensure that the public receive adequate notice of the hearings and to hold the hearings in accessible locations. We are confident that community organizations will help to publicize the hearings.
- The public needs adequate time to analyze the implications of the merger, which will affect millions of Americans and communities throughout the country, as well as time to document Capital One’s declining community development and small business lending.

The Federal Reserve Board of Governors has a legal responsibility under the Dodd-Frank Wall Street Reform and Consumer Protection Act to prohibit bank mergers when a merger would create a bank that may pose serious risks to the financial stability of the United States. Without an adequate comment period, public hearings and rigorous analysis of the effects of the proposed merger by the Federal Reserve Bank of Richmond, the Board cannot fulfill its duty to ensure the ongoing stability of the U.S. financial system and may create yet another bank that is too big to fail.

Capital One has announced a plan to buy HSBC’s U.S. credit card business, after it acquires ING. The proposed HSBC acquisition hinges on the ING merger, and the Fed should consider both proposals together, not as unrelated transactions. If the Federal Reserve approves Capital One’s merger with ING, Capital One is likely later to avoid public and regulatory scrutiny of its planned purchase of HSBC’s credit card business. Capital One could further evade regulatory scrutiny by purchasing HSBC’s credit card accounts only, rather than acquiring HSBC’s credit card-issuing bank(s).

The proposed merger of Capital One and ING Bank would increase the size and systemic risk of Capital One. Capital One’s plan to increase its subprime credit card lending using ING Bank’s

deposit base would introduce additional risk to Capital One, and Capital One's planned acquisition of HSBC's U.S. credit card business would only concentrate that risk further. Capital One is already the nation's fourth largest issuer of Visa and MasterCard branded credit cards, and acquiring HSBC's U.S. credit card business would increase Capital One's market share by more than 50%. Capital One's revenue is already highly dependent on its credit card business—in 2010, 66% of the bank's revenue and 75% of its profits were generated by credit card lending—and furthering that dependence, particularly by expanding subprime credit card lending, will put Capital One, not to mention the U.S. economy, at substantial risk, particularly if the current economic instability proves to be another recession.

NEDAP is a community economic justice resource center in New York City, founded in 1995. We operate the NYC Financial Justice Hotline, which serves low income New Yorkers aggrieved by unfair and discriminatory banking and debt collection practices. Since we launched the hotline five years ago, we have received hundreds of complaints about Capital One's abusive lending and debt collection practices. In fact, in 2011, we received more requests for assistance with debt collection cases brought by Capital One than for any other creditor. We have seen firsthand that Capital One often fails to follow state and federal laws that protect exempt income, such as Social Security benefits, from debt collection. The bank has engaged in predatory practices, including offering borrowers multiple high-fee, low credit limit cards rather than a single, higher credit limit card.

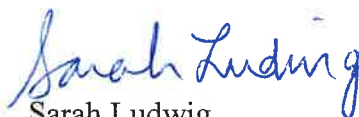
These examples represent only a limited snapshot of Capital One's predatory business practices, which have a disproportionate impact on low income communities and communities of color. Many other groups from around New York State and across the country have echoed these concerns, and we are confident that they would submit detailed comments if the comment period is extended to allow community groups adequate time to respond.

Clearly, we have serious concerns regarding Capital One's application. Above and beyond the points raised above, however, we also have grave concerns about how the Federal Reserve will respond to this application, which represents the first major bank merger proposal since the financial crisis ended. We urge the Richmond Fed to extend the comment period and hold public hearings, and look forward to presenting detailed comments at that time.

Sincerely,



Alexis Iwanisziw
Senior Program Associate



Sarah Ludwig
Co-Director