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

April 11, 2008

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

Re: Large-Bank Deposit Insurance Determination Modernization Proposal (RIN 3064-AD26)

Dear Mr. Feldman:

Capital One Financial Corporation ("Capital One") is pleased to submit comments in response to the FDIC's Notice of Proposed Rulemaking[1] on the subject of new bank systems to facilitate the FDIC's insurance determinations in the event of bank failure.

Capital One Financial Corporation is a financial holding company whose principal subsidiaries, Capital One, N.A., Capital One Bank (USA) N.A., and Capital One Auto Finance, Inc., offer a broad spectrum of financial products and services to consumers, small businesses, and commercial clients. As of December 31, 2007, Capital One's subsidiaries collectively had $83 billion in deposits and $151.4 billion in managed loans outstanding, and operated more than 740 retail bank branches located in New York, New Jersey, Connecticut, Virginia, Louisiana, and Texas. Capital One is a Fortune 500 company and is included in the S&P 100 Index.

Capital One supports the FDIC's continuing work on this important project. The current environment reminds us that bank failures are not necessarily a phenomenon of

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[1] 73 Fed. Reg. 2364 (Jan. 14, 2008). Capital One also commented on the FDIC's first Advance Notice of Proposed Rulemaking on this subject, 70 Fed. Reg. 73652 (Dec. 13, 2005), see our letter of March 13, 2006, and on the FDIC's second Advance Notice of Proposed Rulemaking, 71 Fed. Reg. 74857 (Dec. 13, 2006), see our letter of March 13, 2007.

only the past. We make the following observations on the FDIC's current proposal and its likely impact on Capital One.

- The FDIC's current proposal would be feasible to implement. As we explained in out last letter, the software coding necessary to support compliance with the proposed recordkeeping regime would be undertaken by Capital One's third-party systems provider at no marginal cost to Capital One, although Capital One would undertake some significant cost in retrofitting its systems and processes to incorporate the new software coding, repairing files, and testing. We have consulted with our systems provider and confirmed that implementing the proposal is feasible. We are pleased that the FDIC has proposed an 18-month implementation period, which we believe would be sufficient.

- Of the three alternative hold types that the FDIC identifies – persistent holds, memo holds, and holding balances in alternate accounts[2] -- we believe that persistent holds would be robust and cost effective. We believe there could be a risk of some items posting through memo holds and being batch-processed.

- Requiring systems to incorporate the "FDIC Cutoff Point," which would not be established until the time of bank failure,[3] would add complexity and expense. We urge the FDIC to adopt the rule as proposed, without such a requirement.

- Capital One strongly supports the proposition that the existence and amounts of provisional holds be made visible to on-line customers. While our systems cannot currently accommodate this, the necessary system changes are feasible, and we believe that such transparency is important to mitigating damage to the closed bank's franchise value. For the same reason, in our 2007 letter, we advocated similar transparency in the FDIC's standard closed-bank notice to depositors, and we think that that recommendation continues to be important, because not all customers are on-line.[4]

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[2] 73 Fed. Reg. at 2373.

[3] *Id*. at 2366.

[4] Ideally, such transparency would also be available at automated teller machines and point-of-sale terminals, but that is not feasible with current systems.

Capital One appreciates the opportunity to respond to the FDIC's Notice of Proposed Rulemaking. If you have any questions about this matter and our comments, please call me at 703-720-2255, or Minh-Duc (Ducie) Le at 703-720-2260.

Sincerely,

Christopher T. Curtis

Christopher T. Curtis
Associate General Counsel
Policy Affairs