



Capital One Financial Corporation
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McLean, VA 22102

August 2, 2010

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090
rule-comments@sec.gov

Re: Proposed Release on Asset-Backed Securities (File No. S7-08-10)

Dear Ms. Murphy:

Capital One Financial Corporation (“Capital One”)¹ is pleased to submit comments to the Securities and Exchange Commission (“SEC”) regarding the proposed release on asset-backed securities (“ABS”) and related rules and regulations (“Regulation AB II”).²

Introduction

Capital One was once a significant issuer of both credit card and auto ABS. Over the past decade, we issued nearly \$100 billion in public card and auto securitizations. However, as a result of recent accounting and regulatory changes that eliminated key economic advantages associated with securitization, we have reduced substantially the role of ABS in our funding strategy. We have, in fact, not publicly issued any ABS since June 2009.

Our comments are, therefore, based on our views as an investor in traditional residential mortgage-backed securities (“RMBS”) and ABS. As of June 30, 2010, we held approximately \$28 billion of RMBS (including both agency and non-agency securities) and approximately \$9 billion of ABS.

¹Capital One Financial Corporation (<http://www.capitalone.com>) is a financial holding company whose subsidiaries, which include Capital One, N.A. and Capital One Bank (USA), N. A., had \$117.3 billion in deposits and \$197.5 billion in total managed assets outstanding as of June 30, 2010. Headquartered in McLean, Virginia, Capital One offers a broad spectrum of financial products and services to consumers, small businesses and commercial clients. Capital One, N.A. has approximately 1,000 branch locations primarily in New York, New Jersey, Texas, Louisiana, Maryland, Virginia, and the District of Columbia. A Fortune 500 company, Capital One trades on the New York Stock Exchange under the symbol “COF” and is included in the S&P 100 index.

²75 Fed. Reg. 23328 (May 3, 2010).

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As a large and active ABS and RMBS investor, we support the SEC in its efforts to introduce greater transparency into the securitization market. However, we are deeply concerned that several key proposals in Regulation AB II do not properly distinguish among different asset classes. Rather, the proposals impose a “one-size-fits-all” approach for asset classes that have markedly different performance characteristics, securitization structures and approaches to underwriting.

We understand that some investors have been vocal in demanding a suite of enhanced pool and loan-level disclosures, many of which we would not find useful or usable. Our greatest concern is that these requirements will effectively shutter important segments of the ABS markets that have performed relatively well during the financial crisis. We do not believe that the incremental information gained from Regulation AB II’s enhanced disclosure rules justifies the significant decline in liquidity that will likely occur in these markets.

The SEC identifies problems that generally were limited to certain segments of RMBS and related synthetic products as a key rationale for the Regulation AB II proposals. These specific markets were relatively new and, in hindsight, their associated risks were not well understood. Perhaps most significantly, they were plagued by low quality collateral due to the originate-to-sell model so prevalent over the past several years.

We support the SEC in its efforts to implement transparency improvements in the RMBS market. In the context of additional loan level data, we welcome updated information on a variety of factors. For example, current FICO, loan-to-value ratios, zip codes and second-liens as well as fully verified appraisals would be very useful for our credit analysis.

In contrast to RMBS markets, credit card and auto lending has historically been underwritten directly to the consumer. As a result, the cyclical swings in delinquency and loss rates have been muted relative to their mortgage counterparts. This has allowed for more stable risk assessment and pricing, which has proved fairly robust through the recent downturn.

We believe that existing disclosure for credit card and auto ABS has been sufficiently transparent for us to make sound investment decisions. We do not believe that the proposed loan-level or grouped-account disclosure rules for auto and credit card ABS would meaningfully enhance our understanding of the underlying collateral. We fear, instead, that the relatively modest investor benefits from such disclosure requirements would be far outweighed by a significant reduction in ABS availability and pricing efficiency as high-quality issuers continue to withdraw from the market.

Unlike certain segments of RMBS and related synthetic products that emerged in recent years, traditional classes such as auto and credit card ABS have long provided attractive returns, with associated risks that have been thoroughly disclosed and well-understood. The inevitable contraction of a well-performing market due to increased disclosure

requirements that we do not find meaningfully useful in our investment decisions would be an unfortunate consequence of the Regulation AB II proposals.

We urge the SEC to adopt a set of disclosure proposals whose application can be carefully tailored across asset classes. The remainder of our letter focuses on the aspects of Regulation AB II that we believe pose the greatest risks to the ABS market without providing us with a substantial corresponding benefit. For each issue, we outline our concerns as well as our recommendations as to how Regulation AB II could achieve its objectives more effectively and with less risk.

Disclosures and the Waterfall Program

We believe that the proposed disclosure rules on the credit quality and performance of the collateral backing ABS could provide some additional transparency to the securitization market. However, we do not believe that the analysis of this additional data, which would be costly and resource-intensive, would meaningfully enhance our understanding of the collateral.

The analytical framework for making an investment decision differs substantially between RMBS and ABS. For credit card ABS, in particular, where the underlying assets have much shorter lives than the securities they back, extremely detailed collateral information is not necessarily helpful when making an investment decision. We believe that we already have the information we need in order to make sound investment decisions. For example, we can easily review the historical performance of a credit card collateral pool throughout different credit environments by examining master trust performance reports over the past several years.³

Instead, we support more detailed disclosure of the collateral pool in the form of additional tables updated quarterly throughout the life of a deal. These stratifications would provide detail on a wider range of metrics than currently proposed by the SEC without delving into details we do not need. Not only would these tables be easier for us to process than thousands of rows of data, they would also provide more useful data.⁴

We also appreciate the SEC's attempt, via the proposed waterfall program, to improve the transparency of bond performance under different collateral assumptions. While the proposed program may provide a baseline it would not change our current credit analysis whereby we consider a wider variety of assumptions and risks. Therefore, we believe that this requirement would reduce issuance without providing any corresponding analytical benefit to investors.

Risk Retention

³ These reports are available from master trust inception.

⁴ An example of the tables referenced above can be found in the American Securitization Forum's comment letter dated August 2, 2010: the *Collateral Report* and *Report on Charged-Off Accounts*.

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We agree that risk retention is an important requirement for all RMBS and ABS structures. Indeed, we would assert that the significant amount of risk retained by card issuers is one reason that card master trusts performed relatively well during the financial crisis. Bank issuers, for example, necessarily retain a very substantial amount of risk since they securitize only a portion of their card portfolios. Their issued securities are, as such, only a representative sample of originated card loans. Seller's interest requirements in card structures, and significant residual and subordinate interests in auto transactions, have also played a role in ensuring that the interests of those issuers are aligned with those of their investors.

We do, however, have a particular concern around the proposed "one-size-fits-all" approach to risk retention by requiring that it take the form of a vertical slice. Currently, in many ABS structures, particularly in auto securitizations, the issuer holds a first-loss position. This structure provides investors with more protection than that afforded by a vertical slice. Therefore, we encourage the SEC to consider adopting rules that accommodate different structural approaches to achieving risk retention.

Conclusion

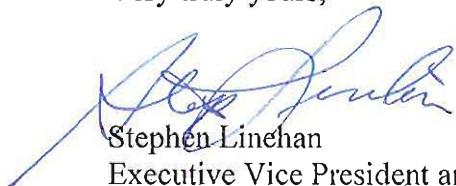
We understand that the SEC's underlying goal is to increase transparency in the securitization markets, which we particularly welcome in the RMBS market. We do not believe, however, that applying detailed loan-level or grouped account disclosures, as currently proposed for auto and credit card ABS, would provide useful and usable incremental information on the underlying collateral. Additionally, the proposed requirements will likely reduce the availability and increase the cost of ABS from market segments we have long valued and invested in.

Given the potential long-term impacts of Regulation AB II on valued ABS markets, we hope that the SEC will take into account the above considerations as the proposal on ABS is finalized.

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Capital One appreciates the opportunity to comment on this proposal. If you would like to discuss our comments, please contact me at 703-720-1000.

Very truly yours,



Stephen Linehan
Executive Vice President and Treasurer