

countries that are determined to be "taking steps to adopt and implement laws that extend internationally recognized worker rights \* \* \* to workers in that country (including any designated zone in that country)."

Based on consultations with Congress, OPIC complies with annual determinations made by the Executive Branch with respect to worker rights for countries that are eligible for the Generalized System of Preferences ("GSP"). Any country for which GSP eligibility is revoked on account of its failure to take steps to adopt and implement internationally recognized worker rights is subject concurrently to the suspension of OPIC programs until such time as a favorable worker rights determination can be made.

For non-GSP countries in which OPIC operates its programs, OPIC reviews any country which is the subject of a formal challenge at its annual public hearing. To qualify as a formal challenge, testimony must pertain directly to the worker rights requirements of the law as defined in OPIC's 1985 reauthorizing legislation (Public Law 99-204) with reference to the Trade Act of 1974, as amended, and be supported by factual information.

Dated: January 8, 2002.

**Connie M. Downs,**

*OPIC Corporate Secretary.*

[FR Doc. 02-843 Filed 1-9-02; 11:00 am]

BILLING CODE 3210-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-25357; 812-12746]

### Capital One Financial Corporation, et al.; Notice of Application

January 7, 2002.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of an application for exemption under section 6(c) of the Investment Company Act of 1940 (the "Act") from all provisions of the Act.

**SUMMARY OF APPLICATION:** Applicants request an order to permit certain finance subsidiaries of Capital One Financial Corporation ("COFC") to sell securities and use the proceeds to finance the business activities of COFC, and certain companies controlled by COFC ("Controlled Companies").

**APPLICANTS:** COFC; Capital One Capital II, Capital One Capital III and Capital One Capital IV (collectively, the "COC Trusts"); and Capital One Capital II, LLC, Capital One Capital III, LLC and Capital One Capital IV, LLC

(collectively, the "COC LLCs") (the COC Trusts and COC LLCs, collectively, the "Finance Subsidiaries").

**FILING DATES:** The application was filed on January 7, 2002.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 1, 2002 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Applicants, John G. Finneran, Jr., Capital One Financial Corporation, Suite 1300, 2980 Fairview Park Drive, Falls Church, Virginia 22042-4525.

**FOR FURTHER INFORMATION CONTACT:** Jaee F. Hahn, Senior Counsel (202) 942-0614, or Janet M. Grossnickle, Branch Chief (202) 942-0564 (Office of Investment Company Regulation, Division of Investment Management).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street NW, Washington, DC 20549-0102 (tel. 202-942-8090).

### Applicants' Representations

1. COFC, a Delaware corporation, is a company whose subsidiaries provide a variety of financial products and services to consumers. COFC's principal subsidiary, Capital One Bank ("Bank"), is a limited-purpose Virginia state-chartered credit card bank offering credit card products. COFC also owns Capital One, F.S.B. ("Savings Bank"), a federally chartered savings bank, which is a member of the Federal Home Loan Bank System. The Bank has filed applications with the Board of Governors of the Federal Reserve System and the Bureau of Financial Institutions of the Virginia State Corporation Commission seeking to merge the Savings Bank with and into the Bank and to effect the conversion of the Bank into a Virginia state-chartered

savings bank (the "Merger and Conversion").

2. COFC will establish the COC Trusts as Delaware business trusts and will own all of the outstanding voting beneficial interests to be issued by the COC Trusts. The Bank will establish the COC LLCs as Delaware limited liability companies and will own all of the outstanding voting beneficial interests to be issued by the COC LLCs. Because the Bank is a wholly owned direct subsidiary of COFC, the COC LLCs will be indirect subsidiaries of COFC.

3. The Finance Subsidiaries will be organized to engage in financing activities that will provide funds for use in the operations of COFC, the Bank, and other Controlled Companies. The Finance Subsidiaries' primary function will be to obtain funds through the offer and sale of their preferred beneficial interests (the "Preferred Interests") in U.S., European, and other overseas markets, and to apply the proceeds exclusively to finance the operations of COFC, the Bank and other Controlled Companies. Each COC Trust will hold the Preferred Interests of the related COC LLC which will be contributed to the COC Trust by COFC. Any issuance of a Finance Subsidiary's Preferred Interests will be guaranteed unconditionally (on a subordinated basis) by COFC with a guarantee that meets the requirements of rule 3a-5(a)(2) under the Act (the "Guarantees"). The Guarantees provide each holder of Preferred Interests a direct right of action against COFC to enforce COFC's obligations under the applicable Guarantee without first proceeding against the applicable Finance Subsidiary. In accordance with rule 3a-5(a)(5) under the Act, at least 85% of any cash or cash equivalents raised by each Finance Subsidiary will be invested in or loaned to COFC or Controlled Companies as soon as practicable, but in no event later than six months after such Finance Subsidiary's receipt of such cash or cash equivalents. Additionally, after giving effect to the requested exemption, each Finance Subsidiary will meet the requirements of rule 3a-5(a)(6) under the Act.

### Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act exempting each Finance Subsidiary from all provisions of the Act. Rule 3a-5 under the Act provides an exemption from the Act for certain companies organized primarily to finance the business operations of their parent companies or companies controlled by their parent companies.

2. Rule 3a-5(b)(3)(i) under the Act, in relevant part, defines a "company controlled by the parent company" to mean any corporation, partnership, or joint venture that is not considered an investment company under section 3(a) of the Act, or that is excepted or exempted by order from the definition of investment company by section 3(b) or by the rules and regulations under section 3(a) of the Act. The Bank does not fit, and after the proposed Merger and Conversion still will not fit, within the definition of "company controlled by the parent company" because it derives its non-investment company status from section 3(c)(3) of the Act. Consequently, the outstanding securities of a COC LLC would be owned by a company that does not meet the requirements of rule 3a-5(b)(1)(i) under the Act. In addition, to the extent a Finance Subsidiary makes loans to or makes or holds investments in the Bank, that Finance Subsidiary would not meet the definition of a "finance subsidiary" under rule 3a-5 because it would be financing an entity that does not meet the definition of a company controlled by the parent company as required by rule 3a-5(b)(1)(ii) under the Act. The COC LLCs also do not fit within the definition of "company controlled by the parent company" because they would, after giving effect to requested relief, be exempted by order under section 6(c) of Act rather than by the rules or regulations under section 3(a) of the Act. Consequently, a COC Trust that holds or makes investments in securities of a COC LLC would not meet the requirement in rule 3a-5(a)(6) under the Act.

3. Applicants request exemptive relief to permit the Finance Subsidiaries to finance the operations of the Bank, which is excluded from the definition of investment company by virtue of section 3(c)(3), and to permit the Bank to own all outstanding voting ownership interests of each COC LLC. In addition, Applicants request exemptive relief to permit each Finance Subsidiary to make loans to or make or hold investments in a COC LLC that relies on an order issued under section 6(c) of the Act. Applicants state that neither the Bank nor the Finance Subsidiaries will engage primarily in investment company activities, and that each Finance Subsidiary's primary business purpose will be to engage in financing activities that will provide funds for COFC and the Bank.

4. Section 6(c) of the Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or

transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants submit that its exemptive request meets the standards set out in section 6(c) of the Act.

#### Applicants' Condition

Applicants agree that the order granting the requested relief will be subject to the following condition:

Each Finance Subsidiary will comply with all of the provisions of rule 3a-5 under the Act, except: (1) the Bank will not meet the portion of the definition of "company controlled by the parent company" in rule 3a-5(b)(3)(i) under the Act solely because it is excluded from the definition of investment company under section 3(c)(3) of the Act; and (2) each Finance Subsidiary will be permitted to make loans to or make or hold investments in corporations, partnerships, and joint ventures that do not meet the portion of the definition of "company controlled by the parent company" in rule 3a(b)(3)(i) under the Act solely because (i) they are excluded from the definition of investment company under section 3(c)(3) of the Act or (ii) they are a COC LLC that does not meet the definition of "company controlled by the parent company" in rule 3a-5(b)(3)(i) under the Act solely because it is relying on an order issued under section 6(c) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 02-806 Filed 1-10-02; 8:45 am]

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#### SECURITIES AND EXCHANGE COMMISSION

##### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of January 14, 2002:

A closed meeting will be held on

Tuesday, January 15, 2002, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries

will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matters of the closed meeting scheduled for Tuesday, January 15, 2002, will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and  
Formal orders of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: January 8, 2002.

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 02-805 Filed 1-8-02; 4:37 pm]

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45241; File No. SR-Amex-2002-01]

##### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change by the American Stock Exchange LLC To Extend for an Additional 90 Days its Pilot Program Relating to Facilitation Cross Transactions

January 7, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 3, 2002, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.