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

August 4, 2006

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

Re: Notice of Proposed Rulemaking: One-Time Assessment Credit (RIN 3064-AD08)

Dear Mr. Feldman:

Capital One Financial Corporation ("Capital One") is pleased to submit comments on the FDIC's Notice of Proposed Rulemaking to establish the methodology for applying the one-time assessment credit created by the Federal Deposit Insurance Reform Act of 2005.

Capital One Financial Corporation is a financial holding company whose principal subsidiaries, Capital One Bank, Capital One, F.S.B., Capital One Auto Finance, Inc., and Capital One, N.A. (formerly Hibernia National Bank), offer a broad spectrum of financial products and services to consumers, small businesses, and commercial clients. Capital One's subsidiaries collectively had $47.2 billion in deposits and $108.4 billion in managed loans outstanding as of June 30, 2006, and operated more than 300 retail bank branches in Texas and Louisiana. In March, Capital One announced that it has agreed to acquire North Fork Bancorporation, Inc., which operates over 300 bank branches throughout New York, New Jersey, and Connecticut, and is the third-largest depository institution in the greater New York City region. That acquisition, which will make Capital One one of the ten largest banking institutions in the country by deposits, is projected to close by the end of this year.

Capital One supports the rule as proposed.

The most significant issue in the rule is the definition of "successor" institutions. The FDIC's proposal to define "successor" as the resulting institution in a merger or consolidation, and as not recognizing transfers of deposits in other transactions, is a definition under which Capital One would receive the benefit of most of the credit attributable to assessments paid on insured deposits by the predecessor institutions of the larger Capital One group (including North Fork). While a portion of the very significant deposit growth achieved by Capital One, North Fork, and Hibernia in the decade since 1996 has been attributable to purchase-and-assumption transactions, that portion has been small. For that practical reason, Capital One is satisfied with the FDIC's proposed definition of "successor."

If the acquisition practices of the disparate institutions that will soon be part of the larger Capital One group are representative of the banking industry as a whole over the past decade, then the FDIC's proposed rule will capture most of the deposit balances that have changed hands during that period.

Aside from that practical consideration, though, Capital One believes that the FDIC's definition of "successor" is sound, for the reasons that the FDIC has stated in its proposal:

- That definition is consistent with the obvious purpose of the statute, which is to recognize and give credit for contributions made by institutions -- not by aggregations of deposits -- in funding the Deposit Insurance Fund as it exists today.
- The definition is consistent with the expectations of parties to acquisition transactions. The surviving institution in a merger or consolidation expects to inherit all assets, liabilities, rights, and obligations of the predecessor institutions, known and unknown. The institution that makes an acquisition by means of a purchase-and-assumption transaction does so, in significant part, so that it can take only the assets and liabilities that it knows of and has identified, leaving the rest behind, good or bad. The availability of an assessment credit is a good example of an unknown right that would be left behind in such a transaction -- unknown, in this case, because it did not even exist.
- The proposed definition is easy to administer on the basis of the FDIC's existing records.

Deposit insurance premiums are an operating expense of a deposit-taking business. They do not add value that can be capitalized in the deposit base and recovered by the institution in a sale. Rather, the premium that can be obtained on the sale of a deposit franchise is based on its "coreness" -- the extent to which the rates paid on the deposits are lower than the cost of other funding sources, combined with the expected duration of the deposits, and to some extent the ability to market other products and services to the deposit customers. None of that value is driven by the insurance

assessments that have been paid; the value will instead reflect the institution's marketing and other costs associated with attracting the deposits, if those costs have been effectively deployed. We submit that this consideration reinforces the FDIC's conclusion that the right to the assessment credit attaches to the institution, not to an aggregation of deposit accounts, and therefore can be transferred in a merger or consolidation but not in a sale of deposits.

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Capital One appreciates the opportunity to comment on the FDIC's Notice of Proposed Rulemaking with respect to the one-time assessment credit. If you have any questions about this matter and our comments, please call me at (703) 720-2255.

Sincerely,

/s/

Christopher T. Curtis
Associate General Counsel
Policy Affairs