

UNITED STATES OF AMERICA  
DEPARTMENT OF THE TREASURY  
COMPTROLLER OF THE CURRENCY

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|---------------------------------|--|---|---------------|
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| <b>In the Matter of:</b>        |  | ) |               |
|                                 |  | ) |               |
| Capital One, N.A.               |  | ) | AA-EC-2015-48 |
| McLean, Virginia                |  | ) |               |
|                                 |  | ) |               |
| Capital One Bank (U.S.A.), N.A. |  | ) |               |
| Glen Allen, Virginia            |  | ) |               |
| <hr/>                           |  | ) |               |

CONSENT ORDER

The Comptroller of the Currency of the United States of America (“Comptroller”), through his national bank examiners and other staff of the Office of the Comptroller of the Currency (“OCC”), has conducted examinations of Capital One, N.A., McLean, Virginia and Capital One Bank (U.S.A.), N.A., Glen Allen, Virginia (collectively referred to as “Bank”). The OCC has identified deficiencies in the Bank’s overall program for Bank Secrecy Act/Anti-Money Laundering (“BSA/AML”) compliance and has informed the Bank of the findings resulting from the examinations.

The Bank, by and through its duly elected and acting Boards of Directors (“Board”), has executed a Stipulation and Consent to the Issuance of a Consent Order, dated July 10, 2015, that is accepted by the Comptroller (“Stipulation”). By this Stipulation, which is incorporated herein by reference, the Bank has consented to the issuance of this Consent Cease and Desist Order (“Order”) by the Comptroller. The Bank has begun corrective action, and has committed to taking all necessary and appropriate steps to remedy the deficiencies identified by the OCC, and to enhance the Bank’s BSA/AML compliance program.

## ARTICLE I

### COMPTROLLER'S FINDINGS

The Comptroller finds, and the Bank neither admits nor denies, the following:

(1) The OCC's examination findings establish that the Bank has deficiencies in its BSA/AML compliance program. These deficiencies have resulted in a BSA/AML compliance program violation under 12 U.S.C. § 1818(s) and its implementing regulations 12 C.F.R. § 21.21 (BSA Compliance Program). In addition, the Bank has violated 12 C.F.R. § 21.11 (Suspicious Activity Report Filings).

(2) The Bank has failed to adopt and implement a compliance program that adequately covers the required BSA/AML program elements due to an inadequate system of internal controls and ineffective independent testing, and the Bank failed to file all necessary Suspicious Activity Reports ("SARs") related to suspicious customer activity.

(3) Some of the critical deficiencies in the elements of the Bank's BSA/AML compliance program, resulting in a violation of 12 U.S.C. § 1818(s)(3)(A) and 12 C.F.R. § 21.21, include the following:

- (a) The Bank lacks an enterprise-wide BSA/AML risk assessment.
- (b) The Bank has systemic deficiencies in its transaction monitoring systems, risk management, and quality assurance programs for its remote deposit capture services.
- (c) The Bank has systemic deficiencies in its customer due diligence processes and failed to have customer due diligence and enhanced due diligence policies and processes specific to Correspondent Banking.

(d) The Bank lacks a process by which BSA/AML control decisions are escalated to Risk Management.

(4) The Bank failed to identify significant volumes of suspicious activity and file the required SARs concerning suspicious customer activities, in violation of 12 C.F.R. § 21.11.

(5) Pursuant to the authority vested in him by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818(b), the Comptroller hereby ORDERS that:

## ARTICLE II

### COMPLIANCE COMMITTEE

(1) The Board shall appoint and maintain an active Compliance Committee of at least three (3) directors, of which a majority shall not be employees or officers of the Bank or any of its subsidiaries or affiliates. The Compliance Committee shall be responsible for monitoring and overseeing the Bank's compliance with the provisions of this Order. The Compliance Committee shall meet monthly and maintain minutes of its meetings at which compliance with this Order is discussed.

(2) Within forty-five (45) days of the effective date of this Order, and thereafter within thirty (30) days after the end of each quarter, the Compliance Committee shall submit a written progress report to the Board setting forth in detail the actions taken to comply with each Article of this Order, and the results and status of those actions, including improvements to the BSA/AML Program. The progress report shall include information sufficient to validate compliance with this Order.

(3) Upon receiving the Compliance Committee's report, the Board shall forward a copy of the report, with any additional comments by the Board, to the Examiner-in-Charge within ten (10) days of the first Board meeting following receipt of such report, unless additional

time is granted by the Examiner-in-Charge through a written determination of no supervisory objection.

(4) The OCC may, in writing, discontinue the requirement for written progress reports required by Paragraphs (2) and (3) of this Article, or modify the reporting schedule set forth in Paragraphs (2) and (3) of this Article.

### ARTICLE III

#### COMPREHENSIVE BSA/AML ACTION PLAN

(1) Within sixty (60) days of this Order, the Bank shall submit to the Examiner-in-Charge, for review and written determination of no supervisory objection by the Deputy Comptroller, a plan, which has been reviewed and approved by the Board or designated committee thereof, that contains a complete description of the actions that are necessary and appropriate to achieve compliance with Articles IV through XII of this Order (“BSA/AML Action Plan”). In the event the Deputy Comptroller asks the Bank to revise the BSA/AML Action Plan, the Bank shall promptly make necessary and appropriate revisions and resubmit the BSA/AML Action Plan to the Examiner-in-Charge for review and determination of no supervisory objection by the Deputy Comptroller.

(2) The BSA/AML Action Plan shall specify timelines for completion of each of the requirements of Articles IV through XII of this Order. The timelines in the BSA/AML Action Plan shall be consistent with any deadlines set forth in this Order, unless modified by written agreement with the Deputy Comptroller.

(3) Upon receiving written notice of no supervisory objection from the Deputy Comptroller, the Board shall ensure that the Bank implements and thereafter adheres to the BSA/AML Action Plan. Following implementation of the BSA/AML Action Plan, the Bank

shall not take any action that will cause a significant deviation from, or material change to the BSA/AML Action Plan, unless and until the Bank has received a prior written determination of no supervisory objection from the Deputy Comptroller.

(4) The Board shall ensure that the Bank achieves and thereafter maintains compliance with this Order, including, without limitation, successful implementation of the BSA/AML Action Plan. The Board shall further ensure that, upon implementation of the BSA/AML Action Plan, the Bank achieves and maintains an effective BSA/AML compliance program, in accordance with the BSA and its implementing regulations. In each instance in this Order in which the Board is required to ensure adherence to or undertake to perform certain obligations of the Bank, it is intended to mean that the Board shall:

- (a) require timely reporting by Bank management of such actions directed by the Board to be taken under this Order;
- (b) follow-up on any non-compliance with such actions in a timely and appropriate manner; and
- (c) require corrective action be taken in a timely manner for any non-compliance with such actions.

(5) Upon request by the Deputy Comptroller or the Examiner-in-Charge, the Bank shall modify the BSA/AML Action Plan to address any Matters Requiring Attention concerning BSA/AML matters, or citations of violations of law concerning BSA/AML matters, which the OCC may issue to the Bank following the effective date of this Order.

(6) Any independent consultant or auditor engaged by the Bank or the Board to assist in the assessment of the BSA/AML Action Plan or other compliance with this Order must have demonstrated and specialized experience with the BSA/AML matters that are the subject of the

engagement, and must not be subject to any conflict of interest affecting the consultant's or auditor's independence.

(7) Within fifteen (15 days) of this Order, the Bank shall designate an officer to be responsible for coordinating and submitting to the OCC the written plans, reports, and other documents required to be submitted under the terms and conditions of this Order.

#### ARTICLE IV

##### ENTERPRISE RISK ASSESSMENT

(1) Within ninety (90) days of this Order, the Bank shall conduct a comprehensive assessment of the Bank's BSA/AML risk, including detailed quantification of risk to accurately assess the level of risk and the adequacy of controls. The comprehensive assessment shall include:

- (a) An assessment of the AML risk associated with each line of business, and an enterprise-wide assessment of AML risk of all products, services, customer and geographies. This evaluation shall include, but not be limited to, an assessment of risk associated with remote deposit capture, cash-intensive businesses, and other higher risk products, services, customers or geographies. The purpose of the enterprise-wide assessment is to identify systemic AML risk that may not be apparent in a risk assessment focused on line of business or assessment units.
- (b) Evaluation of the Bank's current methodology for identifying and quantifying the level of BSA/AML risk associated with categories of customers and specific customers. The methodology should ensure that the relationships are reviewed holistically, across lines of business, taking

into consideration the risk within the Bank. This evaluation shall result in the development of a comprehensive approach to quantifying BSA/AML risk for new and existing customers as further described in Article V. This risk assessment should be consistent with the Quantity of Risk Matrix included as Appendix J to the Bank Secrecy Act Anti-Money Laundering Examination Manual (“BSA/AML Manual”).

- (c) The identification of specific lines of business, geographies, products, or processes where controls are not commensurate with the level of AML risk exposure.
- (d) A timeframe for periodic refreshment of the risk assessment that must occur not less than annually, or sooner whenever there is a significant change in AML risk within the Bank or a line of business. The AML risk assessments shall also be independently reviewed by the Bank’s internal audit function for the adequacy of identification of risk, control plan to manage identified risks, gap analyses where controls are not sufficient, and action plans to address gaps.

(2) The aggregation of the Bank’s enterprise-wide AML risk shall be logical and clearly supported in the work papers. The work papers and supporting documentation shall be readily accessible for OCC review.

(3) OFAC risk shall be included within the BSA/AML risk assessment, using the same criteria as described be in paragraphs (1)(a) through (d) and (2) of this Article.

## ARTICLE V

### CDD AND EDD INFORMATION

(1) Within sixty (60) days of this Order, the Bank shall develop and thereafter implement appropriate policies and procedures for gathering customer due diligence (“CDD”) and enhanced due diligence (“EDD”) information when opening new accounts or when reviewing or modifying existing accounts for customers, regardless of whether they are affiliates of the Bank. At a minimum, these policies and procedures must include:

- (a) a methodology for assigning risk levels to the Bank’s customer base that assesses appropriate factors such as type of customer; geographic activity; the expected account activity by type of service used, including the volume and frequency by dollar amount and number, and the specification of the CDD and EDD information the Bank must obtain, commensurate with these risk levels;
- (b) the quantification of risk shall encompass a customer’s entire relationship with the Bank, to include the purpose of the account, actual or anticipated activity in the account (e.g., type, volume, and value (number and dollar) of transaction activity engaged in), nature of the customer’s business or occupation, customer location (e.g., customer’s geographic location, where they transact business, and have significant operations), types of products and services used by the customer, material changes in the customer’s relationship with the Bank, as well as other factors outlined within the BSA/AML Examination Manual;
- (c) procedures that comply with 31 C.F.R. § 103.121 for the opening of new



accounts and that ensure that the required customer identification information is recorded in the automated system of record;

- (d) procedures for updating information on existing Bank customers acquired from other financial institutions; and
- (e) procedures for updating the automated system of record to include current information.

(2) The BSA Officer or his/her designee shall establish a program to periodically review account documentation for high-risk customers and their related accounts to determine whether the account activity is consistent with the customer's business and the stated purpose of the account.

(3) The Bank shall develop and maintain an adequate management information system program that compiles CDD and EDD information. The program shall be commensurate with the Bank's BSA/AML risk as identified by the Bank's enterprise risk wide assessment required by Article IV, and shall provide appropriate business, BSA/AML compliance, and investigations staff throughout the Bank with appropriate access to sufficient CDD and EDD information enabling sound analysis and monitoring of customers.

(4) The Bank shall submit its policies and procedures for customer due diligence to the Examiner-in-Charge for prior no supervisory objection. If the Examiner-in-Charge recommends changes to the policies or procedures, the Bank shall incorporate those changes or suggest alternatives that are acceptable to the Examiner-in-Charge.

## ARTICLE VI

### INTERNAL CONTROLS-POLICIES, PROCEDURES AND MONITORING

- (1) Within ninety (90) days of this Order, in response to the risks assessed as set forth

in this Article, the Bank shall develop and thereafter implement appropriate policies and procedures to provide for compliance with the Bank Secrecy Act, as amended (31 U.S.C. §§ 5311 *et. seq.*), the regulations promulgated thereunder at 31 C.F.R. Part 103, as amended, and 12 C.F.R. Part 21, Subparts B and C, and the rules and regulations of the Office of Foreign Assets Control (“OFAC”) (collectively referred to as the “BSA”) and for the appropriate identification and monitoring of high-risk transactions. This program to ascertain the risk level inherent in its customer base shall include the following:

- (a) A process to establish and maintain appropriate mitigating controls for those risks identified as a result of work to comply with Articles IV and V.
- (b) A governance structure with clear lines of responsibility, including for escalation of BSA/AML risk control decisions, beginning with senior management and including each effected line of business, and as needed, the Board or a committee of the Board, in which accountability for BSA compliance is clearly communicated and enforced.
- (c) Procedures that indicated the tools or processes to be used for all lines of businesses with BSA risk for identifying and monitoring high-risk transactions.
- (d) Well-defined procedures for investigating and resolving the Bank’s response to transactions that it identifies as unusual or suspicious.
- (e) Procedures ensuring sound use of quantitative analysis to support the proper design, implementation and use of models to generate appropriate alerts.
- (f) Enhanced procedures for recording, maintaining, and recalling information about transactions that it identifies as unusual or suspicious.
- (g) Policies, operating procedures, due diligence programs, and quality control

systems that ensure:

- (i) at least an annual risk-focused assessment of the Bank's customer base;
- (ii) the evaluation, documentation, and monitoring of BSA risk in the Bank's existing customer base;
- (iii) the appropriate level of due diligence is applied when opening and monitoring all accounts, including those of money service businesses;
- (iv) high-risk customers are accurately identified at the time of account opening or thereafter;
- (v) enhanced due diligence and monitoring is conducted for high-risk accounts;
- (vi) periodic review of account due diligence to ensure information is sufficient given the customer's risk; and
- (vii) timely correction of any deficiencies identified.

(2) Within ninety (90) days of this Order, the Bank shall develop and thereafter implement policies and procedures in each line of business for which the Bank determines there is compliance risk under the BSA to provide for the Bank's monitoring of suspicious cash, monetary instrument, wire transfer, and other activities for all types of transactions, accounts, customers, products, services, and geographic areas. The program shall be consistent with the standards set forth in the BSA/AML Manual, particularly in the sections discussing Suspicious Activity Reporting, Currency Transaction Reporting, Funds Transfers, and Purchase and Sale of Monetary Instruments. These policies and procedures shall require submission of SARs based on these reviews and analyses as appropriate.

- (3) A copy of the written policies and procedures required by paragraphs (1) and (2)

of this Article shall be promptly submitted to the Examiner-in-Charge.

## ARTICLE VII

### MANAGEMENT INFORMATION

(1) Within ninety (90) days of this Order, the Board shall ensure that Bank management conducts a management information system (“MIS”) assessment, and develops a plan that will enable management to more effectively identify, monitor, and manage the Bank’s BSA risks on a timely basis. This plan should address any system limitations, provide for appropriate reporting, and consider the following:

- (a) any trends in unusual or suspicious activity that have been identified and reported by the Bank, as well as the product lines, departments, and branches in which suspicious activity has occurred;
  - (b) high risk accounts by line of business and type of business, countries of origin, location of the customers’ businesses and residences, average dollar, and transaction volume of activity;
  - (c) information regarding any type of subpoena received by the Bank, any other law enforcement inquiry directed to the Bank, and any action taken by the Bank on the affected account;
  - (d) information regarding PEPs and foreign correspondent accounts;
  - (e) information regarding compliance with this Order; and
  - (f) any additional information deemed necessary or appropriate by the BSA Officer or the Bank.
- (2) Upon completion, a copy of the MIS plan shall be submitted to the Examiner-in-

Charge. If the Examiner-in-Charge recommends changes to the plan, the Board shall incorporate those changes into the plan or suggest alternative changes that are acceptable to the Examiner-in-Charge.

(3) Within one hundred twenty (120) days from the date on which the MIS plan is submitted to the Examiner-in-Charge, the Board shall ensure that Bank management implements the MIS plan.

## ARTICLE VIII

### REMOTE DEPOSIT CAPTURE

(1) The Board shall ensure that Bank management establishes appropriate risk-based controls over the usage and monitoring of the Remote Deposit Capture (“RDC”) product by money service businesses or other “high-risk” customers. These controls shall include:

- (a) policies and procedures consistent with the January 14, 2009 interagency guidance on “Risk Management of Remote Deposit Capture” published by the FFIEC (*see* OCC Bulletin 2009-4);
  - (b) policies and procedures for identifying, investigating, and resolving transactions that are identified as unusual;
  - (c) policies and procedures for reporting suspicious activities; and
  - (d) periodic evaluations of line of business and compliance personnel knowledge of and adherence to Bank policies and procedures for identifying transactions that pose greater than normal risk for compliance with the BSA in order to determine whether enhanced or additional training should be conducted.
- (2) The above controls shall be incorporated in to the BSA/AML Action Plan and

submitted to the Examiner-in-Charge for review and determination of no supervisory objection by the Deputy Comptroller in accordance with Article III, paragraph (1).

## ARTICLE IX

### BSA INDEPENDENT TESTING AND AUDIT

(1) Within sixty (60) days of the Order, the Bank shall develop and thereafter maintain an effective program to audit the Bank's BSA/AML compliance program ("Audit Program"). The Audit Program shall include, at a minimum:

- (a) a formal process to track and report on Bank management's remediation efforts to strengthen the Bank's BSA/AML compliance program;
- (b) testing of the adequacy of internal controls designed to ensure compliance with the BSA and its implementing regulations;
- (c) a risk-based approach that focuses transactional testing on higher-risk accounts or geographic areas of concern;
- (d) an annual audit with report to the Board of Directors or a committee thereof assessing the condition of the enterprise wide BSA/AML program and opining on the four pillars of the BSA/AML program;
- (e) establish an annual BSA audit plan that allows for an enterprise-wide BSA compliance assessment; and
- (f) a requirement for prompt management response and follow-up to audit exceptions or other recommendations of the Bank's auditor.

(2) The Bank shall submit the Audit Program to the Examiner-in-Charge. If the Examiner-in-Charge recommends changes to the Audit Program, the Bank shall incorporate those changes or suggest alternatives that are acceptable to the Examiner-in-Charge.

## ARTICLE X

### BSA TRAINING-INVESTIGATIONS AND ALERT MANAGEMENT

(1) Within ninety (90) days of this Order, the Bank shall develop, implement, and thereafter adhere to a specialized training program for all operational and supervisory personnel responsible for suspicious activity monitoring, investigating, and reporting to ensure their awareness of their responsibility for compliance with the requirements of the BSA, including the reporting requirements associated with SARs, pursuant to 12 C.F.R. Part 21, subpart B, regardless of the size of the relationship or type of customer involved.

(2) This specialized training program should include strategies for mandatory attendance, the frequency of training, procedures and timing for updating training programs and materials, and the method for delivering training.

(3) The Bank shall submit the training program to the Examiner-in-Charge. If the Examiner-in-Charge recommends changes to the training program, the Bank shall incorporate those changes or suggest alternatives that are acceptable to the Examiner-in-Charge.

## ARTICLE XI

### SUSPICIOUS ACTIVITY IDENTIFICATION AND REPORTING

(1) Within ninety (90) days of this Order, the Bank shall develop and thereafter shall maintain a written program of policies and procedures to ensure, pursuant to 12 C.F.R. § 21.11, the timely and appropriate review and disposition of suspicious activity alerts, and the timely filing of SARs.

(2) In reviewing alerts for purposes of determining whether to file a SAR, the Bank shall:

- (a) assess and document relevant CDD and EDD information;
- (b) assess and document that the Bank considered related transactions by the

customer who is subject to the alert (including both related accounts and related products and services); and

- (c) assess and document whether the Bank has previously filed or considered filing a SAR for the customer who is subject to the alert.

## ARTICLE XII

### ACCOUNT/TRANSACTION ACTIVITY AND SUSPICIOUS ACTIVITY REPORT REVIEW

#### (“LOOK-BACK”)

(1) Within thirty (30) days of this Order, the Bank shall provide to the Examiner-in-charge for prior no supervisory objection an action plan to conduct a review of account and transaction activity (“Look-Back”) covering areas to be specified in writing by the Examiner-in-Charge.

(2) The purpose of the Look-Back is to determine whether suspicious activity was timely identified by the Bank, and if appropriate to do so, was then timely reported by the Bank in accordance with 12 C.F.R. § 21.11.

(3) The Look-Back must be reviewed and validated by independent consultant(s) acceptable to the Examiner-in-Charge with expertise in conducting look-back reviews for large institutions.

(4) Upon completion of the Look-Back:

(a) the Bank shall ensure that:

- (i) SARs have been filed, in accordance with 12 C.F.R. § 21.11, for any previously unreported suspicious activity identified during the review; and
- (ii) any and all necessary corrections or amendments to SARs



previously filed are made to ensure that the previously identified suspicious activity is accurately reported in accordance with 12 C.F.R. § 21.11.

- (b) the written findings shall be reported to the Board; and
- (c) the Bank will provide the Examiner-in-Charge with a report, containing relevant information, including the number of any additional SARs and of modified or amended SARs filed as a result of the review.

(4) Based upon the results of the Look-Back, the OCC may require a longer look-back period or expand the scope of the review. If an additional look-back is deemed appropriate by the OCC, the Bank shall complete the look-back in accordance with this Article.

### ARTICLE XIII

#### APPROVAL, IMPLEMENTATION, AND REPORTS

(1) The Bank shall submit the written plans, programs, policies, and procedures required by this Order for review and determination of no supervisory objection to the Examiner-in-Charge within the applicable time periods set forth in Articles III through XII. The Board shall ensure that the Bank submits the plans, programs, policies, and procedures to the Examiner-in-Charge for prior written determination of no supervisory objection. In the event the Deputy Comptroller or Examiner-in-Charge asks the Bank to revise the plans, programs, policies, or procedures, the Bank shall promptly make necessary and appropriate revisions and resubmit the materials to the Examiner-in-Charge for review and determination of no supervisory objection. Upon receiving written notice of no supervisory objection from the Deputy Comptroller or Examiner-in-Charge, the Board shall ensure that the Bank implements and thereafter adheres to the plans, programs, policies, and procedures.

(2) During the term of this Order, the required plans, programs, policies, and procedures shall not be amended or rescinded in any material respect without a prior written determination of no supervisory objection from the Deputy Comptroller or Examiner-in-Charge.

(3) During the term of this Order, the Bank shall revise the required plans, programs, policies, and procedures as necessary to incorporate new, or changes to, applicable legal requirements and supervisory guidelines.

(4) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the plans, programs, policies, and procedures required by this Order.

(5) All communication regarding this Order shall be sent to:

Gregory Coleman  
Examiner-in-Charge  
National Bank Examiners  
1680 Capital One Drive  
3<sup>rd</sup> Floor  
McLean, VA 22101

or such other individuals or addresses as directed by the OCC.

#### ARTICLE XIV

##### OTHER PROVISIONS

(1) Although this Order requires the Bank to submit certain actions, plans, programs, and policies for the review or prior written determination of no supervisory objection by the Deputy Comptroller or the Examiner-in-Charge, the Board has the ultimate responsibility for proper and sound management of the Bank.

(2) If, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him by the several laws of the United States to undertake any action

affecting the Bank, nothing in this Order shall in any way inhibit, estop, bar, or otherwise prevent the Comptroller from so doing.

(3) This Order constitutes a settlement of the cease and desist proceeding against the Bank contemplated by the Comptroller, based on the practices and violations of law or regulation described in the Comptroller's Findings set forth in Article I of this Order. The Comptroller releases and discharges the Bank from all potential liability for a cease and desist order that has been or might have been asserted by the Comptroller based on the practices and violations described in in Article I of the Order, to the extent known to the Comptroller as of the effective date of the Order. Nothing in the Stipulation or this Order, however, shall prevent the Comptroller from:

- (a) instituting enforcement actions, other than a cease and desist order, against the Bank based on the findings set forth in Article I of this Order;
- (b) instituting enforcement actions against the Bank based on any other findings;
- (c) instituting enforcement actions against the Bank's institution-affiliated parties based on the findings set forth in Article I of this Order, or any other findings; or
- (d) utilizing the findings set forth in Article I of this Order in future enforcement actions against the Bank or its institution-affiliated parties to establish a pattern or the continuation of a pattern.

Further, nothing in the Stipulation or this Order shall affect any right of the Comptroller to determine and ensure compliance with the terms and provisions of the Stipulation and this Order.

(4) This Order is and shall become effective upon its execution by the Comptroller, through his authorized representative whose hand appears below. The Order shall remain effective and enforceable, except to the extent that, and until such time as, any provision of this Order shall be amended, suspended, waived, or terminated in writing by the Comptroller or his authorized representative.

(5) Any time limitations imposed by this Order shall begin to run from the effective date of this Order, as shown below, unless the Order specifies otherwise. The time limitations may be extended in writing by the Deputy Comptroller for good cause upon written application by the Board. Any request to extend any time limitation shall include a statement setting forth in detail the special circumstances that prevent the Bank from complying with the time limitation, and shall be accompanied by relevant supporting documentation. The Deputy Comptroller's decision regarding the request is final and not subject to further review.

(6) The terms and provisions of this Order apply to Capital One, N.A., McLean, VA and Capital One Bank (U.S.A.), Glen Allen, VA and all their subsidiaries, even though those subsidiaries are not named as parties to this Order. The Bank shall integrate any activities done by a subsidiary into its plans, policies, programs, and processes required by this Order. The Bank shall ensure that its subsidiaries comply with all terms and provisions of this Order.

(7) This Order is intended to be, and shall be construed to be, a final order issued pursuant to 12 U.S.C. § 1818(b), and expressly does not form, and may not be construed to form, a contract binding the Comptroller or the United States. Without limiting the foregoing, nothing in this Order shall affect any action against the Bank or its institution-affiliated parties by a bank regulatory agency, the United States Department of Justice, or any other law enforcement agency.

(8) The terms of this Order, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements, or prior arrangements between the parties, whether oral or written.

IT IS SO ORDERED, this 10th day of July, 2015.

S/Ron A. Pasch

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Ron A. Pasch  
Deputy Comptroller  
Large Bank Supervision

**UNITED STATES OF AMERICA  
DEPARTMENT OF THE TREASURY  
COMPTROLLER OF THE CURRENCY**

|                                 |   |               |
|---------------------------------|---|---------------|
| In the Matter of:               | ) |               |
|                                 | ) |               |
| Capital One, N.A.               | ) | AA-EC-2015-48 |
| McLean, Virginia                | ) |               |
|                                 | ) |               |
| Capital One Bank (U.S.A.), N.A. | ) |               |
| Glen Allen, Virginia            | ) |               |

**STIPULATION AND CONSENT TO THE ISSUANCE  
OF A CONSENT ORDER**

**WHEREAS**, the Comptroller of the Currency of the United States of America (“Comptroller”), based upon information derived from the exercise of his regulatory and supervisory responsibilities, intends to issue a cease and desist order to Capital One, N.A., McLean, Virginia and Capital One Bank (U.S.A.), N.A., Glen Allen, Virginia (collectively referred to as “Bank”), pursuant to 12 U.S.C. § 1818(b), for violations of 12 U.S.C. § 1818(s) and Bank Secrecy Act regulations 12 C.F.R. §§ 21.11 and 21.21;

**WHEREAS**, in the interest of cooperation and to avoid additional costs associated with administrative and judicial proceedings with respect to the above matter, the Bank, through its duly elected and acting Boards of Directors (collectively referred to as Board”), has agreed to execute this Stipulation and Consent to the Issuance of a Consent Order (“Stipulation”), that is accepted by the Comptroller, through his duly authorized representative;

**NOW, THEREFORE**, in consideration of the above premises, it is stipulated by the Bank that:

## ARTICLE I

### JURISDICTION

(1) The Bank is a national banking association chartered and examined by the Comptroller pursuant to the National Bank Act of 1864, as amended, 12 U.S.C. § 1 *et seq.*

(2) The Comptroller is “the appropriate Federal banking agency” regarding the Bank pursuant to 12 U.S.C. §§ 1813(q) and 1818(b).

(3) The Bank is an “insured depository institution” within the meaning of 12 U.S.C. § 1818(b)(1).

## ARTICLE II

### CONSENT

(1) The Bank, without admitting or denying any wrongdoing, consents and agrees to issuance of the accompanying Consent Order by the Comptroller.

(2) The terms and provisions of the Consent Order apply to Capital One, N.A., McLean, VA and Capital One Bank (U.S.A.), N.A., Glen Allen, VA and all their subsidiaries, even though those subsidiaries are not named as parties to the Consent Order.

(3) The Bank consents and agrees that the Consent Order shall be deemed an “order issued with the consent of the depository institution” pursuant to 12 U.S.C. § 1818(h)(2), and consents and agrees that the Consent Order shall become effective upon its execution by the Comptroller through his authorized representative, and shall be fully enforceable by the Comptroller pursuant to 12 U.S.C. § 1818(i).

(4) Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under his supervisory powers, including 12 U.S.C. § 1818(b), and not as

a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the Comptroller has any intention to enter into a contract.

(5) The Bank declares that no separate promise or inducement of any kind has been made by the Comptroller, or by his agents or employees, to cause or induce the Bank to consent to the issuance of the Consent Order and/or execute this Stipulation.

(6) The Bank expressly acknowledges that no officer or employee of the Comptroller has statutory or other authority to bind the United States, the United States Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the Comptroller's exercise of his supervisory responsibilities.

(7) The Consent Order constitutes a settlement of the cease and desist proceeding against the Bank contemplated by the Comptroller, based on the practices and violations of law or regulation described in the Comptroller's Findings set forth in Article I of the Consent Order. The Comptroller releases and discharges the Bank from all potential liability for a cease and desist order that has been or might have been asserted by the Comptroller based on the practices and violations described in Article I of the Consent Order, to the extent known to the Comptroller as of the effective date of the Consent Order. Nothing in this Stipulation or the Order, however, shall prevent the Comptroller from:

- (a) instituting enforcement actions, other than a cease and desist order, against the Bank based on the findings set forth in Article I of the Order;
- (b) instituting enforcement actions against the Bank based on any other findings;



- (c) instituting enforcement actions against the Bank's institution-affiliated parties based on the findings set forth in Article I of the Order, or any other findings; or
- (d) utilizing the findings set forth in Article I of the Order in future enforcement actions against the Bank or its institution-affiliated parties to establish a pattern or the continuation of a pattern.

Further, nothing in this Stipulation or the Order shall affect any right of the Comptroller to determine and ensure compliance with the terms and provisions of this Stipulation and the Order.

### ARTICLE III

#### WAIVERS

- (1) The Bank, by executing this Stipulation and consenting to the Consent Order, waives:
  - (a) Any and all rights to the issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818(b);
  - (b) Any and all procedural rights available in connection with the issuance of the Consent Order;
  - (c) Any and all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(b) and (h), 12 C.F.R. Part 19;
  - (d) Any and all rights to seek any type of administrative or judicial review of the Consent Order;
  - (e) Any and all claims for fees, costs, or expenses against the Comptroller, or any of his agents or employees, related in any way to this enforcement matter or the Consent Order, whether arising under common law or under

the terms of any statute, including, but not limited to, the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412;

- (f) Any and all rights to assert this proceeding, this Stipulation, consent to the issuance of the Consent Order, and/or the issuance of the Consent Order, as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity; and
- (g) Any and all rights to challenge or contest the validity of the Consent Order.

#### ARTICLE IV

##### ELIGIBLE BANK - OTHER PROVISIONS

- (1) As a result of the Consent Order:
  - (a) The Bank is an “eligible bank” pursuant to 12 C.F.R. § 5.3(g)(4) for the purposes of 12 C.F.R. Part 5 regarding rules, policies, and procedures for corporate activities, unless otherwise informed in writing by the Office of the Comptroller of the Currency (“OCC”);
  - (b) The Bank is not subject to the limitation of 12 C.F.R. § 5.51(c)(6)(ii) for the purposes of 12 C.F.R. § 5.51 requiring OCC approval of a change in directors and senior executive officers, unless otherwise informed in writing by the OCC;
  - (c) The Bank is not subject to the limitation on golden parachute and indemnification payments provided by 12 C.F.R. § 359.1(f)(1)(ii)(C) and 12 C.F.R. § 5.51(c)(6)(ii), unless otherwise informed in writing by the

OCC;

- (d) The Bank's status as an "eligible bank" remains unchanged pursuant to 12 C.F.R. § 24.2(e)(4) for the purposes of 12 C.F.R. Part 24 regarding community and economic development, unless otherwise informed in writing by the OCC; and
- (e) The Consent Order shall not be construed to be a "written agreement, order, or capital directive" within the meaning of 12 C.F.R. § 6.4, unless the OCC informs the Bank otherwise in writing.

## ARTICLE V

### CLOSING

(1) Except as contemplated by paragraph (7) of Article II of this Stipulation, the provisions of this Stipulation and the Consent Order shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any other action affecting the Bank if, at any time, he deems it appropriate to do so to fulfill the responsibilities placed upon him by the several laws of the United States of America.

(2) Nothing in this Stipulation or the Consent Order shall preclude any proceedings brought by the Comptroller to enforce the terms of the Consent Order, and nothing in this Stipulation or the Consent Order constitutes, nor shall the Bank contend that it constitutes, a release, discharge, compromise, settlement, dismissal, or resolution of any actions, or in any way affects any actions that may be or have been brought by any other representative of the United States or an agency thereof, including, without limitation, the United States Department of Justice.

(3) The terms of this Stipulation, including this paragraph, and of the Consent Order are not subject to amendment or modification by any extraneous expression, prior agreements or prior arrangements between the parties, whether oral or written.

IN TESTIMONY WHEREOF, the undersigned, as the duly elected and acting Board of Directors of Capital One, N.A., McLean, Virginia, have hereunto set their hands on behalf of the Bank.

/s/  
Richard D. Fairbank

7/8/15  
Date

/s/  
Stephen S. "Steve" Crawford

7/8/15  
Date

/s/  
Ann Fritz Hackett

7/8/15  
Date

/s/  
Lewis Hay, III

7/8/15  
Date

/s/  
Benjamin P. Jenkins III

7/8/15  
Date

/s/  
Mayo A. Shattuck III

7/8/15  
Date

/s/  
Sanjiv Yajnik

7/8/15  
Date

IN TESTIMONY WHEREOF, the undersigned, as the duly elected and acting Board of Directors of Capital One Bank (U.S.A.), N.A., Glen Allen, Virginia, have hereunto set their hands on behalf of the Bank.

\_\_\_\_\_  
Richard D. Fairbank

\_\_\_\_\_  
Date

\_\_\_\_\_  
Stephen S. "Steve" Crawford

\_\_\_\_\_  
Date

\_\_\_\_\_  
Patrick W. Gross

\_\_\_\_\_  
Date

\_\_\_\_\_  
Pierre E. Leroy

\_\_\_\_\_  
Date

\_\_\_\_\_  
Peter E. Raskind

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ryan M. Schneider

\_\_\_\_\_  
Date

\_\_\_\_\_  
Bradford H. Warner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Catherine G. West

\_\_\_\_\_  
Date

Accepted by:

THE COMPTROLLER OF THE CURRENCY

S/Ron A. Pasch

7/10/2015

By: \_\_\_\_\_

\_\_\_\_\_

Ron A. Pasch  
Deputy Comptroller  
Large Bank Supervision

Date