APPLICATION

to the

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

for prior approval for

CAPITAL ONE FINANCIAL CORPORATION

to acquire

DISCOVER FINANCIAL SERVICES

pursuant to
Section 3 of the Bank Holding Company Act
and
Section 225.15 of Regulation Y

March 20, 2024

Board of Governors of the Federal Reserve System

Application to Become a Bank Holding Company and/or Acquire an Additional Bank or Bank Holding Company—FR Y-3

Capital One Financial Corporation
Corporate Title of Applicant

1680 Capital One Drive
Street Address

McLean	VA	22102
City	State	Zip Code

Corporation
(Type of organization, such as corporation, partnership, business trust, association, or trust)

Hereby applies to the Board pursuant to:

☐ (1) Section 3(a)(1) of the Bank Holding Company Act of 1956, as amended, (''BHC Act''—12 U.S.C. § 1842), under ''Procedures for other bank acquisition proposals'' as described in section 225.15 of Regulation Y;

☑ (2) Section 3(a)(3) of the BHC Act, under ''Procedures for other bank acquisition proposals'' as described in section 225.15 of Regulation Y; or

☑ (3) Section 3(a)(5) of the BHC Act, under ''Procedures for other bank acquisition proposals'' as described in section 225.15 of Regulation Y.

for prior approval of the acquisition of direct or indirect ownership, control, or power to vote at least 250,555,294 (Number) (100%) (Percent) of a class of voting shares or otherwise to control:

Discover Financial Services

2500 Lake Cook Road

Riverwoods	IL	60015
City	State	Zip Code

Does applicant request confidential treatment for any portion of this submission?

☑ Yes

☑ As required by the General Instructions, a letter justifying the request for confidential treatment is included.

☑ The information for which confidential treatment is being sought is separately bound and labeled "Confidential."

☐ No

Name, title, address, telephone number and facsimile number of person(s) to whom inquiries concerning this notification may be directed:

Rosemary Spaziani, Esq.
Wachtell, Lipton, Rosen & Katz, 51 W. 52nd Street, New York, NY 10019
(212) 403-1342, (212) 403-2354 (fax)
rspaziani@wlrk.com

with a copy to:

Richard K. Kim, Esq.
Wachtell, Lipton, Rosen & Katz, 51 W. 52nd Street, New York, NY 10019
(212) 403-1354, (212) 403-2354 (fax)
rkim@wlrk.com

Certification

I certify that the information contained in this notification has been examined carefully by me and is true, correct, and complete, and is current as of the date of this submission to the best of my knowledge and belief. I acknowledge that any misrepresentation or omission of a material fact constitutes fraud in the inducement and may subject me to legal sanctions provided by 18 USC 1001 and 1007.

I also certify, with respect to any information pertaining to an individual and submitted to the Board in (or in connection with) this notification, that the notificant has the authority, on behalf of the individual, to provide such information to the Board and to consent or to object to public release of such information. I certify that the notificant and the involved individual consent to public release of any such information, except to the extent set forth in a written request by the notificant or the individual, submitted in accordance with the Instructions to this form and the Board's Rules Regarding Availability of Instructions to this form and the Board's Rules Regarding Availability of Information (12 CFR Part 261), requesting confidential treatment for the information.

I acknowledge that approval of this notification is in the discretion of the Board of Governors of the Federal Reserve System (the "Federal Reserve"). Actions or communications, whether oral, written, or electronic, by the Federal Reserve or its employees in connection with this filing, including approval if granted, do not constitute a contract, either express or implied, or any other obligation binding upon the agency, the United States or any other entity of the United States, or any officer or employee of the United States. Such actions or communications will not affect the ability of the Federal Reserve to exercise its supervisory, regulatory, or examination powers under applicable laws and regulations. I further acknowledge that the foregoing may not be waived or modified by any employee or agency of the Federal Reserve or of the United States.

Signed this 20th day of March, 2024.

DocuSigned by:
Matt Cooper
D150659537B4416...
cutive Officer or Designee

Matthew Cooper, General Counsel & Corporate Secretary
Typed Name and Title

Board of Governors of the Federal Reserve System

Application to Become a Bank Holding Company and/or Acquire an Additional Bank or Bank Holding Company—FR Y-3

Vega Merger Sub, Inc.

1680 Capital One Drive

McLean	VA	22102
City	State	Zip Code

Corporation
(Type of organization, such as corporation, partnership, business trust, association, or trust)

Hereby applies to the Board pursuant to:

☐ (1) Section 3(a)(1) of the Bank Holding Company Act of 1956, as amended, (''BHC Act''—12 U.S.C. §1842), under ''Procedures for other bank acquisition proposals'' as described in section 225.15 of Regulation Y;

☑ (2) Section 3(a)(3) of the BHC Act, under ''Procedures for other bank acquisition proposals'' as described in section 225.15 of Regulation Y; or

☑ (3) Section 3(a)(5) of the BHC Act, under ''Procedures for other bank acquisition proposals'' as described in section 225.15 of Regulation Y.

for prior approval of the acquisition of direct or indirect ownership, control, or power to vote at least 250,555,294 (Number) (100%) (Percent) of a class of voting shares or otherwise to control:

Discover Financial Services

2500 Lake Cook Road

Riverwoods	IL	60015
City	State	Zip Code

Does applicant request confidential treatment for any portion of this submission?

☑ Yes

☑ As required by the General Instructions, a letter justifying the request for confidential treatment is included.

☑ The information for which confidential treatment is being sought is separately bound and labeled "Confidential."

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Name, title, address, telephone number and facsimile number of person(s) to whom inquiries concerning this notification may be directed:

Rosemary Spaziani, Esq.
Wachtell, Lipton, Rosen & Katz, 51 W. 52nd Street, New York, NY 10019
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with a copy to:

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I certify that the information contained in this notification has been examined carefully by me and is true, correct, and complete, and is current as of the date of this submission to the best of my knowledge and belief. I acknowledge that any misrepresentation or omission of a material fact constitutes fraud in the inducement and may subject me to legal sanctions provided by 18 USC 1001 and 1007.

I also certify, with respect to any information pertaining to an individual and submitted to the Board in (or in connection with) this notification, that the notificant has the authority, on behalf of the individual, to provide such information to the Board and to consent or to object to public release of such information. I certify that the notificant and the involved individual consent to public release of any such information, except to the extent set forth in a written request by the notificant or the individual, submitted in accordance with the Instructions to this form and the Board's Rules Regarding Availability of Instructions to this form and the Board's Rules Regarding Availability of Information (12 CFR Part 261), requesting confidential treatment for the information.

I acknowledge that approval of this notification is in the discretion of the Board of Governors of the Federal Reserve System (the "Federal Reserve"). Actions or communications, whether oral, written, or electronic, by the Federal Reserve or its employees in connection with this filing, including approval if granted, do not constitute a contract, either express or implied, or any other obligation binding upon the agency, the United States or any other entity of the United States, or any officer or employee of the United States. Such actions or communications will not affect the ability of the Federal Reserve to exercise its supervisory, regulatory, or examination powers under applicable laws and regulations. I further acknowledge that the foregoing may not be waived or modified by any employee or agency of the Federal Reserve or of the United States.

Signed this 20th day of March, 2024.

DocuSigned by:
Matt Cooper
D150659537B4416...
Signature of Chief Executive Officer or Designee

Matthew Cooper, Secretary
Typed Name and Title

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Request for Confidential Treatment

Confidential treatment is being requested under the federal Freedom of Information Act, 5 U.S.C. § 552 (the "FOIA"), and the implementing regulations of the Board of Governors of the Federal Reserve System (the "Federal Reserve"), for the information contained in the Confidential Exhibits Volume to this application (the "Confidential Materials"). The Confidential Materials include, for example, nonpublic pro forma financial information and information regarding the business strategies and plans of (1) Capital One Financial Corporation ("COFC"), Vega Merger Sub, Inc. ("Merger Sub") and Capital One, National Association ("CONA") and (2) Discover Financial Services ("Discover") and Discover Bank ("Discover Bank"), and other information regarding additional matters of a similar nature, which is commercial or financial information that is both customarily and actually treated as private by COFC, Merger Sub, CONA, Discover and Discover Bank and provided to the government under an assurance of privacy. Certain information in the Confidential Materials also includes confidential supervisory information, which is protected from disclosure as defined in the Federal Reserve's regulations at 12 CFR § 261.2. None of this information is the type of information that would otherwise be made available to the public under any circumstances. All such information, if made public, could result in substantial and irreparable harm to COFC, Merger Sub, CONA, Discover and Discover Bank. Other exemptions from disclosure under the FOIA may also apply. In addition, investors and potential investors could be influenced or misled by such information, which is not reported in any documents filed or to be filed in accordance with the disclosure requirements of applicable securities laws, as a result of which COFC, Merger Sub, CONA, Discover and Discover Bank could be exposed to potential inadvertent violations of law or exposure to legal claims. Accordingly, confidential treatment is respectfully requested for the Confidential Materials under the FOIA and the Federal Reserve's implementing regulations.

Please contact Rosemary Spaziani (212-403-1342) or Richard K. Kim (212-403-1354) before any public release of any of this information pursuant to a request under the FOIA or a request or demand for disclosure by any governmental agency, congressional office or committee, court or grand jury. Such prior notice is necessary so that COFC, Merger Sub, CONA, Discover and Discover Bank may take appropriate steps to protect such information from disclosure.

PRELIMINARY STATEMENT

Capital One Financial Corporation ("COFC" and, together with its subsidiaries "Capital One" or the "Company") and Vega Merger Sub, Inc. ("Merger Sub") are hereby submitting this application (the "Application") to the Board of Governors of the Federal Reserve System (the "Federal Reserve"), respectfully requesting approval to acquire Discover Financial Services ("Discover") via a merger, and thereby acquiring control of its wholly owned subsidiary, Discover Bank ("Discover Bank"), a Delaware state-chartered nonmember bank. COFC will acquire Discover through a merger of Merger Sub, a newly formed, wholly owned merger subsidiary, with and into Discover, with Discover continuing as the surviving corporation and a subsidiary of COFC (the "First Step Merger"). Immediately following the First Step Merger and as part of a single, integrated transaction, Discover will merge with and into COFC, with COFC continuing as the surviving corporation (the "Second Step Merger"). Immediately following the Second Step Merger, Discover's wholly owned bank subsidiary, Discover Bank, will merge with and into COFC's wholly owned bank subsidiary, Capital One, National Association ("CONA"), with CONA continuing as the surviving bank (the "Bank Merger," and together with the First Step Merger and the Second Step Merger, the "Proposed Transaction"). Both COFC and Merger Sub are applying for such prior Federal Reserve approvals pursuant to section 3 of the Bank Holding Company Act of 1956, as amended (the "BHC Act"), and the Federal Reserve's Regulation Y. COFC is also concurrently submitting a notification pursuant to section 4(c)(8) of the BHC Act and the Federal Reserve's Regulation Y of its intention to acquire Discover's nonbanking businesses (the "Notification"). For the purposes of this Application, references to Capital One refer to the consolidated organization, inclusive of COFC and CONA.

An application is being submitted to the Office of the Comptroller of the Currency (the "OCC") for prior approval of the Bank Merger pursuant to section 18(c) of the Federal Deposit Insurance Act (the "Bank Merger Act").[1] The boards of directors of the respective companies have approved the Proposed Transaction.

COFC, Merger Sub and Discover entered into the Agreement and Plan of Merger on February 19, 2024 (the "Agreement"), for COFC to acquire Discover through a merger and, thereby indirectly acquire Discover Bank. Each outstanding share of Discover's common stock ("Discover Common Stock") will be converted into the right to receive 1.0192 shares (the "Exchange Ratio") of COFC common stock (the "COFC Common Stock"). Each share of Discover preferred stock will be automatically converted into the right to receive one (1) share of the applicable series of new COFC preferred stock and each outstanding Discover depositary share will be automatically converted into a new COFC depositary share. Each Discover restricted stock unit award (a "Discover RSU award") that is outstanding immediately prior to the effective time will be converted into a restricted stock unit award with respect to COFC Common Stock (a "COFC RSU award"), with the number of shares underlying such award adjusted based on the Exchange Ratio. Each such COFC RSU award will otherwise continue to be subject to the same terms and conditions (including vesting terms) as applied to the corresponding Discover RSU award. Each Discover performance stock unit award (a "Discover PSU award") that is outstanding immediately prior to the effective time will be converted into a cash-based award (a "COFC cash-based award") in respect of an amount in cash equal to the

[1] 12 U.S.C. § 1828(c).

product of (i) the total number of shares subject to the Discover PSU award, with the number of shares of Discover Common Stock determined based on the greater of target and actual performance through the last quarter ending simultaneously with or prior to the effective time for Discover PSU awards for which as of the effective time more than one year of the performance period has elapsed, and target performance for Discover PSU awards for which as of the effective time one year or less of the performance period has elapsed, multiplied by the product of the Exchange Ratio and the average of the closing sale prices of COFC Common Stock for the five full trading days ending on the day preceding the closing date. Each converted COFC cash-based award will otherwise continue to be subject to the same terms and conditions (including service-based vesting terms) as applied to the corresponding Discover PSU award. A copy of the Agreement is in Exhibit 1.

The Proposed Transaction will substantially enhance Capital One's ability to distribute its broad suite of consumer and business banking products and services, and better position the combined organization to compete with the largest banking organizations in the United States. Capital One will scale and leverage the benefits of its eleven-year technology transformation across all of Discover's businesses and the Discover payments networks to provide customers and merchants expanded products and services within Capital One's robust risk management framework. These investments in the Discover payments networks also promise to promote competition and financial stability by deconcentrating these already concentrated markets.

Executive Summary

With this Application, COFC and Merger Sub are seeking the Federal Reserve's prior approval for the Proposed Transaction, pursuant to section 3 of the BHC Act. Upon the consummation date of the Proposed Transaction (the "Closing"), the existing subsidiaries of Discover would become subsidiaries of COFC. As part of the Proposed Transaction, following the Bank Merger, CONA would be the surviving bank and would become the parent company to Discover Bank's existing subsidiaries. Prior to Closing, COFC and Discover (and their respective subsidiaries) will establish an integration plan to ensure continued safe and sound operations following consummation of the Proposed Transaction and extensive integration preparation efforts are already underway, as further described herein.

For all the reasons discussed herein, COFC and Merger Sub submit that the Proposed Transaction and Application satisfy each of the criteria that the Federal Reserve is required to consider under section 3 of the BHC Act. The Proposed Transaction is a strategic combination of two banking organizations with customer-centric business models that are dedicated to the enhancement of the communities in which they operate. The combined credit card business will be in a better position to deliver industry-leading products and experiences that span the credit card marketplace across consumers, small businesses, and merchants.

In acting on the Application, the Federal Reserve must consider the requirements for an interstate transaction, the financial and managerial resources and future prospects of the institutions involved and their effectiveness in combatting money laundering, the competitive effects of the Proposed Transaction, the extent to which the Proposed Transaction would result in greater or more concentrated risks to the stability of the U.S. banking or financial system, the effects of the Proposed Transaction on the convenience and needs of the communities to be served, and the relevant banks' records of performance under the Community Reinvestment Act of 1977 (the "CRA").[2]

The Proposed Transaction meets the requirements for an interstate banking transaction under section 3(d) of the BHC Act. The Proposed Transaction would result in CONA holding less than 3% of deposits nationwide – far less than the 10% nationwide deposit cap in section 3(d) of the BHC Act. In contrast, at the present time, there are two interstate banking organizations with over 10% of nationwide deposits: JPMorgan Chase & Co. ("JPMC") and Bank of America Corporation ("BOA") and one, Wells Fargo & Co. ("Wells Fargo"), with more than 8%. In addition, the Proposed Transaction would be consistent with the state deposit cap concentration, age and community reinvestment statute requirements for a permissible interstate transaction. Upon consummation of the Proposed Transaction COFC would hold $458 billion of consolidated deposits, or approximately 2.6% of nationwide deposits as of December 31, 2023, which would be well under the nationwide deposit concentration limit.[3]

Capital One has ample financial and managerial resources to consummate the Proposed Transaction and successfully integrate Discover, Discover Bank and their subsidiaries. It is a financially strong and well managed banking organization. COFC and CONA have highly experienced Boards of Directors and management teams to oversee the integration with a long track record of successfully integrating acquired institutions.

COFC and CONA have capital ratios well in excess of the minimum capital ratios required in the supervisory stress testing exercises as demonstrated by their most recent capital plan submitted as part of the Federal Reserve's annual capital plan submission process under its capital plan rule. On consummation of the Proposed Transaction, the capital and liquidity resources and ratios of COFC and CONA will remain well above regulatory requirements and consistent with supervisory expectations. COFC and CONA will continue to maintain prudent capital and liquidity planning and associated risk management practices, including capital and liquidity stress testing programs.

Capital One will continue to have strong managerial resources and risk management systems to continue operating in a safe and sound manner and complete a successful integration of Discover. Capital One has a robust risk management program in place, including for capital, liquidity, credit, market, operational and compliance risks. To assist in the decision-making process for the Proposed Transaction and planning for a successful integration, Capital One, including CONA management, led a comprehensive due diligence review of all lines of business and functional areas of Discover and Discover Bank, including credit, compliance, risk management, Bank Secrecy Act/anti-money laundering ("BSA/AML"), cyber security, liquidity, operations, human resources, finance, internal audit and legal. A summary of key findings is included as Confidential Exhibit A.

[2] 12 U.S.C. § 2901 *et seq.*

[3] Calculation represents Total Liabilities Before Exclusions less Total Allowable Exclusions plus Interest Accrued and Unpaid on Deposits aggregated for all FDIC-insured banks and thrifts and reported on their Consolidated Report of Condition and Income for the quarter ended December 31, 2023. As of December 31, 2023, banks and thrifts held $17.7 trillion in adjusted domestic deposits.

Capital One has implemented and maintains a strong and effective compliance risk management program, including for compliance with the BSA and other AML laws; sanctions restrictions issued by the U.S. Department of Treasury's Office of Foreign Assets Control (together, "BSA/AML/Sanctions Compliance"); and fair lending and other consumer protection laws ("Consumer Compliance"). Capital One also has a strong Enterprise Risk Management Framework that is applied across all risk categories and all three Lines of Defense to ensure effective risk identification, management and reporting. Capital One will begin to apply its Risk Management Framework and policies to Discover's businesses and risk management functions immediately upon Closing, and will fully integrate Discover's risk management functions into Capital One's programs through a comprehensive integration plan.

The Proposed Transaction will not substantially lessen competition in any market. To the contrary, it promises to promote competition in two significant segments of the financial services industry—debit and credit card networks—that would meaningfully benefit from the injection of investment that COFC promises to bring. The parties do not overlap in any local banking market as defined by the Federal Reserve Banks, and competition for deposits nationwide will remain robust after the Proposed Transaction. The Proposed Transaction will similarly not substantially lessen competition with respect to credit card issuing. Share and concentration levels for credit card issuing are well below safe harbor thresholds and the industry is intensely competitive and dynamic ─ in part due to the ease with which issuers and consumers can switch among products and services. In fact, the Proposed Transaction will *increase* competition among credit and debit networks by strengthening Discover's payments networks to the benefit of the network users (both cardholders and merchants), thereby facilitating more robust competition against Visa and Mastercard, the two leading operators of debit and credit networks. Following the Proposed Transaction, CONA's pro forma assets will be approximately $640 billion, which is still less than one-third of the average domestic assets held by each of the four largest U.S. banks.

In addition, the Proposed Transaction would not pose any significant risk to the stability of the U.S. banking or financial system. Capital One is a highly diversified financial services provider based in the United States, subject to the oversight of the Federal Reserve and the OCC. Both CONA and Discover Bank provide traditional banking services, for which there are numerous competitors in all cases. Upon consummation of the Proposed Transaction, Capital One would be less than one-third of the average size of the four largest U.S. banks[4] and would remain a Category III banking organization for regulatory purposes; and its globally systemically important bank ("GSIB") score would remain well below the threshold to be considered systemically important. CONA's insured deposits would be approximately 79% of its total deposits, which is expected to be the highest insured deposit percentage amongst the 10 largest U.S. banks. Moreover, while the Proposed Transaction would result in adjustments to Capital One's overall resolution planning, it would not complicate any resolution process in the event of serious financial distress.

The resulting institution will benefit the convenience and needs of the communities served by CONA and Discover Bank, including their customers, communities and employees, by combining two organizations with strong customer-oriented cultures and compatible business models. Both CONA and Discover Bank have a strong commitment to serving the needs of their

[4] Based on consolidated asset size as of December 31, 2023.

communities as demonstrated by each bank's strong CRA performance record, as well as each organization's ongoing community engagement activities. Moreover, CONA is committed to integrating Discover Bank and its activities into Capital One's risk, compliance and CRA framework. Both organizations are committed to supporting the needs of historically underrepresented groups and continue to innovate solutions to support diversity within their businesses and each of their respective geographies. There are no planned branch closures in connection with the Proposed Transaction and Discover Bank customers will have access to a broader set of financial products and services, including, but not limited to, full service digital banking products and a robust network of 259 branches (as of June 2024, reflecting previously determined actions unrelated to the Proposed Transaction), and 55 Capital One Cafés (as of June 2024, reflecting previously determined actions unrelated to the Proposed Transaction). CONA has a long and proud history of innovation designed to benefit the consumer, and its flagship 360 Checking account is Bank On certified. CONA was also the first major bank to completely eliminate overdraft fees.

Based on the foregoing and as explained in more detail below and in the exhibits to the Application, the Proposed Transaction will satisfy all of the factors the Federal Reserve is required to consider and, accordingly, the Application is fully consistent with approval and should be approved.

The Companies

Capital One Financial Corporation

COFC is a Delaware corporation and the top-tier holding company for the Capital One organization, a leading financial services provider headquartered in McLean, Virginia.

Established in 1994, Capital One is a diversified financial services provider with a history of strong and sustainable financial performance that strategically positions it for growth across its core businesses. Capital One offers a broad array of financial products and services to consumers, small businesses and commercial clients through digital channels, branch locations, cafés and other distribution channels. Capital One has continued to bring technological innovations to the world of finance by being one of the first large enterprises to move entirely to the public cloud.

Capital One is registered as a bank holding company under the BHC Act and a financial holding company under the Gramm-Leach-Bliley Act amendments to the BHC Act. COFC operates through CONA, its national bank subsidiary, and other nonbank subsidiaries. Capital One's international activities are performed primarily through Capital One (Europe) plc ("COEP"), an indirect subsidiary of CONA that provides consumer lending products in the United Kingdom, and Capital One Bank (Canada Branch), a foreign branch office of CONA that provides consumer lending products in Canada.

At December 31, 2023, COFC had total assets on a consolidated basis of approximately $478.5 billion, consolidated total deposits of approximately $348.4 billion, and consolidated total shareholders' equity of approximately $58.1 billion. Capital One exceeds the requirements to be "well capitalized" under the Federal Reserve's regulations for bank holding companies.[5] As of December 31, 2023, COFC had, on a consolidated basis, a Tier 1 risk-based capital ratio of 14.2%, a total risk-based capital ratio of 16.0%, a leverage ratio of 11.2%, and a common equity tier 1 risk-based capital ratio of 12.9%.

COFC's common stock trades on the New York Stock Exchange under the symbol "COF" and is included in the S&P 500 Index.

Capital One, National Association

CONA is a national bank with its headquarters and main office in McLean, Virginia. CONA is a wholly owned subsidiary of COFC and currently operates licensed, domestic branches in seven states (Connecticut, Louisiana, Maryland, New Jersey, New York, Texas and Virginia) and the District of Columbia. CONA offers a broad spectrum of financial products and services directly to consumers, small businesses and commercial clients, including retail and commercial deposits, credit cards, auto loans, small business and commercial loans and cash management services.

Capital One also offers products and services outside of the United States principally through COEP, an indirect subsidiary of CONA organized and located in the United Kingdom, and through a branch of CONA in Canada. Both COEP and the Canadian branch of CONA have the authority to provide credit card loans.

As of December 31, 2023, CONA had total consolidated assets of approximately $475.6 billion and total deposits of approximately $374.2 billion.

CONA exceeds the requirements to be "well capitalized" under the regulations of the OCC.[6] As of December 31, 2023, CONA had a Common Equity Tier 1 risk-based capital ratio of 13.1%, Tier 1 risk-based capital ratio of 13.1%, a total risk-based capital ratio of 14.3% and a leverage ratio of 10.3%.

For additional information regarding CONA, please refer to Exhibit 2 for the public portions of the Consolidated Report of Condition and Income for CONA for the quarter ended December 31, 2023.

Discover Financial Services

Discover is a Delaware corporation, bank holding company and financial holding company, headquartered in Riverwoods, Illinois. Discover provides digital banking and payment services through its subsidiaries, including Discover Bank, and had total consolidated assets of approximately $151.5 billion and total deposits of approximately $109.0 billion as of December 31, 2023. Discover operates vertically integrated global payments networks.

As part of its payment services, Discover, through its subsidiaries, operates the Discover Network, the PULSE network ("PULSE") and Diners Club International ("Diners Club"),

[5] *See* 12 CFR § 225.2(r)(1).
[6] *See* 12 CFR § 6.4(b)(1).

collectively known as the "Discover Global Network." The Discover Network processes transactions for Discover-branded credit and debit cards and provides payment transaction processing and settlement services. PULSE operates an electronic funds transfer network, providing financial institutions issuing debit cards on the PULSE network with access to ATMs domestically and internationally, as well as merchant acceptance throughout the United States for debit card transactions. Diners Club is a global payments network of licensees, which are generally financial institutions, that issue Diners Club branded charge cards and/or provide card acceptance services. Discover provides Diners Club licensees with payment processing and settlement services for transactions as well as a centralized service center and technological services.

Discover Bank

Discover Bank is a Delaware state-chartered nonmember bank that is a wholly owned direct subsidiary of Discover. Discover Bank is regulated by the Federal Deposit Insurance Corporation ("FDIC") and the Delaware State Bank Commissioner. Discover Bank offers Discover-branded credit cards to individuals and small businesses, as well as home and personal loans, related add-on products, and obtains deposits from customers directly or through affinity relationships. Discover previously provided student loans, but stopped accepting new applications for private student loans as of February 1, 2024. Discover is targeting to complete the sale of its student loan business in the second half of 2024 but the sale process remains in the early stages. Discover Bank has a single retail location at its main office address in Greenwood, Delaware, and operates as a direct bank on a national basis. As a direct bank, Discover Bank offers and services its lending and deposit products and services nationwide primarily through use of digital channels, telephone, print materials, email, arrangements with third parties, and direct mail channels.

As of December 31, 2023, Discover Bank had $149.4 billion in assets representing 98.6% of Discover's assets on a consolidated basis. The asset portfolio primarily consists of $119.1 billion in net loan receivables, with net credit card receivables representing 79.4% of the net loan portfolio and 63.3% of total assets. Discover Bank had total liabilities of $136.6 billion, of which deposits accounted for approximately $112.6 billion. Discover Bank earned $2.6 billion in net income for the year ending December 2023, which represents approximately 90.1% of Discover's consolidated net income. For additional information regarding Discover Bank, please refer to Exhibit 3 for the public portions of the Consolidated Report of Condition and Income for Discover Bank for the quarter ended December 31, 2023.

Structure and Terms of the Proposed Transaction

Structure of the Proposed Transaction

In the Proposed Transaction, there will be three mergers. First, Merger Sub will merge with and into Discover, with Discover continuing as the surviving corporation to effectuate the First Step Merger. Immediately following the First Step Merger, and as part of a single, integrated transaction, the Second Step Merger will occur in which Discover will merge with and into COFC, with COFC continuing as the surviving corporation and, following the Second Step Merger, the separate corporate existence of Discover will cease. Immediately following the

Second Step Merger, the Bank Merger will take place in which Discover Bank will merge with and into CONA, with CONA continuing as the surviving entity and the separate corporate existence of Discover Bank will cease to exist.

Each outstanding share of Discover Common Stock will be converted into the right to receive the Exchange Ratio. Each share of Discover preferred stock will be automatically converted into the right to receive one (1) share of the applicable series of new COFC preferred stock and each outstanding Discover depositary share will be automatically converted into a new COFC depositary share. Each Discover RSU award that is outstanding immediately prior to the effective time will be converted into a COFC RSU award, with the number of shares underlying such award adjusted based on the Exchange Ratio. Each such COFC RSU award will otherwise continue to be subject to the same terms and conditions (including vesting terms) as applied to the corresponding Discover RSU award. Each Discover PSU award that is outstanding immediately prior to the effective time will be converted into a COFC cash-based award in respect of an amount in cash equal to the product of (i) the total number of shares subject to the Discover PSU award, with the number of shares of Discover Common Stock determined based on the greater of target and actual performance through the last quarter ending simultaneously with or prior to the effective time for Discover PSU awards for which as of the effective time more than one year of the performance period has elapsed, and target performance for Discover PSU awards for which as of the effective time one year or less of the performance period has elapsed, multiplied by the product of the Exchange Ratio and the average of the closing sale prices of COFC Common Stock for the five full trading days ending on the day preceding the closing date. Each converted COFC cash-based award will otherwise continue to be subject to the same terms and conditions (including service-based vesting terms) as applied to the corresponding Discover PSU award. See the summary of terms of the Proposed Transaction provided in Exhibit 4.

On consummation of the Proposed Transaction, the subsidiaries of Discover Bank will become subsidiaries of CONA ("Bank Subsidiaries") and the other direct and indirect subsidiaries of Discover will become direct or indirect subsidiaries of COFC. In Exhibits 5 and 6, please find: (i) the current organizational structure of Discover and (ii) the current organizational structure of COFC, respectively. A pro forma organizational chart of COFC is provided in Confidential Exhibit B.

Merger Agreement and Bank Merger Agreement

Concurrently with the execution of the Agreement, CONA and Discover Bank entered into an Agreement and Plan of Merger providing for the Bank Merger to occur following the effectiveness of the First Step Merger and the Second Step Merger and subject to the approval of the OCC and all other necessary authorizations and approvals. A copy of the Agreement is provided in Exhibit 1 and a copy of the Bank Merger Agreement is provided in Exhibit 7.

Resolutions approving the Proposed Transaction by COFC's Board of Directors and resolutions of the Board of Directors of CONA approving the Bank Merger and the filing of the related regulatory filings, as well as the related consent of COFC as the sole stockholder of CONA approving the Bank Merger, are provided in Exhibit 8, Exhibit 9 and Exhibit 10, respectively. Stockholder consent of COFC, as the sole stockholder of Merger Sub, and resolutions of Merger Sub's Board of Directors approving the First Step Merger are provided in Exhibit 11 and Exhibit 12, respectively.

Joint resolutions of the Boards of Directors of Discover and Discover Bank approving the Proposed Transaction, including the Bank Merger, and the filing of the Bank Merger application, as well as the related consent of Discover as the sole stockholder of Discover Bank, are provided in Exhibit 13 and Exhibit 14, respectively.

On February 22, 2024, COFC filed a Current Report on Form 8-K announcing the Proposed Transaction in connection with entering into the Agreement, which is provided in Exhibit 15. The Agreement contains customary representations and warranties from both COFC and Discover, and each party has agreed to customary covenants, including, among others, covenants relating to (1) the conduct of its business during the interim period between the execution of the Agreement and the Closing, (2) its obligations to call a meeting of its stockholders to, in the case of Discover, adopt the Agreement and the transactions contemplated thereby (the "Discover Stockholder Approval"), and, in the case of COFC, approve the issuance of shares of COFC Common Stock constituting the consideration to be received by Discover common stockholders in the Mergers, in accordance with applicable New York Stock Exchange rules and regulations (the "Capital One Stockholder Approval") and, subject to certain exceptions, for the Board of Directors of each of COFC and Discover to recommend that its stockholders vote in favor of such approvals, and (3) its non-solicitation obligations relating to alternative acquisition proposals.

Required Approvals

In addition to the Application, applications to regulatory agencies will include:

- A notice to the Federal Reserve under section 4(c)(8) of the BHC Act to acquire nonbanking activities and companies as part of the Proposed Transaction;

- An application to the OCC for prior approval for Discover Bank to merge with and into CONA, with CONA as the surviving institution, pursuant to the Bank Merger Act and to operate Discover Bank's branch as a licensed branch of CONA pursuant to the Bank Merger Act, section 36(d) of the National Bank Act and the OCC's implementing regulations (the "OCC Application");[7] and

- An application to the Delaware State Bank Commissioner for prior approval to acquire control of Discover Bank immediately prior to the Bank Merger, pursuant to Title 5 Del. C. § 843, and for a waiver of the 30% state deposit concentration limit pursuant to Title 5 Del. C. § 795H.

[7] *See* 12 U.S.C. §§ 24, 24a, 36(d), 1828(c) and 1831u; 12 CFR §§ 5.26, 5.33, 5.34, 5.35, 5.36 and 5.39.

In addition, Capital One and Discover will submit appropriate filings or notices of the Proposed Transaction to any state, federal or foreign regulatory bodies that may be required in connection with the Proposed Transaction.

Public Notice

The form of newspaper notice for the Application is provided in Exhibit 16. Notice will be published in each of: (1) *Washington Post*, a newspaper of general circulation in McLean, Virginia, the community in Fairfax County, Virginia in which the headquarters of COFC and the main office of CONA are located; and (2) *The News Journal*, a newspaper of general circulation in Greenwood, Delaware, the city in which the main office of Discover Bank is located. Copies of the publication affidavits from those newspapers will be provided to the Federal Reserve once they become available.

Factors for Federal Reserve Review

I. Interstate Banking Requirements and Liabilities Concentration

A. Interstate Banking Requirements

Section 3(d) of the BHC Act ("Section 3(d)"), as amended by the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 and the Dodd-Frank Wall Street Reform and Consumer Protection Act, permits the Federal Reserve to authorize a bank holding company that is well capitalized and well managed to acquire control of a bank located in a state other than the home state of such bank holding company, notwithstanding contrary state law.[8] For purposes of this provision, the home state of COFC is Virginia, the state in which the deposits of its subsidiary banks were largest when it became a bank holding company.[9] For purposes of Section 3(d), the Federal Reserve considers a bank proposed to be acquired to be "located" for these purposes "in the states in which the bank is chartered, headquartered or operates a branch."[10] Discover Bank is deemed to be "located" for Section 3(d) purposes in Delaware.

COFC will be "well capitalized" and "well managed," as those terms are used in Section 3(d), when it acquires Discover Bank.[11] Section 3(d) also imposes requirements relating to (1) the age of the target bank, (2) concentration limits and (3) community reinvestment compliance.[12] Each of these conditions is satisfied in the case of the Proposed Transaction.

Age of the Acquired Bank. Section 3(d) specifies that the Federal Reserve may not approve a proposed interstate acquisition if the effect would be to permit an out-of-state bank holding company "to acquire a bank in a host State that has not been in existence for the minimum period of time, if any, specified in the statutory law of the host State," subject to a cap

[8] 12 U.S.C. § 1842(d)(1)(A).
[9] 12 U.S.C. § 1841(o)(4).
[10] *See, e.g.*, *The PNC Financial Services Group, Inc.*, 94 Fed. Res. Bull. C38 (2008); *BBVA USA Bancshares Incorporated*, 93 Fed. Res. Bull. C94 (2007).
[11] *See* 12 U.S.C. §§ 1841(o)(1) and (o)(9), 12 CFR § 217, and 12 CFR § 225.2(s).
[12] 12 U.S.C. § 1842(d)(1)-(3).

of five years.[13] Discover Bank was established as a Delaware state-chartered trust company in 1911 (under the name of Greenwood Trust Company). That institution converted to a Delaware state-chartered credit card bank in 1985 and changed its name to Discover Bank in 2000. Accordingly, the bank has been in existence much longer than five years. Therefore, the Federal Reserve is authorized under Section 3(d)(1)(B)(ii) of the BHC Act to approve the Proposed Transaction regardless of any state law age requirements.[14]

Nationwide Concentration Limit. Section 3(d) provides that the Federal Reserve may not approve an interstate acquisition if, upon consummation, the applicant would control more than 10% of the total amount of adjusted deposits of insured depository institutions in the United States ("nationwide deposits").[15] As of December 31, 2023, CONA and Discover Bank had nationwide deposits totaling $374.2 billion and $112.6 billion, respectively. Upon consummation of the Proposed Transaction, CONA would hold $486.9 billion, which is less than 3% of nationwide deposits as of December 31, 2023 and, thus, would be well under the nationwide deposit concentration limit.[16]

Statewide Concentration Limit. Section 3(d)(2)(B) also provides that the Federal Reserve may not approve an interstate acquisition if:

(1) immediately before consummation, the applicant controls any insured depository institution or any branch of an insured depository institution in the home state of any bank to be acquired or in any host state in which any such bank maintains a branch; and

(2) the applicant, upon consummation of the acquisition, would control 30% or more of the total amount of deposits in any such state (or such higher percentage as may be permitted by state law, regulation or order).[17]

Discover Bank's home state is Delaware and it does not have a branch in any other state. Discover Bank operates a digital bank and accepts deposits nationwide. CONA has a location in Delaware, which is an operational facility and accepts deposits[18] via the CONA website from customers nationwide. As of December 31, 2023, approximately 64% of CONA's deposits are attributable to its location in the State of Delaware for purposes of Section 3(d) of the BHC Act.

As of June 30, 2023, CONA and Discover Bank had deposits totaling $224.2 billion and $101.2 billion, respectively, booked in these Delaware locations. Thus, reflecting that both CONA and Discover Bank book deposits from customers nationwide at locations in Delaware,

[13] The Federal Reserve may approve an acquisition of a bank that has been in existence for at least five years without regard to a contrary minimum period of time specified in a host state's law. 12 U.S.C. § 1842(d)(1)(B).
[14] Delaware does not have a state age requirement of more than five years.
[15] 12 U.S.C. § 1842(d)(2)(A).
[16] Calculation represents Total Liabilities Before Exclusions less Total Allowable Exclusions plus Interest Accrued and Unpaid on Deposits aggregated for all FDIC-insured banks and thrifts and reported on their Consolidated Report of Condition and Income for the quarter ended December 31, 2023. As of December 31, 2023, banks and thrifts held $17.7 trillion in adjusted domestic deposits.
[17] 12 U.S.C. §§ 1842(d)(2)(B), and (D)(i).
[18] While this CONA location is not a branch, it is conservatively assumed that an operational facility that accepts deposits is deemed to be a branch solely for the purposes of Section 3(d)'s state concentration limit.

on a combined basis, CONA would hold approximately \$325.4 billion or 64.9% of the \$501.4 billion total amount of the reported deposits of insured depository institutions in Delaware.[19]

Although on a combined basis, CONA would exceed 30% of the deposits in Delaware, Section 3(d)(2)(D) provides that the Federal Reserve may approve an acquisition that does not otherwise qualify under subpart (B) referenced above if the acquisition is approved by the appropriate State bank supervisor of such State and the standard on which such approval is based does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies. Delaware state law expressly authorizes the State Banking Commissioner to approve a Proposed Transaction that would result in a banking organization that holds more than 30% of the deposits in the state.[20]

Therefore, subject to the approval of the Delaware State Bank Commissioner, the Proposed Transaction would comply with the statewide concentration limit requirements of Section 3(d).

Community Reinvestment Act Compliance. Section 3(d) of the BHC Act directs the Federal Reserve to consider an applicant's record under the CRA and take into account its record of compliance under state community reinvestment laws.[21] CONA currently has an overall CRA rating of "Outstanding" and Discover Bank currently has an overall CRA performance rating of "Satisfactory." Detailed information about the CRA compliance records of CONA and Discover Bank are in the *Commitment to the CRA* section below. CONA and Discover Bank are in compliance with applicable state community reinvestment statutes and related requirements.[22]

Conclusion under Section 3(d). The Proposed Transaction would satisfy each of the conditions for an interstate acquisition in Section 3(d). Accordingly, the Federal Reserve is permitted to approve the Application under Section 3(d).

B. Liabilities Concentration

The BHC Act and the Federal Reserve's implementing Regulation XX generally prohibit a financial company, including, among others, a bank holding company and an insured depository institution, from merging or consolidating with, or acquiring control of, another company if the total consolidated liabilities of the acquiring financial company after consummation of the transaction would exceed 10% of the aggregate consolidated liabilities of all financial companies ("Total Liabilities") at the end of the calendar year preceding the

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[19] Importantly, (a) less than 1% of CONA's deposits that are booked in Delaware and (b) slightly over 1% of the Discover Bank deposits that are booked in Delaware are owned by depositors who provide CONA and Discover Bank, respectively, with a primary address in the State of Delaware. Counting only these Delaware-based depositors, CONA would hold slightly over \$3 billion in deposits, representing less than 2% of Delaware deposits on an adjusted basis (i.e., deducting CONA's and Discover Bank's non-Delaware-based depositors from the denominator, as well).
[20] *See* 5 Del. C. § 843(b).
[21] *See* 12 U.S.C. § 1842(d)(3).
[22] Discover Bank has its main office in Delaware, which does not have a state CRA law. CONA has branches in three jurisdictions (i.e., Connecticut, the District of Columbia and New York) that have enacted state CRA statutes. *See* CT Gen. Stat. § 36a-30; D.C. Code § 26-431; N.Y. Banking Law § 28-b. CONA is in compliance with such CRA laws.

transaction.[23] As of December 31, 2023, COFC and Discover Financial Services had consolidated national liabilities of $389.4 billion and $114.5 billion, respectively. On a pro forma basis, on consummation of the Proposed Transaction, COFC would have Total Liabilities of approximately $556.9 billion, which, assuming national liabilities of $23.7 trillion, is only 2.3% of Total Liabilities.[24] Accordingly, the liabilities concentration limit would not preclude Federal Reserve approval of the Proposed Transaction.

II. Financial and Managerial Resources and Future Prospects

In acting on the Application, section 3 of the BHC Act requires the Federal Reserve to consider the financial and managerial resources and future prospects of the organizations involved.[25] The Proposed Transaction represents a strategic transaction to increase Capital One's product offerings to better serve its and Discover's customers.

Capital One will benefit from the compatible business lines and diversification of customers and geographies acquired through the Proposed Transaction. The Proposed Transaction will introduce the Discover Global Network to Capital One. Currently, Discover processes approximately 5% of total debit purchase volume and 4% of total credit purchase volume in the United States. Capital One expects to utilize its strong credit card issuance platform to drive increased volume to the Discover Global Network, which, coupled with expected additional investments in the Discover Global Network, position the Discover Global Network to compete more effectively with Visa, Mastercard, and Amex.

Capital One, including CONA, has strong financial, capital, liquidity and managerial resources, including a robust risk management framework ("RMF"), that will enable it to consummate the Proposed Transaction, successfully integrate the operations of Discover into Capital One and Discover Bank into CONA, and ensure the continued safe and sound operation of Capital One, including CONA, going forward.

Senior management of Capital One will continue to take steps to ensure that COFC and CONA maintain suitable capital planning, liquidity management, managerial resources, corporate governance, enterprise risk management programs, compliance and technological infrastructure commensurate with its size, complexity, risk profile, and scope of operations and otherwise meet the Federal Reserve's and OCC's supervisory expectations. As a Category III organization under the Federal Reserve's prudential standards for large bank holding companies (Regulation YY, 12 CFR part 252), COFC has already been subject to enhanced prudential supervisory standards, including the Supplementary Leverage Ratio, Countercyclical Capital Buffer requirements of the banking agencies' regulatory capital rules, company-run capital stress testing and single counterparty credit limits, as well as the liquidity coverage ratio requirement (the "LCR") and net stable funding requirement (the "NSFR") and resolution planning

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[23] *See* 12 U.S.C. § 1852(b); 12 CFR § 251.

[24] This percentage is estimated using the method of calculation in the Federal Reserve's Regulation XX, 12 CFR § 251, and the amount of Total Liabilities in effect through June 30, 2024, stated by the Federal Reserve. *Announcement of Financial Sector Liabilities*, Federal Reserve System Docket No. OP-1808 (June 12, 2023). *See*, https://www.federalregister.gov/documents/2023/06/12/2023-12389/announcement-of-financial-sector-liabilities.

[25] 12 CFR § 225.13 (b)(1)-(2).

requirements.[26] COFC has satisfactorily met all these requirements and standards and will continue to have the governance, infrastructure and systems to meet all the relevant regulatory requirements and supervisory expectations for a Category III banking organization. Furthermore, the Proposed Transaction will have the effect of bringing the assets, liabilities and operations of the Discover organization under the heightened requirements applicable to Category III organizations, described above.

Based on all the information below and in the exhibits, it is evident that the financial, managerial and future prospects factors that the Federal Reserve must consider all support approval of the Application.

A. <u>Financial, Capital and Liquidity Strength</u>

Since January 1, 2020, the federal banking agencies' capital and liquidity rules classify all banking organizations with $100 billion or more in total consolidated assets into one of four categories (Category I, II, III or IV), based on the banking organization's asset size and risk profile, with the most stringent capital and liquidity requirements applicable to Category I firms and the least restrictive requirements applying to Category IV firms. Based on this regulatory framework, COFC currently qualifies as a Category III organization. Following the Proposed Transaction, COFC will have approximately $646 billion[27] in total consolidated assets and will remain well under $75 billion in cross-jurisdictional activity. For additional information on cross-jurisdictional activities see "*Financial Stability Risk Considerations – Cross-Border Activity*." Capital One would become subject to Category II standards if it has $700 billion or more in total consolidated assets or $75 billion or more in cross-jurisdictional activity, each as measured based on the average for the four most recent calendar quarters.[28] Accordingly, upon consummation of the Proposed Transaction, the combined organization will continue to be a Category III firm. Capital One understands the additional regulatory requirements applicable to Category II firms and will be prepared to meet such additional requirements to the extent future growth results in Capital One exceeding the applicable thresholds for classification as a Category II firm.

Capital. Capital One employs comprehensive and rigorous capital planning and capital stress testing programs, and the acquired operations of Discover will be covered by these effective programs. The respective capital and leverage ratios of COFC, CONA, Discover and Discover Bank exceed the minimum ratios necessary for "well capitalized" status and, on consummation of the Proposed Transaction, the capital ratios and leverage ratios of COFC and CONA are projected to exceed the required minimum levels necessary for "well capitalized" status and meet supervisory expectations. The Proposed Transaction is expected to result in a holding company and bank with stronger financial and operating metrics, and increased profitability and scale that will permit the combined organization to better compete against the largest banking organizations and larger regional banking organizations in the United States. For

[26] *See* Prudential Standards for Large Bank Holding Companies, Savings and Loan Holding Companies, and Foreign Banking Organizations, 84 Fed. Reg. 59032 (Nov. 1, 2019).
[27] This pro forma total consolidated asset amount includes Discover's student loan portfolio. As discussed below, Discover is targeting to complete the sale of its student loan business prior to the consummation of the Proposed Transaction.
[28] *See* 12 CFR §§ 252.2 and 252.5.

more detailed information on the current, pro forma and projected financials, capital ratios and asset quality of COFC and CONA, please see Exhibit 17 and Confidential Exhibit C.

Liquidity. COFC and CONA are subject to the LCR as implemented by the Federal Reserve and OCC (the "LCR Rule").[29] The LCR Rule requires each of COFC and CONA to hold an amount of eligible high quality liquid assets that equals or exceeds 100% of its respective projected adjusted net cash outflows over a 30-day period, each as calculated in accordance with the LCR Rule. As a Category III institution with less than $75 billion in weighted average short-term wholesale funding, COFC's and CONA's total net cash outflows are subject to an outflow adjustment percentage of 85%. The LCR Rule requires each of COFC and CONA to calculate its respective LCR daily.

The NSFR requires COFC and CONA to maintain an amount of available stable funding, which is a weighted measure of a company's funding sources over a one-year time horizon, calculated by applying standardized weightings to equity and liabilities based on their expected stability, that is no less than a specified percentage of its required stable funding, which is calculated by applying standardized weightings to assets, derivatives exposures and certain other items based on their liquidity characteristics. As a Category III institution, COFC and CONA are each required to maintain available stable funding in an amount at least equal to 85% of its required stable funding.

Capital One maintains a robust liquidity risk management program and manages liquidity risk at the consolidated company level to help ensure that it (1) can obtain cost-effective funding to meet current and future obligations under both normal "business as usual" and stressful circumstances, and (2) maintains an appropriate level of contingent liquidity. Management monitors liquidity through a series of early warning indicators that may indicate a potential market or Capital One-specific liquidity stress event, performs liquidity stress tests over multiple time horizons with varying levels of severity, and maintains a contingency funding plan to address a potential liquidity stress event. Capital One's liquidity guidelines and liquidity-related risk limits are established at an enterprise level, as well as managed and monitored at various entity levels, including CONA. Capital One's liquidity risk management program will cover the acquired operations of Discover and Discover Bank on consummation of the Proposed Transaction. Substantial focus has been placed by regulators, the markets and, the banks themselves on a bank's level of insured deposits in absolute terms and relative to total deposits. On a pro forma, Capital One's insured deposits would be approximately 79% of its total deposits, which is expected to be the highest insured deposit percentage amongst the 10 largest U.S. banks.

Resolution Planning. COFC is a Category III organization for purposes of the Federal Reserve's resolution planning requirements[30] and CONA is an insured depository institution with more than $50 billion in total assets that is subject to the FDIC's resolution planning requirements.[31] Following consummation of the Proposed Transaction, COFC will continue to

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[29] 12 CFR § 50 (OCC) and 12 CFR § 249 (Federal Reserve).
[30] *See* Regulation QQ, 12 CFR § 243.
[31] *See* 12 CFR § 360.10.

be a Category III organization, subject to the Federal Reserve's resolution planning rules, and CONA will continue to be subject to the FDIC's resolution planning rules.

Capital One does not expect that the Proposed Transaction will make COFC or CONA materially more difficult to resolve if they fail or experience financial distress. The Proposed Transaction does not involve the acquisition or assumption of complex assets or liabilities. Although Capital One will have a larger asset base after consummation of the Proposed Transaction, approximately 99% of the combined organization's total assets will be held by or through CONA. The introduction of the new operations, legal entities, and activities related to the Discover Global Network is not expected to increase the relatively low level of complexity of Capital One's operations from a resolution standpoint, especially given that the Discover Global Network could be viewed as a standalone and marketable asset.

Capital One anticipates that its existing resolution planning processes and governance framework, including ongoing enhancements designed to address regulatory rules and expectations, are appropriate to incorporate Discover, including the Discover Global Network, into Capital One's resolution and recovery planning strategy. Discover's most significant business lines and the significant majority of its assets and liabilities consist of activities at Discover Bank, namely credit card lending and direct banking. Capital One has extensive existing operations, expertise and experience, including extensive resolution planning experience with respect to those activities. The services provided by the Discover Global Network to CONA's material entities and core business lines will be appropriately mapped and evaluated as part of Capital One's resolution strategy. Capital One is currently evaluating the impact of the Proposed Transaction on its resolution plans and resolution strategy, and expects to submit interim updates to its resolution plans within a reasonable timeframe following the consummation of the Proposed Transaction.

B. Managerial Resources

COFC and CONA have diverse, highly accomplished and experienced Boards of Directors and senior executive management teams, which provide them with outstanding managerial resources to ensure their safe and sound operation.

Boards of Directors

COFC and CONA. The COFC and CONA Boards of Directors and management will evaluate the proposed composition of the Boards of COFC and CONA following the Proposed Transaction, considering the appropriate size, skill sets, geographic representation, diversity as well as other governance considerations. The Board of COFC will add three members of the Discover Board of Directors and expand from 12 to 15 directors. These individuals will be named at a later date. The current directors of COFC and CONA are set forth in Exhibit 18.

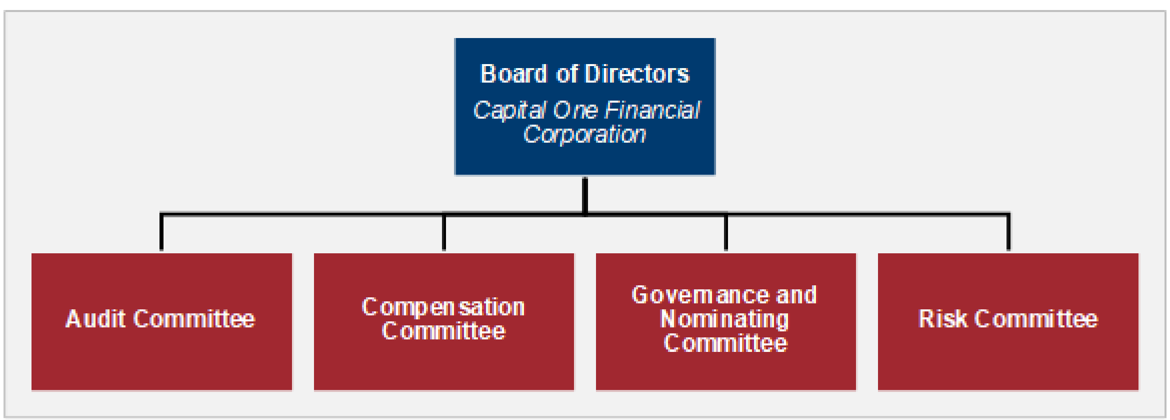
The independent directors of the COFC Board (the "Independent Directors"), each year in conjunction with the Board of Directors' self-assessment, evaluate the continued effectiveness of its leadership structure in the context of Capital One's specific circumstances, culture, strategic objectives, and challenges.

The Board of Directors has determined that the existing leadership structure with a combined Chairman/CEO and a Lead Independent Director provides the most effective governance framework and allows Capital One to benefit from Mr. Fairbank's talent, knowledge, and leadership as the founder of Capital One and allows him to use the in-depth focus and perspective gained in running Capital One to effectively and efficiently lead the Board. As CEO, Mr. Fairbank oversees Capital One's day-to-day operations and strategic planning, and as Chairman of the Board he leads the Board in its oversight role, including with respect to strategic matters and risk management.

COFC and the Board of Directors also benefit from an active and empowered Lead Independent Director who provides strong, independent leadership for the Board. Recognizing the importance of independent perspectives to the Board to balance the combined Chairman and CEO roles, Capital One appropriately maintains strong independent and effective oversight of its business and affairs through its Lead Independent Director; fully-independent Board committees with independent chairs that oversee Capital One's operations, risks, performance, compliance and business strategy; experienced and committed directors; and regular executive sessions.

The COFC Board of Directors currently have four standing committees: (i) Audit Committee, (ii) Risk Committee, (iii) Governance and Nominating Committee, and (iv) Compensation Committee. The standing committees of the COFC Board of Directors also act as committees of the CONA Board of Directors. In addition, the CONA Board of Directors has another standing committee, the Trust Committee, which oversees the wind-down of the legacy wealth management and trust activities of CONA. Each committee chair provides recurring reports to the Board regarding its discussions and activities.

COFC Board Committee Structure

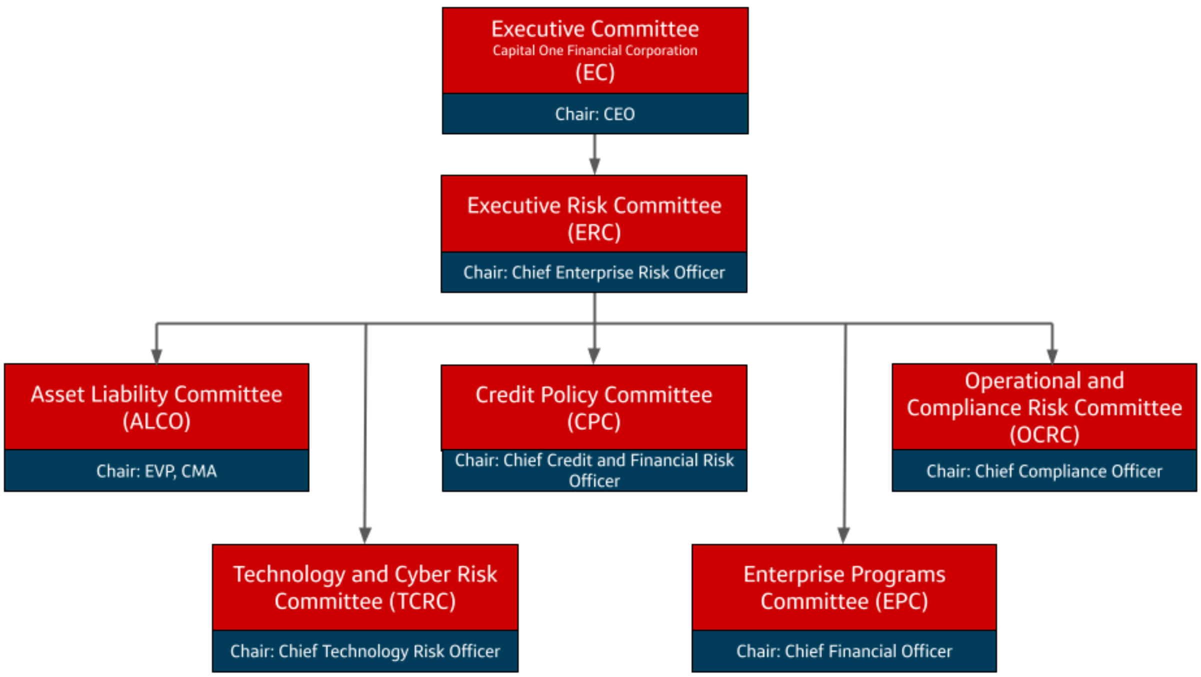


Management

Capital One does not anticipate material changes to the management structure and team of COFC or CONA. Mr. Fairbank will remain Chairman and Chief Executive Officer of COFC and Chairman, President and Chief Executive Officer of CONA. The current Senior Executive Officers of COFC and CONA are set forth in Exhibit 19. As part of the integration planning, the management structure and team will be reviewed for any appropriate changes.

As part of its management structure, Capital One has senior management committees, which are governance forums established to advise and assist the CEO and other accountable executives, as subject matter expert advisory panels, in the management of Capital One's strategy, financial results, business operations, compliance with laws and regulations (including those pertaining to consumer protection), and enterprise risk matters, including the Company's performance against risk appetites and limits. The senior management committee structure is an important part of Capital One's broader governance framework.

Senior Management Committee Structure



1. Governance Structure

Capital One is dedicated to strong and effective corporate governance that provides the appropriate framework for the COFC Board of Directors to engage with and oversee the management of the organization. Robust and dynamic corporate governance policies and practices are the foundation of an effective and well-functioning Board, and are vital to preserving the trust Capital One has built with its stakeholders, including customers, stockholders, regulators, suppliers, associates, communities, and the general public.

The COFC Board of Directors and its committees are accountable for oversight of Capital One's business affairs and operations. In carrying out this responsibility, among other things, the Board and its committees oversee management's development and implementation of the Company's (i) corporate culture; (ii) corporate strategy; (iii) financial performance and associated risks; (iv) the enterprise-wide RMF, including cybersecurity and technology risk; (v) succession planning for the Company's CEO and other key executives; (vi) compensation policies and practices; and (vii) policies, programs, and strategies related to Environmental, Social, and Governance matters.

The COFC Board of Directors and its committees regularly review and approve key governance policies and plans. The Corporate Governance Guidelines adopted by the COFC Board of Directors formalize Capital One's key corporate governance practices and facilitate efficient and effective Board oversight. The Guidelines enable the COFC Board of Directors to engage in responsible decision-making, work with management to pursue Capital One's strategic objectives and promote the long-term interests of its stockholders. The Corporate Governance Guidelines embody many of Capital One's long-standing practices, policies, and procedures, which collectively form a corporate governance framework that promotes the long-term interests of its stockholders, promotes responsible decision-making and accountability, and fosters a culture that allows the COFC Board of Directors and management to pursue Capital One's strategic objectives.

To maintain and enhance independent oversight, the COFC Board of Directors regularly reviews and refreshes its governance policies and practices as changes in corporate strategy, the regulatory environment and financial market conditions occur, and in response to stakeholder feedback and engagement.

The COFC Board of Directors has also adopted Capital One's Code of Conduct, which applies to Capital One's directors, executives and associates, including Capital One's CEO, CFO, Principal Accounting Officer, and other persons performing similar functions. The Code of Conduct reflects Capital One's commitment to honesty, fair dealing, and integrity, and guides the ethical actions and working relationships of Capital One's directors, executives, and associates.

The COFC and CONA Boards of Directors receive both initial and ongoing training and education to ensure they remain current on the industry and relevant developments. Additional information on director training is provided in Exhibit 20.

Capital One's governance framework is supported by policies, standards, and procedures across the enterprise, including a Corporate Governance Framework Policy approved by the COFC and CONA Boards of Directors. These policies, standards, and procedures are designed to capture how Capital One's governance operates in each function and to support a culture of good corporate governance. The governance framework also incorporates legal entities to ensure oversight meets legal and supervisory expectations. Capital One's policies, standards, and procedures are regularly reviewed and updated to support continued effectiveness.

Capital One's governance structure is designed to ensure that its business is conducted in compliance with all legal and regulatory requirements. As part of the integration process, Capital One will maintain its governance framework in order to continue providing strong and effective oversight of the combined operations.

2. Employees

Acquiring and investing in great talent is a key competitive differentiator for Capital One, and Capital One is dedicated to a successful transition for both Capital One and Discover employees. Through the course of the integration, workforce planning will be done to evaluate the combined organization as synergies and efficiencies are identified while retaining and investing in key destination talent.

3. Integration Planning and Experience

Capital One's leadership is dedicated to ensuring that the integration of Discover into the Capital One organization is well-planned and effectively managed and implemented. Capital One conducted extensive due diligence on Discover. Capital One's management led a cross-divisional team who conducted a thorough review of Discover's lines of business, and functional areas, including human relations, finance, internal audit, legal and risk management, including credit, compliance, operational and market risks. A summary of the due diligence conducted by Capital One is provided in Confidential Exhibit A. Capital One is an experienced acquirer, having completed over 40 acquisitions over the last 15 years, and will devote significant management resources to the full integration of Discover with and into Capital One. Capital One will plan to operate its disciplined integration process, focused on deploying enterprise-wide processes and capabilities and managing risk at all stages.

Key to the execution of a seamless integration, Capital One has committed some of its most senior executives to the integration process, who will be accountable for delivering a timely closing and well managed integration. Specifically, Capital One has established an Integration Leadership Team ("ILT") and supporting integration management office ("IMO") that will support the integration effort across the enterprise. The ILT reports to Capital One's General Counsel, the Integration Executive Officer, who is overseeing all integration activities beginning immediately and continuing through the estimated two-year post-closing integration period. The Integration Executive Officer reports directly to COFC's Chief Executive Officer. The ILT will provide regular reporting to the Board and appropriate Board and Management committees on the status of the integration, work streams and associated risks. In addition, leadership will provide regular integration updates to local examination representatives, including to representatives of the Federal Reserve and OCC. For additional information on Capital One's ILT, see Confidential Exhibit D.

The ILT has senior representatives of Capital One's business lines and its Risk, Human Resources, Legal, Finance, Technology, Cyber and Audit functions. Subject to certain information sharing restrictions, each workstream is responsible for conducting a gap assessment and developing a detailed project plan and timeline and supporting communication of information and decisions about the integration across relevant stakeholders. The broad, cross-functional integration team has commenced the integration efforts and defining of end-state destinations across all of the impacted businesses and enterprise teams. The current integration timeline is scheduled to be materially completed within two years following the Closing of the Proposed Transaction.

For additional information on Capital One's integration plan, see Confidential Exhibit E.

4. Risk Management

Capital One dedicates significant resources to Risk Management and maintains a robust RMF, including coverage of liquidity and funding, credit, market, operational (including data and technology), strategic, reputational, and compliance risks. The RMF is rooted in the Risk Appetite Statement for Capital One, which is established by the COFC and CONA Boards of Directors and sets forth the high-level principles that govern risk taking at Capital One. The Risk Appetite Statement defines the Boards of Directors' tolerance for certain risk outcomes at an enterprise level and enables senior management to manage and report within these boundaries. This Risk Appetite Statement is also supported by specific risk appetite statements for each risk category as well as metrics and qualitative factors and, where appropriate, Board Limits and Board Notification Thresholds. Capital One's Risk Appetite Statement and associated metrics will be reviewed with the COFC and CONA Boards of Directors and adjusted to reflect necessary changes, upon integration of Discover's businesses (e.g., Card Concentration). For additional information on Capital One's current Risk Appetite Statement, see Confidential Exhibit F.

The RMF is codified in the Enterprise Risk Management Policy, which is reviewed and approved at least annually by the Board of Directors. Capital One maintains a robust structure of policies and supporting documents, which collectively establish clear and specific risk management requirements, commensurate with Capital One's complexity, size, and risk profile.

Risk Officer Structure

Capital One utilizes a dual Chief Risk Officer ("CRO") structure. The Chief Enterprise Risk Officer ("CERO") oversees Compliance Risk, Operational Risk, Reputation Risk, and Strategic Risk, and leads the Enterprise Risk Management function. The Chief Credit and Financial Risk Officer ("CCFRO"), oversees Credit Risk, Liquidity Risk, and Market Risk and leads the Model Risk Management function.

Each CRO reports directly to the CEO and Risk Committee Chair, has unrestricted access to the Board and its committees, is responsible for Risk Committee planning and debriefing interactions with the Chair, and holds membership in all Senior Management Committees. In addition, the CCFRO provides administrative oversight to the Credit Review function, which independently reports to the Risk Committee of the Board.

Lines of Defense

The RMF sets consistent expectations for Capital One's "Three Lines of Defense" model, which defines the roles, responsibilities and accountabilities for taking and managing risk across Capital One. Accountability for overseeing an effective RMF resides with COFC's Board of Directors either directly or through its committees. CONA has adopted COFC's RMF as permitted by the OCC's Heightened Standards.

	First Line	Second Line	Third Line
	Identifies and Owns Risk	Advises & Challenges First Line	Provides Independent Assurance
Key Responsibilities	Identify, assess, measure, monitor, control, and report the risks associated	Independent Risk Management ("IRM"): Independently oversees,	Provides independent and objective assurance to the Board of Directors and

	First Line	Second Line	Third Line
	Identifies and Owns Risk	Advises & Challenges First Line	Provides Independent Assurance
	with their business.	challenges, and assesses risk taking activities for the First Line.	senior management that the systems and governance processes are designed and working as intended and that the RMF is appropriate for the size, complexity, and risk profile of Capital One.

The First Line consists of any line of business or function that is accountable for risk-taking and is responsible for: (1) engaging in activities designed to generate revenue or reduce expenses; (2) providing operational support or servicing to any business function for the delivery of products or services to customers; or (3) providing technology services in direct support of first line business areas. Each Capital One line of business or First Line function must manage the risks associated with their activities, including identifying, assessing, measuring, monitoring, controlling, and reporting the risks within its business activities consistent with the RMF.

The Second Line consists of two types of functions: IRM and support functions that are centers of specialized experts ("Support Functions"). IRM oversees risk-taking activities and assesses risks and issues independent of the First Line. IRM functions play a central role in defining the risk management standards that guide the risk taking activities of the First Line, in addition to providing effective challenge to first line risk taking activities. IRM is responsible for designing and updating the RMF; setting policies and standards for risk identification, assessment, measurement, monitoring, control, and reporting by the First Line; identifying and assessing material aggregate risks consistent with Capital One's risk appetite; establishing and adhering to enterprise risk policies that include concentration risk limits; and monitoring the risk profile relative to the approved risk appetite. No First Line executive may oversee an IRM unit. IRM functions provide effective challenge across the relevant risk categories to the first line of defense and, when appropriate, certain activities conducted by support functions. Support Functions include Human Resources, Accounting and Legal, which leverage their skills and expertise to advise Capital One across all lines of defense in performing their respective activities or in identifying, assessing, measuring, monitoring, controlling, and reporting the risks associated with business activities owned by the First Line.

The Third Line is comprised of Capital One's Internal Audit and Credit Review functions. The third line provides independent and objective assurance to senior management and the Board that the first and second lines of defense have systems and governance processes which are well-designed and working as intended and that the RMF is appropriate for the size, complexity, and risk profile of Capital One. Additionally, in carrying out its responsibilities, the third line maintains a complete and current inventory of Capital One's material processes, product lines, services, and functions, and assesses the risks, including emerging risks, associated with each, which collectively provide a basis for the audit plan. No First Line executive may oversee any Internal Audit or Credit Review units. Third Line functions provide effective challenge and determine how and when effective challenge is conducted, including the evidentiary requirements.

Elements of the RMF

The RMF consists of the following nine elements:

- *Governance and Accountability*. The RMF sets the foundation for the methods for governing risk taking and the interactions within and among the three lines of defense. Capital One's risk governance structure and culture of accountability is a core focus to effectively and consistently oversee the management of risks across the Company. The Board of Directors, CEO, and management team establish the tone at the top regarding the culture of the Company, including management of risk, which is reinforced throughout the various levels of the organization. Senior Management Committees are governance forums established to assist the CEO and other management team accountable executives in the management of the strategy, financial results, business operations, and enterprise risk management for Capital One.

- *Strategy and Risk Alignment.* Capital One's strategy is informed by and aligned with its risk appetite, from development to execution, including how initiatives may impact Capital One's overall risk profile. The strategy is developed with input from teams in the First, Second, and Third Lines, as well as the Board of Directors.

- *Risk Identification.* The First Line is responsible for identifying risks, including concentration and emerging risks, across the relevant risk categories associated with their current and proposed business activities and objectives. IRM and certain Support Functions, where appropriate, provide effective challenge in the risk identification process. IRM is also responsible for identifying material aggregate risks on an ongoing basis.

- *Assessment, Measurement and Response.* Risks are assessed to understand their severity and likelihood of occurrence under both normal and stressful conditions. Risk severity is measured through modeling and other quantitative estimation approaches, as well as qualitative approaches, based on management judgment. As part of the risk assessment process, the First Line also evaluates the effectiveness of the existing control environment and mitigation strategies. Management determines the appropriate risk response, which may include implementing new controls, enhancing existing controls, developing additional mitigation strategies to reduce the impact of the risk, and/or monitoring the risk. These risk assessments and mitigation strategies are challenged by the Second Line.

- *Monitoring and Testing.* Management monitors risks to ensure alignment with Capital One's risk appetite and to evaluate how the risk is affecting Capital One's strategy, business objectives and resilience. The First Line is required to evaluate the effectiveness of risk management practices and controls through testing and other activities. IRM and Support Functions, as appropriate, assess the First Line's evaluation of risk management, which may include providing effective challenge, performing independent monitoring, or conducting risk or control validations.

- *Aggregation, Reporting and Escalation.* Capital One's risk aggregation processes aggregate risk information from lower levels of the business hierarchy to higher levels to determine material risk themes across the Enterprise and provide a comprehensive view of performance against risk appetite. Material risks are reported to the Risk Committee of the Board of Directors and the appropriate senior management committees no less than quarterly.

- *Capital and Liquidity Management (including stress testing).* Capital One's risk management practices inform key aspects of Capital One's capital planning, including the development of stress scenarios, the assessment of the adequacy of post-stress capital levels, and the appropriateness of potential capital actions. In assessing its capital adequacy at both COFC and CONA, Capital One identifies how and where its material risks are accounted for within the capital planning process. Monitoring and escalation processes exist for key capital thresholds and metrics to continuously monitor capital adequacy. Prudent balance sheet management is a critical component of Capital One's overall business strategy as it enables management to manage risk and allows Capital One to achieve its long-term financial objectives. Capital One identifies and manages funding and liquidity risks that could affect its earnings, balance sheet strength, and investor confidence. Capital One also manages its liquidity position to satisfy regulatory requirements.

- *Risk Data and Enabling Technology.* Risk data and technology are utilized for risk reporting and to monitor changes to Capital One's risk profile. Core governance and risk systems are used as the systems of record to monitor risks, controls, issues, and events and support the analysis, aggregation, and reporting capabilities across the risk categories.

- *Culture and Talent Management.* The RMF relies on the culture, talent, and skills of Capital One's employees. Every associate at the Company is responsible for risk management; however, associates with specific risk management skills and expertise within the first, second, and third lines of defense are critical to execute appropriate risk management across the enterprise.

Enterprise Risk Management and Categories of Risk

Enterprise Risk Management

Capital One devotes significant resources to maintaining and continuously improving the company's Risk Management Capabilities. A key component of its Risk Management system is the Enterprise Risk Management function and the role it plays in developing, implementing, maintaining, and monitoring adherence to the RMF and the supporting Enterprise Risk Management Policy.

Capital One's Enterprise Risk Management function is led by the Head of Enterprise Risk Management and reports directly to the CERO as well as maintains a seat on the senior leadership team of the Credit and Financial Risk Management organization. The Enterprise Risk Management function is responsible for the following:

- Setting enterprise guidelines and frameworks to support the identification, assessment, measurement, monitoring, controlling, and reporting of risks including concentrations of risk.
- Establishing enterprise risk management governance and strategy; providing advice to the three lines of defense, as the advice relates to enterprise risk management; and communicating significant risk management trends and insights from the enterprise level.
- Conducting oversight, including review and challenge by providing effective challenge; independently monitoring enterprise risk management activities; and independently escalating enterprise risk management gaps and issues.
- Driving risk aggregation, including maintaining a complete and current inventory of material risks; and analyzing and independently assessing the Enterprise Risk Profile across all categories.
- Driving holistic reporting of risk to senior management and the Board through the Enterprise Risk Profile report and other reporting.
- Administering, monitoring, and supporting enterprise-wide communication of the Risk Appetite Program.

The Enterprise Risk Management function fulfills these responsibilities through the establishment of processes and capabilities which support the Enterprise Risk Management Framework.

Capital One applies its RMF to protect itself from the major categories of risk that it is exposed to through its business activities. Capital One has seven major categories for the management of risk, as described below.

Categories of Risk	
Compliance	The risk to current or anticipated earnings or capital arising from violations of laws, rules or regulations. Compliance risk can also arise from nonconformance with prescribed practices, internal policies and procedures, contractual obligations or ethical standards that reinforce those laws, rules or regulations
Credit	The risk to current or projected financial condition and resilience arising from an obligor's failure to meet the terms of any contract with the Company or otherwise perform as agreed

Liquidity	The risk that the Company will not be able to meet its future financial obligations as they come due, or invest in future asset growth because of an inability to obtain funds at a reasonable price within a reasonable time
Market	The risk that an institution's earnings or the economic value of equity could be adversely impacted by changes in interest rates, foreign exchange rates or other market factors
Operational	The risk of loss, capital impairment, adverse customer experience or reputational impact resulting from failure to comply with policies and procedures, failed internal processes or systems, or from external events
Reputation	The risk to market value, recruitment and retention of talented associates and maintenance of a loyal customer base due to the negative perceptions of internal and external constituents regarding the Company's business strategies and activities
Strategic	The risk of a material impact on current or anticipated earnings, capital, franchise or enterprise value arising from the Company's competitive and market position and evolving forces in the industry that can affect that position; lack of responsiveness to these conditions; strategic decisions to change the Company's scale, market position or operating model; or, failure to appropriately consider implementation risks inherent in the Company's strategy

Compliance Risk Management

Capital One recognizes that compliance requirements for financial institutions are increasingly complex and that there are heightened expectations from financial services regulators and customers. In response, Capital One continuously evaluates the regulatory environment and proactively adjusts its compliance program to fully address these requirements and expectations.

Capital One's Compliance Management Program establishes expectations for determining compliance requirements, assessing the risk of new product offerings, creating appropriate controls and training to address requirements, monitoring for control performance, and independently testing for adherence to compliance requirements. The program also establishes regular compliance reporting to senior business leaders, the executive committee and the Board of Directors.

The Chief Compliance and Ethics Officer is responsible for establishing and overseeing Capital One's Compliance Management Program. Business areas incorporate compliance requirements and controls into their business policies, standards, processes and procedures. They regularly monitor and report on the efficacy of their compliance controls and Compliance periodically independently tests to validate the effectiveness of business controls. The Chief Compliance and Ethics Officer also oversees the company's Ethics Office, which administers the Code of Conduct and provides training and guidance to ensure the company meets its high expectations for ethical behavior and business practices.

Credit Risk Management

Capital One recognizes that it is exposed to changes in credit quality driven by economic cycles, market pressures and other factors. Consequently, the Company follows robust risk management practices designed to ensure its credit portfolio is resilient to economic downturns and other drivers of changing credit performance. The tools Capital One relies on in this endeavor include customer selection, underwriting, monitoring, remediation, and portfolio management. In unsecured consumer loan underwriting, Capital One generally ensures lending decisions are resilient to higher credit losses than those prevailing at the time of the underwriting. In commercial underwriting, Capital One generally requires strong cash flow, collateral, covenants, and guarantees. In addition to sound underwriting, Capital One continually monitors its portfolio and takes steps to collect or work out distressed loans.

The CCFRO, in conjunction with the Chief Credit Officers for each line of business, is responsible for establishing credit risk policies and procedures, including underwriting and hold guidelines and credit approval authority, and monitoring credit exposure and performance of Capital One's lending-related transactions. The Chief Credit Officers are responsible for evaluating the risk implications of credit strategy and the oversight of credit for both the existing portfolio and any new credit investments.

Capital One's credit policies establish standards in five areas: customer selection, underwriting, monitoring, remediation and portfolio management. The standards in each area provide a framework comprising specific objectives and control processes. These standards are supported by detailed policies and procedures for each component of the credit process. Starting with customer selection, Capital One's goal is to generally provide credit on terms that generate above hurdle returns. Capital One uses a number of quantitative and qualitative factors to manage credit risk, including setting credit risk limits and guidelines for each of its lines of business. Capital One monitors performance relative to these guidelines and reports results and any required mitigating actions to appropriate senior management committees and its Board of Directors.

Liquidity Risk Management

Capital One recognizes that liquidity risk is embedded within its day-to-day and strategic decisions. Liquidity is essential for banks to meet customer withdrawals, account for balance sheet changes, and provide funding for growth. Capital One has acquired and built deposit gathering businesses and actively monitors its funding concentration. Capital One manages liquidity risk, which is driven by both internal and external factors, centrally and establishes quantitative risk limits to continually assess liquidity adequacy.

The CCFRO, in conjunction with the Head of Liquidity, Market and Capital Risk Oversight, is responsible for the establishment of liquidity risk management policies and standards for governance and monitoring of liquidity risk at a corporate level. Capital One assesses liquidity strength by evaluating several different balance sheet metrics under severe stress scenarios to ensure it can withstand significant funding degradation. Results are reported to the Asset Liability Committee monthly and to the Risk Committee no less than quarterly. Capital One also continuously monitors market and economic conditions to evaluate emerging stress conditions and to develop appropriate action plans in accordance with its Contingency Funding Plan and Recovery Plan.

Capital One uses internal and regulatory stress testing and the evaluation of other balance sheet metrics within its Liquidity Framework to confirm that the firm maintains a fortified balance sheet. Capital One relies on a combination of stable and diversified funding sources, along with a stockpile of liquidity reserves, to effectively manage liquidity risk. Capital One maintains a sizable liquidity reserve of cash and cash equivalents, high-quality unencumbered securities and investment securities and certain loans that are either readily marketable or pledgeable. Capital One also continues to maintain access to secured and unsecured debt markets through regular issuance.

Market Risk Management

Capital One recognizes that interest rate and foreign exchange risk are present in its business due to the nature of its assets and liabilities. Market risk is inherent from the financial instruments associated with Capital One's business operations and activities including loans, deposits, securities, short-term borrowings, long-term debt and derivatives. Capital One manages market risk exposure, which is principally driven by balance sheet interest rate risk, centrally and establishes quantitative risk limits to monitor and control its exposure.

The CCFRO, in conjunction with the Head of Liquidity, Market, and Capital Risk Oversight, is responsible for the establishment of market risk management policies and standards for the governance and monitoring of market risk at a corporate level. The market risk position is calculated and analyzed against pre-established limits. Capital One uses industry accepted techniques to analyze and measure interest rate and foreign exchange risk and performs sensitivity analysis to identify its risk exposures under a broad range of scenarios. Results are reported to the Asset Liability Committee monthly and to the Risk Committee no less than quarterly.

Management is authorized to utilize financial instruments as outlined in Capital One's policy to actively manage market risk exposure. Investment securities and derivatives are the main levers for the management of interest rate risk. In addition, Capital One also uses derivatives to manage foreign exchange risk.

Operational Risk Management

Capital One recognizes the criticality of managing operational risk on both a strategic and day-to-day basis and that there are heightened expectations from its regulators and customers. Capital One has implemented appropriate operational risk management policies, standards, processes and controls to enable the delivery of high quality and consistent customer experiences and to achieve business objectives in a controlled manner.

The Chief Operational Risk Officer ("<u>CORO</u>"), in collaboration with the Chief Technology Risk Officer ("<u>CTRO</u>"), is responsible for establishing and overseeing Capital One's Operational Risk Management Program. Both the CORO and CTRO report to the CERO. The program establishes practices for assessing the operational risk profile and executing key control processes for operational risks. These risks include topics such as internal and external fraud, cyber and technology risk, data management, model risk, third-party risk management, country risk, payments risk, and business continuity. Operational Risk Management and Technology Risk Management enforce these practices and deliver reporting of operational risk results to senior business leaders, the executive committee and the Board of Directors.

Reputation Risk Management

Capital One recognizes that reputation risk is of particular concern for financial institutions and, increasingly, technology companies, in the current environment. Areas of concern have expanded to include company policies, practices and values and, with the growing use of social and digital platforms, public corporations face a new level of scrutiny and channels for activism and advocacy. The heightened expectations of internal and external stakeholders have made corporate culture, values, and conduct pressure points for individuals and advocates voicing concerns or seeking change. Capital One manages both strategic and tactical reputation issues and builds relationships with government officials, media, community and consumer advocates, customers and other constituencies to help strengthen the reputations of both Capital One and the industry. Capital One's actions include implementing pro-customer practices in its business and serving low- to moderate-income ("LMI") populations and communities in its market area consistent with a quality bank and an innovative technology leader. The Executive Vice President, Head of External Affairs, is responsible for managing Capital One's overall reputation risk program. Day-to-day activities are controlled by the frameworks set forth in the Reputation Risk Management Policy and other risk management policies.

Strategic Risk Management

Capital One recognizes that strategic risk is present within its business and strategy. Capital One monitors risks for the impact on current or future earnings, capital growth or enterprise value arising from changes to the Company's competitive and market positions, including as a result of evolving forces in the industry. Additionally, Capital One monitors timely and effective responsiveness to these conditions, strategic decisions that impact the Company's scale, market position or operating model and failure to appropriately consider implementation risks in the Company's strategy. Potential areas of opportunity or risk inform the Company's strategy, which is led by the Chief Executive Officer and other senior executives. The CERO, in consultation with the CCFRO, oversees the identification and assessment of risks associated with the Company's strategy and the monitoring of these risks throughout the year.

Capital One's Strategic Risk Management Policy, processes and controls encompass an ongoing assessment of risks associated with corporate or line of business specific strategies. These risks are managed through periodic reviews, along with regular updates to senior management and the Board.

Key Risk Management Strengths

Capital One maintains several key risk management processes that operate across risk categories including: Capital Management, Balance Sheet Management, Model Risk Management, Technology Risk Management, and Data Risk Management.

Capital Management

The prudent management of capital is one of Capital One's highest priorities. Capital One's capital must be sufficient to support the business plans and risk profiles of its business activities to absorb adverse shocks (systemic as well as idiosyncratic) and to protect against unexpected losses. Capital is vital to the Company's continued operation and ability to lend to creditworthy businesses and consumers, both in normal market environments and in periods of market stress and uncertainty. Capital One actively manages capital adequacy and ensures appropriate transparency with its Board and senior management through ongoing monitoring, reporting, and supporting analysis.

Capital Adequacy Process Framework. Capital One's Capital Policy codifies its Capital Adequacy Process ("CAP") Framework, which ensures COFC's and CONA's capital adequacy and resilience to potential uncertainties, consistent with the risk appetite, capital targets, and capital goals established by its Board. Capital One's CAP framework establishes the oversight roles and responsibilities for governance bodies and senior management, as well as the internal control framework that defines the roles for the Company's three lines of defense across the CAP components. These internal controls ensure adherence to policies and procedures, and support the integrity of the Company's capital projections. Capital One monitors and reports to senior management and the COFC and CONA Boards of Directors current and projected capital ratios against defined targets, goals, and composition objectives for both COFC and CONA. Capital One's capital goals, capital targets, and respective triggers are determined using internal stress testing, regulatory requirements (i.e., the Stress Capital Buffer, Federal Reserve minimums, and the Prompt Corrective Action framework), and market considerations. The Capital Policy also establishes the Company's destination capital level, which represents the level of capital at which management expects to operate in the long term.

Capital Planning and Stress Testing. Capital One develops its capital plan under the Federal Reserve's capital plan rules. Capital One's Capital Plan describes the development and review of capital forecasts under Bank Holding Company and supervisory baseline and stress scenarios, and planned capital actions over the planning horizon. Capital One's Capital Plan is updated and approved by its Board of Directors at least annually (more frequently if there are material changes to its risk profile, balance sheet, or anticipated capital levels). As part of capital planning and stress testing, Capital One develops capital forecasts to assess how to maintain a capital base and structure that adequately supports its risk exposures. While common equity is Capital One's predominant form of capital, the firm assesses opportunities to supplement or replace a portion of its common equity base with additional forms of capital (e.g., Tier 2 capital) to optimize its capital structure, adhere to regulatory requirements and to manage the associated costs based on need. The issuance, redemption, or repurchase of common equity, non-cumulative perpetual preferred securities, or Tier 2 capital instruments is included in Capital One's Capital Plan and requires the prior approval of its Board of Directors.

Capital One's planned capital actions are consistent with effective capital distribution limitations, ensure that the Company maintains sufficient capital to protect against identified risks, satisfies regulatory capital requirements, and enables asset growth (as allocated through its managerial capital process).

Balance Sheet Management

Prudent balance sheet management is a critical component of Capital One's overall business strategy as it enables management to manage risk and allows the Company to achieve its long-term financial objectives. Capital One is exposed to liquidity risk primarily through its involvement in the traditional banking activities of taking deposits and extending loans and lines of credit, as well as through its utilization of the capital markets to raise funding. Capital One identifies and manages funding and liquidity risks that could affect its earnings, balance sheet strength, and investor confidence. The Company also manages its liquidity position to satisfy regulatory requirements.

The Company implements its liquidity management philosophy through the Liquidity Adequacy Framework (the "Liquidity Framework"). The Liquidity Framework enables Capital One to meet its liquidity goal of maintaining a fortified balance sheet that is resilient to uncertainties that may arise because of systemic and/or idiosyncratic liquidity events. The Liquidity Framework also enables the Company to manage its liquidity in accordance with current requirements and prospective regulatory guidance.

Corporate governance, monitoring, and oversight across the three lines of defense form the foundation that ensures the integrity of liquidity management at Capital One. Additionally, the Liquidity Framework comprises the governing principles that apply to the management of liquidity. These principles are used to monitor, measure, and report liquidity risk; to develop funding and investment strategies that enable the Company to maintain an adequate level of liquidity to support its businesses and satisfy regulatory requirements; and to protect the Company from a broad range of liquidity events should they arise.

Model Risk Management

Model risk is the potential for adverse consequences from decisions based on incorrect or misused model outputs and reports. Model risks may have various causes, including erroneous implementation, model underperformance, catastrophic breakdown, or gradual degradation. Inappropriate use may occur when models (even sound models) are used in ways that are inconsistent with the original intent or assumptions, used outside of their range of applicability, or when combined with other models with which they interact or depend. Balancing the materiality of model risk along with the business decision it supports, models are expected to be reliable, fall within reasonable performance expectations, and be conceptually as well as technically sound. Capital One establishes and monitors risk appetite metrics for model risk through specific model governance and model validation processes.

Model risk that exceeds established metrics and limits is reported to the CCFRO and, where appropriate, to the relevant Risk Steward to assess if the model risk compromises the ability to operate within the relevant risk appetite and to determine if escalation to the Board of Directors is needed.

Capital One mitigates model risk by establishing the Model Risk Management Framework. Capital One's Model Risk Management Framework manages model risk by specifically addressing the (i) identification of models and their risk through the inventory process, acquisition, and general model governance activities; (ii) quantification of risk for all three model components (i.e., information input, processing, and reporting) through validation; (iii) activities on development, deployment, ongoing monitoring, and changes to the model; (iv) mitigation of model risk through effective challenge and critical analysis by objective, informed parties who can identify model risks, limitations, and assumptions and produce appropriate changes; and (v) acceptance of the remaining model risk by the relevant model owner.

Model risk is addressed within the scope of Operational Risk reporting to the Operational and Compliance Risk Committee on a quarterly basis and reported to the Board within the Integrated Risk Management report at least twice a year. Model risks that exceed Board risk appetite limits or notification thresholds are reported to the Board in line with Enterprise Risk Management policies, standards, and procedures.

Technology Risk Management

Strong Technology Risk Management is critical for Capital One to achieve its business objectives, reliably meet the expectations of customers, and deliver a Cybersecurity risk is a particularly critical subset of technology risk, as Capital One is entrusted with the safeguarding of its customers' sensitive information, including sensitive personal information. The second-line CTRO is responsible for overseeing the technology and cybersecurity risk. Within Capital One's taxonomy, these risks are a subset of operational risk. Given their importance, however, the CTRO is organizationally a peer to the CORO. The first line has also established a strong central cybersecurity function, led by the Chief Information Security Officer (the "CISO"). The CISO establishes and manages the enterprise-wide Information Security Program under the oversight of the CTRO. While no organization can eliminate cybersecurity and technology risk entirely, Capital One devotes significant resources to mitigate such risks.

Data Management Risk Management

Capital One also recognizes the importance of managing the risks associated with data management. These risks include data not being readily available, data usages not being properly understood, data having errors, or data being improperly shared, destroyed, or retained. Capital One's Information Data Management Policy defines data management risk and the roles and processes to mitigate the risks. The First Line Divisional Data Risk Officers primarily manage these risks at the divisional level and Enterprise Data Risk Management is the Second Line oversight function.

Integration of Discover into the Capital One RMF

Immediately upon closing, Capital One will begin to apply its RMF to Discover's businesses and risk management functions. In parallel, Capital One will start a process to integrate Discover's existing risk management functions directly into their counterparts or equivalents at Capital One. In those instances where Capital One does not currently have an equivalent risk management function (e.g., for the Discover Global Network, discussed below), Capital One will establish such a function with appropriate executive oversight and merge the relevant Discover risk management function into it upon the consummation of the Proposed Transaction.

Capital One expects that this integration will occur in phases and result in one, cohesive and comprehensive Risk Management system for the combined entity operating under uniform Capital One policies, standards and expectations. During the integration period, Capital One will mitigate the risks related to the transition to a single risk management framework through the implementation of a comprehensive integration plan. The integration plan will seek to prioritize the highest risk areas first as well as provide a means for monitoring, reporting and escalating progress against the plan.

With respect to the Discover Global Network, Capital One's risk management strengths provide a strong foundation for integration. Capital One recognizes that conducting full risk oversight related to the Discover Global Network will require Capital One to expand its risk management capabilities. In particular, Capital One intends to establish, prior to integration, dedicated teams that will oversee the Discover Global Network's risk management upon consummation of the Proposed Transaction. These teams will include dedicated staff with relevant industry experience and expertise across operational risk management, technology risk management compliance and other Second Line teams.

As a part of the integration activities, Capital One will evaluate Discover's current risk management approach to the Discover Global Network, ensuring continuity of oversight during the transition while developing plans to elevate risk management practices where necessary. This evaluation will include an assessment of the talent and skill sets in all three Lines of Defense to oversee and manage these risks consistent with Capital One's Enterprise Risk Management Framework, across applicable risk management categories, and risk appetite. Additionally, Capital One will conduct detailed risk assessments of Discover Global Network, including critical processes, infrastructure, and products. These risk assessments will result in risk mitigation activities where appropriate, and will inform Capital One's enterprise-level assessments of material risk and risk appetite performance.

In light of Discover's present status as a Category IV bank and its public regulatory enforcement orders, Capital One believes this integration of Discover into Capital One's RMF will require sustained focus, investment and effort. In particular, Capital One believes it will need to materially strengthen and enhance Discover's existing risk management functions, and in particular compliance, to comply with both Capital One's internal standards and those of its regulators. Capital One anticipates that this improvement will include extensive work to address outstanding remediation under the two orders and possible future supervisory findings.

Capital One has designated a team of risk officers to prepare for integration and coordinate where appropriate with Discover officials. This team will be responsible for integration planning pre-close and integration execution upon close. As part of the pre-close integration planning, Capital One intends to engage in preliminary assessments of Discover's risk management programs, policies, standards, staffing, and areas of focus. Capital One further intends to use these assessments to develop preliminary plans for integration, including plans for initial program enhancements and remediation of the relevant Discover functions upon close.

Where permissible, Capital One will seek Discover's assistance to better understand Discover's existing compliance and risk management programs and activities.

For additional information on Capital One's integration planning, see Confidential Exhibit E.

5. Compliance

Capital One manages compliance risk through its Compliance Management Program ("CMP"), as established by its Compliance Management Policy ("Compliance Policy"). The CMP, as outlined in the Policy, provides an enterprise-wide approach to compliance risk management and oversight that creates and supports a culture of compliance throughout the Company. Capital One's CMP is designed to ensure that Capital One appropriately identifies, manages, and oversees all compliance risk – including consumer compliance, fair lending, and AML risk – through sound governance, rigorous controls and transaction testing, advice and effective challenge to the First Line and staff functions, and timely risk escalation. The program also establishes regular compliance reporting to senior business leaders, the executive committee, and the Board of Directors.

The Chief Compliance and Ethics Officer is responsible for establishing and overseeing the CMP and leads the Compliance & Ethics ("C&E") department. C&E is staffed by compliance leaders and professionals with expertise in regulatory risk management, testing, investigations, ethics, and data. The C&E organization fulfills IRM risk activities as a Second Line function that advises and effectively challenges the First Line and staff operations under Capital One's Enterprise Risk Management Framework.

The First Line and staff operations are accountable for complying with laws and regulations and incorporating compliance requirements and controls into their business policies, standards, processes, and procedures. They regularly monitor and report on the efficacy of their compliance controls; as a second line IRM function, C&E independently tests to validate the effectiveness of first line business controls. Additionally, C&E advises the first line on applicable regulatory requirements, compliance risks related to new and changed products, and the assessment and remediation of issues and events. C&E both advises and effectively challenges the first line in their development and enhancement of products, processes and procedures to ensure they maintain effective control oversight and support adherence to compliance requirements.

For additional information on Capital One's Compliance Management Policy, please see Confidential Exhibit G.

Culture of Compliance

Capital One's culture is built on two core values: Excellence and Do the Right Thing. To promote these values, Capital One's Code of Conduct ("Code") memorializes a commitment to comply with applicable laws, regulations and internal policies governing conduct and operations. Following these policies helps to ensure that honesty, fair dealing, and integrity are hallmarks of Capital One's business dealings. By adhering to the Code, associates live Capital One's values and ensure that Capital One is recognized for modeling the highest standards of business conduct in everything it does. The Code is more than just a set of "do's and don'ts." It provides guidance, practical information, and resources that help enhance Capital One's relationships with its customers, each other, and all of the people that play a role in Capital One's success.

The Board of Directors reviews and approves the Code. The Ethics Office, which is managed by the Chief Compliance and Ethics Officer, has day-to-day responsibility for administering the Code and managing Capital One's Ethics program. In addition, the Ethics Office is responsible for managing the Ethics Line, which is a confidential reporting tool operated by an independent third party. Reports may be submitted to the Ethics Line online or through a call center that operates 24 hours a day, seven days a week. Ethics Line complaints may be submitted anonymously, and phone calls are not recorded.

All newly hired associates receive the Code with their employment offer and, within their first 30 days, must complete a 30-minute interactive computer-based training course where they agree to comply with the Code and demonstrate their understanding of its content. Thereafter, all associates are required to complete the Code training annually and agree to comply with the Code and all related policies, standards, and procedures.

Doing the right thing includes speaking up. Capital One expects all associates to immediately report any suspected or potential violations of law, the Code, the company's policies, or other actions inconsistent with Capital One's values. Associates may report concerns to their manager, the Associate Relations team in Human Resources, the Ethics Line, or to the Ethics Office. Raising concerns within Capital One does not prevent associates from reporting the same concerns to law enforcement or the relevant government entity if there is a suspected or potential violation of law. Further, Capital One prohibits retaliation against any individual for making good faith claims regarding possible violations of law, the Code or other Company policies. Capital One also prohibits retaliation against any individual for participating in or cooperating with any investigation.

In addition, as discussed in *Risk Management* above, Capital One expects the integration to require a substantial amount of investment in the Risk Management team and related infrastructure to ensure a successful transition. Capital One has historically invested in maintaining a strong CMP and continually enhances its practices. For examples of recent enhancements to the CMP, see Confidential Exhibit H.

Oversight, Escalation and Reporting

Compliance risk reporting is foundational in supporting Capital One's Board of Directors and senior management committee members in executing their compliance risk oversight responsibilities. The Compliance Policy and Compliance Risk Reporting Standard outline the process for compliance reporting. Through the CMP, C&E supports the enterprise's adherence to Capital One's compliance risk appetite by tracking and producing data that corresponds to Compliance Risk Appetite Metrics (as well as informational metrics) that are reported to senior management and the Risk Committee of the Board of Directors. In addition, the charter of the Audit Committee requires the Chief Compliance and Ethics Officer to discuss the annual assessment of the Corporation's enterprise-wide compliance program, including management's corrective actions to address any deficiencies. The update is provided at the joint Risk and Audit Committee meeting held in July each year.

Quarterly, Compliance produces the Compliance Update within the Integrated Risk Management Report ("IRMR") for the Risk Committee of the Board of Directors and senior management through the Operational and Compliance Risk Committee. Further, Compliance produces an annual update within the IRMR for the Audit Committee of the Board of Directors, in accordance with its charter responsibilities. Compliance also provides divisional quarterly compliance reports to the Division Risk Oversight Committees ("ROCs"), consistent with the Senior Management Committee Standard. For functions that are not formally governed by a ROC, Compliance evaluates and reports any material issues to the Chief Compliance and Ethics Officer, CERO, and Board via the IRMR.

As required by regulation and/or at the discretion of the Chief Compliance and Ethics Officer, additional reports may be produced by Compliance to inform the Board, a Board Committee, and/or senior management on compliance specific topics (e.g., Regulation O, Annual Swap Dealer Report, policy renewals, etc.).

In addition, Compliance contributes risk analysis for other risk reporting provided to Capital One's Board of Directors, such as the Enterprise Risk Profile ("ERP") within the IRMR. The CERO submits the ERP to the Risk Committee of the Board of Directors and senior management Executive Risk Committees. Compliance also contributes risk appetite metrics and annual risk narratives via Enterprise Risk Management's Executive Committee Risk Scorecard. The risk scorecards are organized by Executive Committee members to evaluate risk-taking performance for their respective business areas.

Risk Assessments

Compliance performs and challenges First Line risk assessments at the divisional, business unit, and process and product level to provide a formal, independent perspective on compliance risk. Compliance also conducts Targeted Compliance Risk Assessments, which assess specific areas of risk, or areas required to be assessed by statute, regulatory guidance, or internal policies. Compliance performs the following risk assessments independently of those conducted by the respective business units: AML/Economic Sanctions, Fair Lending, Identity Theft Red Flags, and Anti-Bribery/Anti-Corruption.

Fair Lending

Capital One's enterprise-wide consumer Fair Lending Compliance Management program (the "Fair Lending program") works within the CMP framework, as provided in Capital One's Fair Lending Compliance Policy, and includes components specifically designed to manage fair lending risk.

The Fair Lending program has five primary components. First, it requires lending businesses to have an oversight committee dedicated to fair lending that includes business executives and Compliance and Legal experts; these committees meet regularly to review and discuss fair lending risks and issues. The second and third components are independent risk assessment processes beyond the standard risk assessments executed by the first line. The first is a fair lending assessment of models, policies, segmentations, and any other criteria used by credit or deposit businesses to make marketing, underwriting, pricing, or other decisions about customer outcomes. The second is an annual report written by the Fair Lending Compliance team that assesses the fair lending risk in each business and for the enterprise.

Fourth, in addition to these independent risk assessments, the Fair Lending Data Analysis Standard provides guidelines for identifying areas of heightened fair lending risk for targeted analyses according to an annual schedule. Pursuant to this process, the Fair Lending Compliance team conducts statistical analyses in areas, for example, where Capital One associates exercise judgment or discretion in making lending decisions, in order to assess the extent of potential fair lending risk. These statistical analyses include the use of regression analysis when appropriate, as well as a manual review of matched pairs, to understand if similarly situated applicants received different decisions. Fifth, the fair lending program has fair lending training, with content specific to different job families, taken by all associates in lending divisions.

For additional information on Capital One's Fair Lending program, please see Confidential Exhibit I.

Complaint Management

Complaint management at Capital One is executed under the framework established by Compliance and outlined in the Enterprise Complaints Operating Standard ("ECO Standard"). The ECO Standard sets guiding principles for the management and governance of the operational, compliance, and reputational risk posed by complaints. Within the ECO Standard, a clear division of responsibilities and strong collaboration between First Line and Second Line is established in order to ensure consistent and timely complaint handling, as well as accurate and timely complaint reporting and analysis for senior management. Primary activities for the business consist of the maintenance of complaint intake channels, handling processes, analysis, reporting, monitoring, and training. Primary activities for Compliance include the testing of businesses for adherence to the ECO Standard, the review of specific complaints routed to Compliance from the business complaints teams for assessment of regulatory risk exposure, and the management of relationships with regulators.

III. Anti-Money Laundering Compliance Record

The BHC Act requires that, in considering an application under section 3 of the BHC Act, the Federal Reserve "shall take into consideration the effectiveness of the company or companies in combating money laundering activities."[32]

Capital One maintains a strong BSA/AML and Sanctions compliance program (the "AML Program"). The AML Program is based on five pillars: internal policies, procedures and controls; designation of an AML officer; employee training; independent testing; and customer due diligence. The AML Program is intended to ensure that Capital One complies with applicable laws, rules, regulations, and supervisory guidance related to anti-money laundering, counter-terrorist financing and economic sanctions risks and controls; ensure that Capital One is identifying and managing these risks and controls through sound governance and oversight, and

[32] 12 U.S.C. § 1842(c)(6).

operating in a manner consistent with its business strategy and risk appetite; and protect Capital One's business and reputation, as well as the broader financial system, from financial crime and/or activities prohibited by law or regulation.

The COFC and CONA Boards of Directors and senior management prioritize the important objectives associated with maintaining the integrity of the financial system as a whole, protecting national security, and making appropriate referrals to law enforcement. The AML Program is administered in a safe and sustainable manner, and is sufficiently staffed with appropriately trained and knowledgeable professionals across the BSA/AML and Sanctions ecosystem.

Capital One maintains a written BSA/AML/Sanctions policy (including a Customer Identification Program) approved by the COFC Board of Directors and a Board-appointed BSA Compliance and Sanctions Officer ("Chief AML Officer"), who possesses the necessary knowledge, authority and resources to effectively execute all assigned duties. The Chief AML Officer is supported by an experienced, knowledgeable and competent team of AML, Sanctions, Risk Management and Technology leaders and professionals. The AML Program's execution approach aligns with Capital One's enterprise-wide defined risk and control framework components, as defined by the COFC Enterprise Risk Management Policy, consistent with heightened standards, and leverages all three lines of defense.

In addition, Capital One continues to invest in further advancing its AML Program, with a focus on rigor, adaptability, and sustainability. The AML Program is also taking an innovative approach to meeting compliance obligations at scale through technology investments in machine learning for transaction monitoring, next-generation customer risk rating processes, and modern investigator platforms.

Capital One applies a continuous improvement approach, and designs and enhances controls to ensure adherence with both legal requirements and each applicable entity's defined business strategy and risk appetite; this continuous improvement approach applies to COFC's AML Program, as well. All Capital One associates and contractors are required to complete enterprise-wide AML/Sanctions training annually. Specific BSA/AML/Sanctions Compliance training courses tailored to roles, responsibilities and business segments are required for relevant associates and contractors. Training is also provided annually to the Board of Directors. In addition, relevant information, including Suspicious Activity Reporting (SAR) information, is regularly provided to senior management and the COFC Boards of Directors.

Between consummation of the Proposed Transaction and systems conversion, CONA will aim to execute on integration activities promptly. The BSA/AML/OFAC compliance risk of the combined entity will be a point of focus in this interim period. CONA will ensure prompt oversight through the establishment and execution of business monitoring and compliance oversight of the AML processes supporting the Discover portfolio, risk assessments and testing, ongoing AML compliance advice and training as appropriate, and management of issues and escalations consistent with Capital One risk management practices.

Based on all the information above and in the exhibits, it is evident that Capital One employs a comprehensive and effective BSA/AML Program, which supports approval of the Application.

IV. Competitive Effects

Section 3 of the BHC Act prohibits the Federal Reserve from approving a proposed merger or acquisition if it would substantially lessen competition or tend to create a monopoly unless the agency finds that any anticompetitive effects of the Proposed Transaction are clearly outweighed in the public interest by the probable effect of the proposal in meeting the convenience and needs of the communities to be served.[33] In evaluating the competitive effects of a proposed merger or acquisition between financial institutions, the Federal Reserve, in consultation with the Antitrust Division of the Department of Justice ("DOJ"), considers all facts in the record, including the number and strength of competitors that will remain in each relevant market, the relative shares of those competitors, market concentration levels and any increase in those levels as a result of the transaction.

As a preliminary screen to identify transactions that "clearly do not have significant adverse effects on competition," the banking agencies and DOJ calculate post-merger concentration levels as measured by the Herfindahl-Hirschman Index (the "HHI") and the post-merger shares of the combined firm.[34] Applying these screens, transactions that do not result in (1) both a post-merger HHI of over 1,800 and an HHI increase of more than 200 points; or (2) a post-merger share of 35% are unlikely to warrant further review.[35]

As discussed further in Exhibit 21 and Confidential Exhibit J, the Proposed Transaction will not substantially lessen competition in any market. Concentration and share levels for the Proposed Transaction are well below safe harbor thresholds in all markets in which the parties compete:

U.S. (2023)	Change in HHI	Post-Merger HHI	Combined Share
Deposits	3	405	2.8%
Checking Account Deposits	0	440	1.1%
Savings Account Deposits	4	593	3.5%
Credit Card Purchase Volume	74	1,226	13.6%
Credit Card Outstanding Balances	178	1,060	19.0%

With respect to banking, there is no overlap in any local banking market. The only relevant geographic market in which to analyze banking competition between the parties is nationwide. In this context, the parties are small players holding less than 3% of deposits

[33] *See* 12 U.S.C. § 1842(c)(1).
[34] Dept. of Just., 1995 Bank Merger Guidelines ("Bank Merger Guidelines"), (1995), https://www.justice.gov/sites/default/files/atr/legacy/2007/08/14/6472.pdf.
[35] *See* Board of Governors of the Fed. Res. Sys., Banking Information & Regulation, *FAQs* (Oct. 9, 2014), https://www.federalreserve.gov/bankinforeg/competitive-effects-mergers-acquisitions-faqs.htm.

whether measured as a whole, by checking account, or savings account deposits, and the Proposed Transaction will cause *de minimis* changes in concentration levels for these products. The combined Capital One-Discover will continue to face robust competition for deposits from, in some cases, substantially larger banking institutions such as JPMorgan Chase, BOA, Wells Fargo, Citigroup, and U.S. Bancorp, as well as digital-first financial institutions like Chime Financial, SoFi Technologies, Ally Financial, EverBank Financial, Synchrony Financial, and Varo Money, eliminating any possibility that the Proposed Transaction will substantially lessen competition in any banking market.

The Proposed Transaction will similarly not substantially lessen competition with respect to credit card issuance. Credit card issuing is a highly competitive and fragmented industry. Despite exponential purchasing growth, concentration levels have *declined* in the last decade, demonstrating the competitive and dynamic nature of the industry.[36] Credit card issuers can and do readily adjust, change, and add to their credit card portfolios to attract consumers, and consumers can and do readily add and switch among credit cards. At the same time, new payment and lending solutions, such as "Buy Now, Pay Later," have entered the payments and lending landscape, competing with credit card issuers for consumers' share of wallet, and acting as significant competitive constraints. The Proposed Transaction will not alter these competitive dynamics. The merged Capital One-Discover will lower its combined costs and continue to compete with the plethora of credit card issuers including JPMorgan Chase, Citibank, BOA, U.S. Bancorp, Wells Fargo, Amex, Barclays, and Synchrony Bank, and the Proposed Transaction will increase consumers' overall access to credit, given Capital One's more inclusive underwriting standards.

With respect to payments networks, the Proposed Transaction will *deconcentrate* the marketplace and greatly improve competition. Capital One does not own or operate any payments network. Vertically integrating with Discover's payments networks will add scale to these credit and debit networks—which respective market shares are in long-term decline—making the networks less costly to operate on a marginal basis and more attractive to consumers and merchants. The combination will also allow Capital One to lower its transaction-related costs and to reinvest those dollars in improved banking products and services, including investments into the payments networks to reduce fraud, improve dispute resolution processes, and lessen information sharing friction to the benefit of consumers and merchants. These network investments will allow Capital One to further scale the networks, improve the actual and perceived acceptance of the networks, and create a credible alternative to the Visa, Mastercard, and Amex payments networks, which dominate the industry today.

In view of the above and as further detailed in <u>Exhibit 21</u> and <u>Confidential Exhibit J</u>, the competitive considerations of the Proposed Transaction are consistent with approval of the Application.

V. <u>Financial Stability Risk Considerations</u>

Pursuant to section 3(c)(7) of the BHC Act, the Federal Reserve must consider in every application under section 3 of the BHC Act whether the proposed acquisition would result in

[36] *See* <u>Exhibit 21</u>, n. 55.

greater or more concentrated risks to the stability of the U.S. banking or financial system.[37] As discussed below, the Proposed Transaction will not increase systemic risk to the U.S. banking or financial system. Instead, the Proposed Transaction would result in a stronger banking organization that is better positioned to compete both with the largest banking organizations and the larger regional banking organizations in the United States.

The Federal Reserve has, through many approvals of bank holding company applications, delineated five metrics through which it has assessed the financial stability factors ("Financial Stability Factors").[38] These metrics include:

- the size of the resulting banking organization;
- the availability of substitute providers for any critical products and services offered by the resulting firm;
- the interconnectedness of the resulting firm with the banking or financial system;
- the extent of the cross-border activities of the resulting firm; and
- the extent to which the resulting firm contributes to the complexity of the financial system.

Also interwoven into the Federal Reserve's analysis is the relative degree of difficulty of resolving the resulting firm if it were to experience financial distress. The Federal Reserve has noted that the opaqueness and complexity of an institution's internal organization are relevant to resolvability aspects of the banking organization.[39] A banking organization that can be resolved in an orderly manner is less likely to inflict material damage to the U.S. financial system or economy.

An analysis of these Financial Stability Factors as applied to the Proposed Transaction demonstrates that the Proposed Transaction would not result in any meaningful increase in any of the metrics used by the Federal Reserve to evaluate the systemic footprint of a post-acquisition organization.

These Financial Stability Factors are similar to the categories of systemic indicators used by the Federal Reserve to identify banking organizations that should be considered GSIBs and to calculate the capital surcharge applicable to a GSIB, as well as the general categories of indicators collected in the Federal Reserve's FR Y-15 reports (Banking Organization Systemic

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[37] 12 U.S.C. § 1842(c)(7).

[38] *See Capital One Financial Corporation*, FRB Order No. 2012-2 (Feb. 14, 2012) (the "Capital One Order"). *See also, e.g., First Citizens Bancshares, Inc.*, FRB Order No. 2021-12 (Dec. 17, 2021); *The PNC Financial Services Group, Inc.,* FRB Order No. 2021-04 (May 14, 2021)*; Huntington Bancshares Incorporated,* FRB Order No. 2021-07 (May 25, 2021); *BB&T Corporation,* FRB Order No. 2019-16 (Nov. 19, 2019)*; CIT Group, Inc.,* FRB Order No. 2015-20 (July 19, 2015); Letter to Jason J. Cabral, Esq. from Stephen A. Lybarger, CRA Decision #2017-186 (Oct. 16, 2017); *CIT Group, Inc.*, FRB Order No. 2015-20 (July 19, 2015); Letter to Joseph M. Otting from Stephen A. Lybarger (July 21, 2015) (OCC approval of CIT Bank's acquisition of OneWest Bank, N.A.); OCC Corporate Decision #2012-05 (April 2012); *The PNC Financial Services Group, Inc.*, 98 Fed. Res. Bull. 16 (2012).

[39] E.g., *BB&T Corporation*, FRB Order No. 2019-16 (Nov. 19, 2019).

Risk Report). As of December 31, 2023, COFC had a Method 1 GSIB score of 25.35. COFC's pro forma Method 1 GSIB score as of the same date – and reflecting its proposed combination with Discover – would be only 33.00, an increase of only 7.65 points.

Thus, following the Proposed Transaction, COFC would remain far below the threshold score (130) necessary to be considered a GSIB under 12 CFR § 217.402.

Please see Exhibits 22 and 23 for copies of the public portion of COFC's and Discover's FR Y-15 reports, as of December 31, 2023, respectively. Please also see Confidential Exhibit K for, as of December 31, 2023, a pro forma GSIB score for COFC and a pro forma FR Y-15, which reflects Discover's operations.

In addition, COFC is a Category III organization, while Discover is currently not. As a result of the Proposed Transaction, the assets and liabilities of these companies, including the assets and liabilities of Discover acquired in the Proposed Transaction, would become subject to the Supplementary Leverage Ratio and the Countercyclical Capital Buffer requirements of the banking agencies' regulatory capital rules, as well as the LCR and NSFR requirements that apply to COFC as a Category III firm.[40]

A more detailed analysis of the Proposed Transaction under each of the Financial Stability Factors is discussed below.

Size. The Financial Stability Factor relating to size and availability of substitute providers of critical products may be informed by other aspects of the BHC Act's requirements, namely compliance with: (1) antitrust standards, (2) the 10% national deposit cap for certain interstate acquisitions,[41] and (3) the 10% national liabilities cap.[42] The Proposed Transaction is consistent with the federal banking agencies' precedent reviewing the competitive effects of mergers, and the Proposed Transaction does not come close to approaching either the national deposit cap or national liabilities cap. Accordingly, as a threshold matter, the Proposed Transaction is not likely to pose a risk to the financial stability of the U.S. banking or financial system based on size metrics.

COFC accounts for only approximately 2.0% of total adjusted domestic deposits of all insured banks and thrifts in the United States, as of December 31, 2023.[43] The deposits of Discover to be assumed account for only 0.6% of total adjusted domestic deposits. The pro forma total deposits of COFC, as of December 31, 2023, would represent only 2.6% of adjusted domestic deposits. This is far less than the domestic deposit concentrations of the largest banks

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[40] The Federal Reserve has previously noted that the expansion of more stringent prudential standards to the assets and liabilities acquired as part of a Proposed Transaction is a favorable consideration under the financial stability factor. *See* Morgan Stanley/E*Trade Order, FR Order 2020-05 at p. 23 (Sept. 30, 2020), https://www.federalreserve.gov/newsevents/pressreleases/files/orders20200930b1.pdf.
[41] *See* 12 U.S.C. § 1842(d).
[42] *See* 12 U.S.C. § 1852.
[43] Calculation represents Total Liabilities Before Exclusions less Total Allowable Exclusions plus Interest Accrued and Unpaid on Deposits aggregated for all FDIC-insured banks and thrifts and reported on their Consolidated Report of Condition and Income for the quarter ended December 31, 2023. As of December 31, 2023, banks and thrifts held $17.7 trillion in adjusted domestic deposits.

in the United States, for example, as of December 31, 2023: JPMC – 11.6%; BOA – 10.1%; Wells Fargo – 8.1%; and Citigroup – 4.4%.

Capital One's pro forma total consolidated assets would be less than the total asset size of the seven largest U.S. banking organizations as of December 31, 2023.[44] The pro forma total assets of COFC on consummation of the Proposed Transaction would be approximately $646 billion as of December 31, 2023, and represent only approximately 2.7% of the total assets of the U.S. banking system[45] and a significantly smaller share of the total assets of the U.S. financial system. As noted, on a pro forma basis, COFC would only hold approximately 2.3% of Total Liabilities on a national basis, as of December 31, 2023.[46] This percentage is far less than the nationwide liabilities concentrations of the four largest banking organizations, as of December 31, 2023: BOA – 7.7%; JPMC – 6.9%; Wells Fargo – 5.0%; and Citigroup – 5.4%.

In addition, when the pro forma asset size of COFC is measured using the total exposures of COFC and Discover, as defined for purposes of the size indicators section of the Federal Reserve FR Y-15 report, it becomes even clearer that the Proposed Transaction would not result in systemic risk under the size factor. Indeed, this approach demonstrates even more accurately than total assets the extent to which the combined company poses less systemic risk than those banking organizations that have been classified as U.S. GSIBs. In evaluating a bank holding company's total exposures, the relevant measures include its total derivatives, securities financing transactions, other on-balance sheet exposures and other off-balance sheet exposures. Based on the Form FR Y-15 report of COFC and the Form FR Y-15 report of Discover ("Discover FR Y-15"), as of December 31, 2023, on a pro forma basis, COFC would have total exposures of $752.6 billion, which is approximately one-third of the average total exposures of $2.2 trillion for the U.S. GSIBs as of that same date.[47]

For all these reasons, the Proposed Transaction should not raise systemic concerns under the size factor.

Substitutability. The substitutability factor recognizes that a banking organization is more systemically important if it provides important products and services that customers would have difficulty replacing if the banking organization were to fail. In the United States, COFC and Discover offer primarily retail and commercial deposit products, credit cards, payment services, consumer and commercial loan products and treasury management services.

[44] Based on December 31, 2023 FRY-9C reports of bank holding companies.

[45] The amount of total assets of the U.S. financial system is conservatively approximated by using total assets of FDIC-insured banks and thrifts, as of December 31, 2023, which was $23.7 trillion.

[46] This percentage is estimated using the method of calculation in the Federal Reserve's Regulation XX, 12 CFR part 251, and the amount of Total Liabilities in effect through June 30, 2024, stated by the Federal Reserve. *See* 88 Fed. Reg. 38054 (Jun. 12, 2023), *Announcement of Financial Sector Liabilities*, Federal Reserve System Docket No. OP-1808 (June 12, 2023), https://www.federalregister.gov/documents/2023/06/12/2023-12389/announcement-of-financial-sector-liabilities.

[47] The pro forma total exposures of the combined company were calculated based on the total exposures of such activities reported on the COFC and Discover FR Y-15 reports (as of December 31, 2023). The total exposures, as the U.S. GSIBs, were: JPMC – $4.6 trillion, BOA – $3.8 trillion, Citigroup – $3.0 trillion, Wells Fargo – $2.3 trillion, The Goldman Sachs Group, Inc. ("Goldman Sachs") – $2.0 trillion, Morgan Stanley – $1.5 trillion, Bank of New York Mellon – $438.9 billion and State Street Corporation ("State Street") – $318.0 billion, as of that same date.

Additionally, although the Discover Global Network provides payment services, substitutability is not a concern given the substantial size of other payment providers such as Visa, Mastercard, and Amex.

None of the products or services of Capital One or Discover can be regarded as highly specialized or "critical" financial products or services that are available from only a small number of providers. The fact that the Proposed Transaction would have little effect on financial stability is reinforced by an evaluation of the substitutability indicators of the FR Y-15 report. In evaluating a bank holding company's substitutability, the relevant measures include a banking organization's total payments activity, amount of assets under custody and underwriting activity. Based on the COFC FR Y-15 report and the Discover FR Y-15 Report (each as of December 31, 2023), COFC had total payments activity of $1.3 trillion and, on a pro forma basis, this would increase to $1.8 trillion as a result of the Proposed Transaction. Furthermore, Capital One's total assets under custody and underwriting activity would remain nearly unchanged at $4.9 billion. Each of the resultant pro forma values are only a fraction of the average activity totals reported by the U.S. GSIBs.[48]

For all these reasons, the Proposed Transaction would not raise financial stability risk concerns under the substitutability factor.

Interconnectedness. In evaluating systemic risk, the Federal Reserve evaluates the interconnectedness of a banking organization because the failure of a bank to meet payment obligations to other banks can accelerate the spread of financial contagion when the banking organization is highly interconnected with other financial firms. As underscored by the discussion above, the Proposed Transaction would not materially increase the interconnectedness of the U.S. banking or financial system.

Neither Capital One nor Discover currently engages in business activities or participates in markets to a degree that would pose significant risk to other institutions in the event of financial distress at Capital One in the future. Moreover, the Proposed Transaction would not cause Capital One to add any critical services or to increase its interconnectedness to other firms or markets such that they would pose a significant risk to the financial system in the event of financial distress. Instead the Proposed Transaction will enable Capital One to provide payment services and grow its retail banking services. Therefore, the Proposed Transaction would not increase the interconnectedness of the combined organization in any meaningful manner.

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[48] These pro forma activity amounts of the combined company were calculated by adding such activity amounts reported on their respective FR Y-15 reports (as of December 31, 2023). In contrast, the respective total payments activity, total assets under custody and total underwriting activity reported by the U.S. GSIBs on their December 31, 2023 FR Y-15 reports were as follows: JPMC – $556.1 trillion (payments), $33.3 trillion (assets under custody) and $446.9 billion (underwriting); BOA – $170.4 trillion (payments), $4.1 trillion (assets under custody) and $546.9 billion; Wells Fargo – $65.3 trillion (payments), $2.6 trillion (assets under custody) and $265.6 billion (underwriting); Citigroup – $200.6 trillion (payments), $22.9 trillion (assets under custody) and $426.4 billion (underwriting); Goldman Sachs – $17.7 trillion (payments), $1.7 trillion (assets under custody) and $253.6 billion (underwriting); Morgan Stanley – $15.0 trillion (payments), $3.9 trillion (assets under custody) and $266.8 billion (underwriting); Bank of New York Mellon – $243.1 trillion (payments), $36.4 trillion (assets under custody) and $9.3 billion (underwriting); and State Street – $92.6 trillion (payments), $30.6 trillion (assets under custody) and $0.0 billion (underwriting).

When the interconnectedness of the combined company is measured using the interconnectedness indicators of the FR Y-15 report, the Proposed Transaction would not result in a material increase in systemic risk under such indicators. In evaluating a bank holding company's interconnectedness, the relevant measures include the banking organization's total claims on the financial system, its total liabilities to the financial system and the total value of debt and equity securities it issues. Based on COFC's and Discover's respective FR Y-15 reports (each as of December 31, 2023), COFC's total intra-financial system assets would increase only slightly (i.e., less than 5%) from $73.3 billion to $76.6 billion and its intra-financial system liabilities would increase from $3.3 billion to $6.8 billion on a pro forma basis. These resultant pro forma amounts for intra-financial system assets and intra-financial system liabilities are only 35% and 3%, respectively, of the averages for such indicators reported by the U.S. GSIBs. Based on COFC's and Discover's respective FR Y-15 reports (each as of December 31, 2023), COFC's securities outstanding would increase on a pro forma basis from $167.8 billion to $260.5 billion. Although this is a sizable increase in percentage terms (i.e., 55%), the resultant pro forma amount of $260.5 billion securities outstanding is less than half of the average of securities outstanding of the U.S. GSIBs.[49]

For all these reasons, the Proposed Transaction would not raise financial stability risk concerns based on the interconnectedness factor.

Cross-Border Activity. In evaluating financial stability risk, the Federal Reserve evaluates a banking organization's cross-border activity because a banking organization with significant international activities can transmit financial problems from one country to another during a financial crisis. Banks with significant cross-border activities also may be more difficult to resolve because they require coordination with foreign authorities and access to foreign assets.

Capital One will not materially increase its limited cross-border activities as a result of the Proposed Transaction. As of December 31, 2023, Capital One's cross-border activities include cross-jurisdictional claims of $8.1 billion and cross-jurisdictional liabilities of $0.6 billion. Such activities consist of credit card lending in the U.K. and Canada, local currency liabilities associated with the U.K. and Canada credit card businesses, and *de minimis* cross-border commercial lending activities. As an initial matter, COFC and CONA are not acquiring any material entities outside the U.S. as part of the Proposed Transaction. Moreover, the cross-border activities of Discover that Capital One would acquire as part of the Proposed Transaction would be limited primarily to payment transaction processing and settlement services.

[49] These pro forma activity amounts for the combined company were calculated by adding such activity volumes reported by COFC and Discover, individually, on the FR Y-15 report (each as of December 31, 2023). The respective total intra-financial system assets, intra-financial system liabilities and securities outstanding reported by the U.S. GSIBs on their FR Y-15 reports for that same date were as follows: JPMC – $371.5 billion, $506.9 billion and $1.1 trillion; BOA – $251.1 billion, $151.5 billion and $756.0 billion; Wells Fargo – $179.1 billion, $125.8 billion and $545.4 billion; Citigroup – $233.8 billion, $338.2 billion and $666.3 billion; Goldman Sachs – $310.8 billion, $83.1 billion and $542.4 billion; Morgan Stanley – $233.0 billion, $77.8 billion, and $486.2 billion; Bank of New York Mellon – $79.8 billion, $279.5 billion and $76.9 billion; and State Street – $81.0 billion, $231.8 billion and $48.1 billion.

When the cross-border activity of the combined company is measured using the cross-border indicators of the FR Y-15 report, it is evident that the Proposed Transaction would not result in material systemic risk under such indicators. In evaluating a bank holding company's cross-border activity, the relevant measures are a banking organization's total cross-jurisdictional claims and its total cross-jurisdictional liabilities. Based on COFC's and Discover's relevant Form FR Y-15 reports (as of December 31, 2023), the COFC's cross-jurisdictional claims on a pro forma basis of $8.1 billion would increase only slightly (i.e., 1%) to $8.2 billion and similarly its cross-jurisdictional liabilities would also increase only slightly (i.e., less than 6%) from $0.60 billion to $0.63 billion. These resultant pro forma amounts for the combined company are *de minimis* when compared with the amounts of the U.S. GSIBs.[50]

Therefore, the Proposed Transaction would not result in any meaningful increase in Capital One's cross-border operations or activities and would not create difficulties in coordinating any resolution of the combined company or otherwise increase the risk to U.S. financial stability.

<u>Complexity</u>. The complexity of a banking organization is relevant to the Federal Reserve's financial stability risk analysis because highly complex operations have a broader impact on the financial system and generally are more difficult to resolve if they fail. The Proposed Transaction would not contribute to the overall complexity of the U.S. banking or financial system.

As noted, the Proposed Transaction does not involve the purchase or assumption of any complex assets or liabilities. Accordingly, the Proposed Transaction would not cause the resulting organization to have a complex organizational structure, add complex interrelationships or add any unique characteristics that would complicate resolution of the firm, or otherwise pose a significant risk to the financial system, in the event of financial distress. Capital One and Discover have successfully designed and implemented frameworks to address applicable regulatory requirements for resolution planning, and Capital One will apply its framework following consummation of the Proposed Transaction.

In addition, when the complexity of the combined company is measured using the relevant indicators of COFC's and Discover's respective Form FR Y-15 reports, it is also evident that the Proposed Transaction would not result in a material increase in systemic risk under this factor. In evaluating a bank holding company's complexity, the relevant measures are: a banking organization's total notional amount of over-the-counter ("<u>OTC</u>") derivatives; total adjusted trading, available-for-sale securities and equity securities with readily determinable fair values not held for trading (collectively, "<u>Trading and AFS Securities</u>"); and total illiquid and hard-to-value assets, known as "<u>Level 3 Assets</u>." Based on COFC's and Discover's respective FR Y-15 reports (each as of December 31, 2023), COFC would have a pro forma total notional

[50] These pro forma activity amounts for the combined company were calculated by adding such activity volumes reported on COFC's and Discover's most recently published FR Y-15 reports (as of December 31, 2023). The much larger cross-jurisdiction claims and cross-jurisdiction liabilities reported by the U.S. GSIBs on their respective FR Y-15 reports for that same date were as follows: JPMC – $946.8 billion and $863.7 billion; BOA – $536.6 billion and $374.8 billion; Wells Fargo – $175.5 billion and $69.4 billion; Citigroup – $1.1 trillion and $1.2 trillion; Goldman Sachs – $684.1 billion and $577.9 billion; Morgan Stanley – $394.2 billion and $339.4 billion; Bank of New York Mellon – $101.8 billion and $158.6 billion; and State Street – $101.2 billion and $160.6 billion.

amount of OTC derivatives of $287.7 billion, total Trading and AFS Securities of $9.7 billion and total Level 3 Assets of $1.2 billion. These amounts are all *de minimis* when compared with the average of such indicator totals, as reported by the U.S. GSIBs.[51]

Also, Capital One does not believe that the Proposed Transaction will make COFC or CONA more difficult to resolve if they fail. CONA is subject to the OCC's recovery plan requirements which establish minimum standards for recovery planning by national banks, federal savings associations, and insured federal branches of foreign banks. Capital One will integrate Discover into CONA's recovery planning framework. As previously noted, although CONA will have a larger asset base post-Closing, it does not anticipate material changes to its resolution strategies. The acquisition of the Discover Global Network by COFC is under review to determine what changes will be made to COFC's resolution plan; however, those changes will not result in a material change to the complexity of Capital One.

For all these reasons, the Proposed Transaction would not significantly increase financial stability risk under the complexity factor.

Conclusion on Financial Stability Risk. In view of all the foregoing, the Proposed Transaction will not result in greater or more concentrated risks to the stability of the U.S. banking or financial system, and, therefore, the financial stability risk considerations are consistent with approval of the Proposed Transaction.

As noted, the Proposed Transaction will enable the combined company to achieve greater diversification of business lines, customers and geographies, enhanced earnings prospects and operational efficiencies. These important benefits will enable the combined Capital One to compete more effectively against the larger regional banks, as well as the exponentially larger banking organizations that have steadily and disproportionately increased their banking and financial service market share concentrations during the last decade. Following closing, COFC and CONA will continue to operate within the robust Governance Framework described above.

In addition, as previously discussed, COFC is a Category III organization, while Discover is currently not. As a result of the Proposed Transaction, the assets and liabilities of these companies, including the assets and liabilities of Discover acquired in the Proposed Transaction, would become subject to the Supplementary Leverage Ratio and the Countercyclical Capital Buffer requirements of the banking agencies' regulatory capital rules, as well as the LCR and NSFR requirements that apply to COFC as a Category III firm.

Additional information demonstrating that the Proposed Transaction would not result in any meaningful increase in risks to the stability of the U.S. banking or financial system is provided in <u>Confidential Exhibit L</u>.

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[51] The volumes of these respective activities (total notional amounts of OTC derivatives, amounts of Trading and AFS Securities, and Level 3 Assets amounts) reported by the significantly larger banking organizations on their FR Y-15 reports for that same date were as follows: JPMC – $49.2 trillion, $252.4 billion and $23.7 billion; BOA – $32.8 trillion, $192.4 billion and $9.3 billion; Wells Fargo – $12.6 trillion, $69.1 billion and $9.6 billion; Citigroup – $39.0 trillion, $98.3 billion and $12.7 billion; Goldman Sachs – $38.5 trillion, $189.9 billion and $25.9 billion; Morgan Stanley – $36.6 trillion, $163.6 billion and $10.4 billion; Bank of New York Mellon – $1.1 trillion, $30.3 billion and $0.0 billion; and State Street – $2.5 trillion; $13.1 billion and $4.0 million.

VI. Convenience and Needs of the Communities

In acting on this Application, section 3 of the BHC Act requires the Federal Reserve to consider the effects of the Proposed Transaction on the convenience and needs of the communities to be served.[52] Capital One will build on each company's strong commercial, consumer and retail foundations to create an enhanced, more competitive financial institution. Both CONA and Discover Bank have proud histories of commitments to their communities. CONA has a long-standing track record of "Outstanding" Community Reinvestment Act performance since 2007, and has ranked first or second in community development ("CD") lending among all banks since 2015, with over $59 billion in CRA-qualified loans over that period. CONA appreciates the importance of Chicagoland and Delaware, and remains committed to maintaining a strong presence in those markets, as well as maintaining service excellence across the United States. The combined entity will benefit from the significant investments that Capital One has made over the last decade to modernize its technology and expand its suite of products and services offered to its customers. Capital One has a suite of intuitive digital tools that provide a personalized customer experience, including:

- Second Look: Proactively notifies customers of double charges, generous tips and other suspicious activity
- Eno: A natural language two-way SMS assistant can monitor charges, send fraud alerts and get answers to customer questions
- Creditwise: In addition to credit monitoring, Creditwise empowers customers to understand, build and use their credit responsibly with a digital score improvement tool and daily score refreshes.

Capital One is one of the nation's largest business card franchises, offering an array of business card options that meet the needs of small and mid-market business customers of various credit levels and spending habits, as well as preferences in rewards such as cash back and travel. Additionally, business customers benefit from a suite of services such as automated payments, fraud protection, employee cards, multi-user capabilities, reporting, accounting integrations, and virtual card offerings.

Capital One offers simple checking products, with no monthly fees or minimum balance requirements, and was the first major bank to completely eliminate overdraft fees while still allowing customers to retain the ability to utilize this service. Capital One's flagship 360 Checking product is Bank On certified. Capital One has a full service digital bank offering customers over 40 fully digitized features and services. Unique features include the ability to add cash to checking accounts at any CVS, Walgreens, or Duane Reade by Walgreens location; real-time alerts about checking account activity from Capital One and Eno (Capital One's virtual assistant); multiple overdraft options (e.g., auto-decline, free transfers, no fee overdraft). The Proposed Transaction will allow Capital One to continue to innovate and improve its offerings,

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[52] 12 U.S.C. § 1842(c)(5).

and to significantly expand the availability of its flagship Bank On certified, no fee, minimum balance and overdraft fee checking product to a broader range of consumers.

Capital One operates 259 (as of June 2024, reflecting previously determined actions unrelated to the Proposed Transaction) bank branches across three distinct regions: (i) New York/New Jersey, (ii) Maryland/DC/Virginia, and (iii) Louisiana/Texas. Additionally, Capital One has 55 Capital One Cafés (as of June 2024, reflecting previously determined actions unrelated to the Proposed Transaction), located across 21 of the top 25 Metropolitan Statistical Areas ("MSAs"), delivering a completely unique experience. Capital One operates Cafés in several underserved communities, including Washington, DC's historic Anacostia neighborhood, Chicago's South Side in Hyde Park, Downtown Detroit and Downtown Los Angeles. In addition, Capital One plans to open a Capital One Café next year in the South Bronx. The Cafés are open to anyone – not just Capital One customers – for food and beverage offerings, free Wi-Fi, and non-profit meeting spaces. The Cafés do not offer teller cash services, but do have deposit-gathering ATMs. Capital One is also currently piloting and intends to expand its deployment of cashier's check issuance kiosks and cardless ATM access. Café Ambassadors provide financial literacy and wellness education, assist customers with account servicing, account opening, and problem resolution. Capital One credit and debit cardholders receive access to private working spaces.

Capital One has a number of businesses and associated features today that do not directly overlap with Discover's active businesses, including Auto Finance, Auto Navigator, Small Business Card, Small Business Banking, Commercial Banking and more.

- **Auto Finance:** Auto Finance provides loans to consumers across the credit spectrum for the purpose of purchasing or refinancing new and used automobiles. Auto Finance originates loans primarily through two channels: direct and dealer (also known as indirect). Through its extensive dealer relationships, Auto Finance purchases retail contracts, which are secured by automobiles. Auto Finance's indirect channel products include financing for the purchase of new and used vehicles; the direct channel's sole product is the refinancing of existing motor vehicle loans directly to consumers.

- **Auto Navigator:** Auto Navigator is a proprietary technology built by Capital One that enables consumers to research potential vehicles to purchase, view dealer inventory across the United States and receive vehicle pricing information. Consumers can use Auto Navigator to receive pre-qualified offers on financing. Capital One views Auto Navigator as a unique offering in the marketplace and, therefore, a value driver of this specific business line.

- **Small Business Card:** Capital One is one of the nation's largest business card franchises, offering an array of business card options that meet the needs of small and mid-market business customers of various credit levels and spending habits, as well as preferences in rewards such as cash back and travel. Additionally, business customers benefit from a suite of services, such as automated payments, fraud protection, employee cards, multi-user capabilities, reporting, accounting integrations, and virtual card offerings.

- **Small Business Banking:** The Small Business Banking business provides digital and traditional banking services including loans, both term and revolving, to small business owners, generally in the Company's regional markets. The business resides within the Consumer Bank line of business.

- **Commercial Banking:** The Commercial Banking business provides lending, capital markets and transaction services to corporations. To meet the product demands of clients, Commercial Banking is divided into two primary lines of business: Commercial Real Estate and Corporate Banking. Six horizontal business functions support these primary lines of business: (1) treasury management, (2) capital markets, (3) underwriting and portfolio management, (4) commercial operations, (5) commercial risk and (6) commercial business office. Commercial Banking serves clients at both regional and national scale depending on the line of business.

These businesses are a strategic priority and Capital One believes that there will be opportunities to offer these compelling products and services to Discover's customers through Capital One. There will be no significant changes to Capital One products, which, aside from the Discover Global Network, will remain the primary products of the combined organization. For products or services that are not offered by Capital One, following the Proposed Transaction, Capital One will continue to service those products for legacy customers and assess whether there are additions to the Capital One suite of products that would align to the organization's overall strategy and risk profile.

For example, CONA does not offer private student loans, home equity loans, personal loans or money market or IRA accounts. On November 29, 2023, Discover announced that its Board of Directors had authorized management to explore the sale of the private student loan portfolio and transfer servicing of these loans to a third-party servicer. Discover stopped accepting new applications for private student loans on February 1, 2024. Discover is targeting to complete the sale of its student loan business in the second half of 2024. If this sale is not completed in advance of the Proposed Transaction, Capital One intends to pursue a sale of this business and fully exit student lending activities after the consummation of the Proposed Transaction. While CONA does not offer home equity loans, personal loans, money market or IRA accounts, it plans to continue to service any such loans or accounts on its balance sheet following the Proposed Transaction and assess whether such businesses should be offered for new customers.

In addition to the different product lines, Capital One and Discover offer different features in connection with their various banking products. Following the Proposed Transaction, Capital One will evaluate all of Discover's products and services for opportunities to optimize its product offerings to offer a best-in-class suite of financial products. Due to the minimal changes to the product set and the continued servicing of existing business lines, customers should experience minimal disruption as a result of the Proposed Transaction.

As discussed in detail in the *Commitment to the CRA* section below, the combined CONA is committed to continuing its strong record of CRA performance and helping to serve the needs of its communities nationwide and within its CRA assessment areas ("AAs"). As part of the Proposed Transaction, Capital One is proactively meeting with community groups and considering how best to continue to meet the needs of the communities it serves. Following these discussions, Capital One plans to develop a community benefit plan reflecting the feedback from the communities. Based on all the foregoing, and the discussion below of the parties' CRA record, it is evident that the convenience and needs of the communities and other constituents of Capital One, including CONA, and Discover, including Discover Bank, will be favorably served by the Proposed Transaction.

VII. Commitment to the CRA

The CRA requires the Federal Reserve to assess a depository institution's record of performance in helping to meet the credit needs of its entire community, including LMI neighborhoods in evaluating the Proposed Transaction. The Federal Reserve also considers the CRA performance records of the banks involved in a proposal as part of the convenience and needs factor under Section 3 of the BHC Act. Both CONA and Discover Bank have a strong commitment to serving the needs of their communities as demonstrated by each bank's strong CRA compliance record and performance in their most recent CRA performance evaluations as well as each organization's ongoing community engagement activities. The complementary nature of each bank's business and CRA program will result in an even stronger program with expanded opportunities moving forward. The combination of CONA and Discover Bank brings together robust programs and unique best practices for serving the needs of LMI and underserved communities and small businesses. The following pages will highlight the programs, products and strengths that a combined CONA and Discover Bank will bring together to provide an even higher level of support for LMI consumers and neighborhoods and small businesses.

CONA is particularly proud of a number of elements of its CRA program and governance, including its:

- Comprehensive CRA program that is fully supported by its Board of Directors and senior executives. Senior managers who are responsible for lines of business that impact CRA performance are charged with CRA-related accountabilities. The CRA strategy and program management team works closely with applicable lines of business to provide centralized oversight and subject matter expertise, and to promote strong CRA performance. Further, Capital One's CRA Officer reports annually to the Board of Directors.

- Team of more than 150 full-time equivalent employees who serve functions related to CRA strategy and program management, CD finance, community outreach, and corporate philanthropy.

- Deep relationships with existing community partners, and continued development of new relationships to support investments, lending, and service activities.

- Community Advisory Council ("CAC"), a diverse group of 27 of the nation's leading experts on consumer protection, consumer banking, fair lending, affordable housing, small business, and financial well-being. The CAC was initiated in 2013. Members' recommendations are informed by their own work directly serving LMI populations as well as policy research that delivers insights on proven and emerging strategies for helping un- and under-banked and subprime consumers improve their financial well-being. The CAC has helped Capital One better understand the financial needs of underserved consumers. Additionally, the CAC has become a forum for Capital One leaders to solicit input from CAC members about business strategy and product development. One prominent example of this is the role that the CAC played in Capital One's groundbreaking decision to eliminate overdraft fees.

- Strong collaboration and accountability across business lines on CRA investments, lending, and services.

- Long-standing track record of "Outstanding" CRA performance, as discussed in greater detail below. Capital One has ranked first or second in CD lending among all banks since 2015, with over $59 billion in CRA-qualified loans over that period. CONA is in the fourth year of its five-year, $200 million Impact Initiative, supporting non-profit organizations seeking innovative solutions to address affordable housing, workforce development, small business creation, financial well-being and digital access.

Capital One intends to continue this level of support and oversight following the consummation of the Proposed Transaction. In addition, Capital One intends to review the level of resources dedicated to community development to ensure that it is well-positioned to continue its strong commitment to this area.

A. CONA CRA Performance Record

CONA received an overall rating of "Outstanding" on its most recent CRA performance evaluation by the OCC, dated as of August 24, 2020 (the "CONA CRA Evaluation"). The evaluation period for the CONA CRA Evaluation was January 1, 2017 to December 31, 2019.

During that period, COFC also controlled Capital One Bank (USA), National Association ("COBNA"), a national bank with its main office in Glen Allen, Virginia. During that period, CONA operated as an interstate bank that offered a broad spectrum of financial products and services to consumers, small businesses, and commercial clients through a variety of channels. COBNA engaged exclusively in credit card operations, offering credit cards for both consumers and small businesses, both inside the United States and, through an indirect subsidiary in the United Kingdom, and a branch of COBNA in Canada, outside the United States. CONA and COBNA were merged on October 1, 2022, with CONA as the surviving national bank.

Like CONA, COBNA also received an overall rating of "Outstanding" on its most recent CRA performance evaluation by the OCC, also dated as of August 24, 2020 (the "COBNA CRA Evaluation"). The CONA CRA Evaluation and the COBNA CRA Evaluation are summarized separately below.

1. CONA CRA Evaluation

During the evaluation period, CONA operated as an interstate bank offering a broad spectrum of financial products and services to consumers, small businesses, and commercial clients through a variety of channels. CONA's consumer banking products and services included checking and savings accounts with no monthly fees or minimum balance requirements, auto loans, and consumer credit cards through retailers. CONA also offered small business and commercial loans, including multifamily residential loans,[53] commercial deposit accounts including checking, money market, and certificates, and treasury management services. The bank's primary business strategy was small business lending, which comprised 97% of the bank's lending during the evaluation period. Farm and agricultural lending were not a primary business strategy.

As of the conclusion of the evaluation period on December 31, 2019, CONA operated 462 retail banking branches with 135, or 29%, of those branches located in LMI geographies. Additionally, CONA operated 39 cafés with six, or 15%, of the cafés located in LMI geographies. CONA's retail banking branches, deposit-taking ATMs, and cafés were located in California, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Illinois, Louisiana, Maryland, Massachusetts, Minnesota, New Jersey, New York, Oregon, Pennsylvania, Texas, Virginia, and Washington.

As discussed above, CONA received an overall rating of "Outstanding" in the CONA CRA Evaluation. This was CONA's second consecutive "Outstanding" rating on its CRA performance evaluations. For the CONA CRA Evaluation, CONA received "Outstanding" ratings under each of the Lending and Investment Tests and a "High Satisfactory" rating under the Service Test.

CONA also received overall "Outstanding" ratings in each state or combined statistical area or multistate metropolitan statistical area that was reviewed including: (a) the New York-Newark, NY-NJ-CT-PA Combined Statistical Area (the "New York CSA"); (b) the Philadelphia-Camden-Wilmington, PA-NJ-DE-MD Multistate Metropolitan Statistical Area (the "Philadelphia MMSA"); (c) the Washington-Baltimore-Arlington, DC-MD-VA-PA Combined Statistical Area (the "Washington, DC CSA"); and (d) the individual States of California, Colorado, Delaware, Florida, Illinois, Louisiana, Massachusetts, Minnesota, Oregon, Texas, Virginia, and Washington. The OCC also stated in the CONA CRA Evaluation that examiners did not identify that CONA (or any affiliate of CONA whose loans had been considered as part of the institution's lending performance) had engaged in discriminatory or other illegal credit practices that require consideration in the evaluation.

The New York CSA and the Washington, DC CSA represented the bank's most significant markets in terms of lending, deposits (after allocating Internet deposits), and branch distribution and carried the greatest weight in the OCC's overall conclusions. The New York CSA Assessment Area (the "New York CSA AAs") accounted for 24.3% of the bank's home mortgage, small business, and small farm lending, 26.9% of total allocated deposits, and 38.5% of the branch network. The Washington, DC CSA Assessment Area (the "Washington, DC CSA AA") accounted for 10.2% of home mortgage, small business, and small farm lending, 39.9% of total allocated and unallocated deposits, and 23.8% of the branch network. In order of significance, the states of Texas, Louisiana, and California were the next largest markets, and

[53] The OCC noted that in November 2017, due to the highly competitive marketplace and challenging rate environment, CONA made the business decision to cease new originations of residential mortgage and home equity loan products within the consumer banking business. Accordingly, most of the bank's home mortgage originations in 2018 and 2019 were multifamily loans.

when combined with the New York CSA AA and Washington, DC CSA AA, contained 90.1% of the bank's total deposits, 99.7% of the branch network, and 72.9% of reportable loans during the evaluation period.

The major factors that supported the overall "Outstanding" rating included:

(a) **Lending Test** – CONA's "Outstanding" lending test rating was based on *an "Outstanding" lending rating in all the bank's rating areas.*[54]

(b) **Investment Test** – CONA's "Outstanding" rating under the investment test was based on *an "Outstanding" investment rating in all the bank's rating areas.*

(c) **Service Test** – CONA's "High Satisfactory" rating under the Service Test, reflected, among other things, that CONA received a "High Satisfactory" service test rating in the New York CSA AA and an "Outstanding" service test rating in the Washington, DC CSA AA, which represented CONA's most significant markets in terms of deposits and branch distribution and carried the greatest weight in the OCC's overall conclusions.

(d) **Flexible and Innovative Lending Products** – CONA offered flexible home mortgage and small business lending programs in order to serve AA credit needs. Flexible lending programs included: Community Home Buyers ("CHB"), Dream, Federal Housing Administration ("FHA"), Veterans Affairs ("VA"), and Small Business Administration ("SBA") loans. The CHB and Dream loans were portfolio products, which allowed for more flexible underwriting that considered the individual borrower's unique circumstances. The bank offered its Dream product in Louisiana and Texas, and its CHB product in the Northeast and Mid-Atlantic, to finance the purchase of homes by LMI borrowers and/or in LMI geographies. They featured low down payment requirements without private mortgage insurance, down payment assistance grants, consideration of nontraditional credit history, and homebuyer education. The loans were complex and labor-intensive.

CONA also offered loans to Community Development Financial Institutions ("CDFIs") and nonprofits. For example, CONA provided a loan of $750,000, along with $277,500 in grants, to support a local CDC dedicated to providing affordable housing and other neighborhood development programs to benefit LMI populations in East New York. CONA also provided a $500,000 working capital loan to a CDFI that provides affordable microloans, customized business consulting, and community connections for underserved entrepreneurs in the San Francisco Bay Area.

[54] The OCC noted that an adequate percentage of CONA's loans were made in its AAs.

(e) **Flexible and Innovative Investment Programs** – CONA created and used several innovative approaches in grant funding to respond to community needs, including:

- *CONA's Social Purpose Program* – CONA developed the Social Purpose Program as a mechanism that enhances the features of affordable housing developments. Under this program, CONA increased its investment in select non-profit-owned developments by providing grant funding to support social service programs for residents.

- *CONA's Blueprints to Buildings ("B2B")* – B2B was created to provide grants and pre-development funding to support new affordable housing. It was intended to address the primary obstacles to building more affordable housing, such as lengthy and often unfunded preparatory steps required to jumpstart affordable housing developments, and a lack of capital to move projects from conception to fruition. B2B provided multi-year grants to support project management expenses and low-cost, flexible predevelopment loans to pay for project expenses. In addition, participants were eligible to apply for an unsecured line of credit from CONA at a below-market rate to help move the project from conception to closing.

- *Construction Contractors College ("CCC")* – CONA partnered with a number of non-profit organizations to develop and expand CCC. CCC was a free, seven-month small business training and development program that equipped qualified business owners in the construction trades business with the knowledge, resources, and guidance they needed to successfully bid and win public and private construction contracts. In addition to workshops, each small business owner received one-on-one coaching and mentoring from CONA associates and professionals from partner organizations.

- *Homewards* – In 2018, CONA launched Homewards, a national pilot program that built the capacity of non-profit organizations to incorporate financial coaching into their housing counseling programs in order to improve the effectiveness of pre-purchase education. The program offered financial coaching training to non-profit partners to use with clients.

(f) **Bank-wide Community Development Services** – During the evaluation period, CONA associates provided CD services to many community organizations. This included serving as financial literacy instructors for Junior Achievement ("JA") programs providing a total of 32,838 hours of service across CONA's footprint. JA programs primarily focused on teaching young people about the importance of money management, workforce readiness, and entrepreneurial thinking. The majority of students were from LMI communities.

2. COBNA CRA Evaluation

During the evaluation period and until its merger into CONA, COBNA engaged exclusively in credit card operations. It offered credit cards for both U.S. consumers and small businesses and also issued credit cards outside of the United States through COEP, an indirect subsidiary of COBNA organized and located in the United Kingdom, and through a branch of COBNA in Canada. COBNA had only one office located in Glen Allen, Virginia. It was designated as a limited purpose bank for CRA evaluation purposes, based on its overall business strategy, primary focus, and product offerings.[55]

As discussed above, COBNA received an overall rating of "Outstanding" on its most recent CRA performance evaluation by the OCC, dated as of August 24, 2020. This was COBNA's second consecutive "Outstanding" rating on its CRA performance evaluations. The evaluation period for the COBNA CRA Evaluation was also January 1, 2017 to December 31, 2019.

COBNA was a limited-purpose bank for CRA purposes and was evaluated under the CD test. The major factors that supported the overall "Outstanding" rating included:

(a) COBNA demonstrated a high level of CD loans, CD services, and qualified investment activity, particularly investments that are not routinely provided by private investors.[56] Of the $9.9 billion in qualified CD loans, investments, and grants originated or outstanding at the end of the evaluation period, $1.5 billion benefited COBNA's AA. COBNA and affiliate employees provided 26,785 hours of qualifying CD services to over 43 organizations and programs in the AA and 6,558 hours of service to over 50 organizations outside the AA.

(b) COBNA demonstrated extensive use of innovative or complex-qualified investments, CD loans, or CD services. The OCC noted that COBNA's CD strategy was to target opportunities first within its AA, then in a broader statewide or regional area that included the AA, and finally nationally. The OCC also noted that COBNA had considerable expertise in low-income housing tax credit ("LIHTC") transactions and had a large portfolio of such investments. The bank evaluated all LIHTC opportunities in the AA, including those available in the secondary market, and invested in those projects that met its standards. Many LIHTC investments required close coordination among state and local government agencies, non-profit organizations, other investors, and COBNA. These investments illustrated COBNA's leadership in complex transactions.

COBNA also engaged extensively in New Markets Tax Credit ("NMTC") transactions to support the revitalization/stabilization of LMI geographies. These NMTC transactions are complex due to the involvement of multiple parties and multiple layers of intricate financing, as well as the many regulatory and reporting

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[55] At the request of CONA's and COBNA's management, COBNA's small loans to businesses and farms were considered in CONA's evaluation.

[56] The OCC determined that COBNA has adequately addressed the needs of its AA. Accordingly, outside of AA qualified investments, CD loans, and services were considered in evaluating its performance.

requirements to maintain compliance for a seven-year period. COBNA provided $858 million in NMTC financing during the evaluation period, including $120 million that benefited the AA.

(c) COBNA exhibited excellent responsiveness to credit and CD needs in its AA.[57] CD loans and investments made during the current evaluation period created 70,377 units of affordable housing for LMI families, including 11,323 units within COBNA's AA.

The OCC's evaluation included a state rating of "Outstanding" for COBNA's home state of Virginia. The major factors that supported this rating included:

(a) COBNA demonstrated a high level of CD loans, CD services, and qualified investment activity in the state of Virginia, particularly investments that are not routinely provided by private investors.

(b) COBNA demonstrated extensive use of innovative or complex-qualified investments, CD loans, or CD services in the State of Virginia.

(c) COBNA exhibited excellent responsiveness to credit and CD needs in the State of Virginia.

B. Discover Bank's CRA Performance Record

Discover Bank received a "Satisfactory" rating on its most recent CRA performance evaluation by the FDIC, dated March 7, 2022 (the "Discover Bank CRA Evaluation"). The evaluation period for the Discover Bank CRA Evaluation was January 1, 2020 to December 31, 2021. During the evaluation period, Discover Bank operated under two FDIC-approved CRA strategic plans, the 2018-2020 CRA Strategic Plan (effective January 1, 2018 through December 31, 2020) and the 2021-2025 CRA Strategic Plan (effective January 1, 2021 through December 31, 2025).

The FDIC found that during the evaluation period, Discover Bank demonstrated leadership and excellent responsiveness to the credit and CD needs of its AA, as well as the greater statewide or regional area that includes the bank's AA ("Discover Bank's Broader Area"). The bank provided a high level of CD investments, loans, grants, and services that displayed extensive use of innovativeness and complexity with effective response to credit and CD needs. Bank management had been innovative in designing and implementing the CRA

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[57] Pursuant to 12 CFR § 25.28(c), in determining a national bank's CRA rating, the OCC considers evidence of discriminatory or other illegal credit practices in any geography by the bank, or in any AA by an affiliate whose loans have been considered as part of the bank's lending performance. The OCC found evidence of a violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1), related to the bank's sales practices for small business credit cards from January 2015 through December 2016. The bank provided remediation to 2,135 negatively impacted customers. Additionally, the bank provided remediation to 6,728 customers for whom the bank was unable to confirm any impact. Remediation totaled $1.10 million. The OCC determined that the bank's management had taken appropriate corrective actions to strengthen controls over the bank's sales practices and implemented strict oversight to prevent future violations. As a result, the CRA performance rating was not lowered as a result of these findings.

program, which included providing loans and investments through partnerships with various for-profit and non-profit organizations and financial institutions. The bank also provided responsive grants and significant technical expertise to address CD needs.

Importantly, Discover Bank met or exceeded its goals for "Outstanding" performance in both 2020 and 2021; however, there were ongoing deficiencies related to student loan servicing that resulted in the issuance of a new Consent Order by the Consumer Financial Protection Bureau ("CFPB"). The continuing student loan servicing deficiencies negatively impacted Discover Bank's CRA rating, lowering the rating from "Outstanding" to "Satisfactory." Discover Bank achieved "Outstanding" CRA ratings in its previous three CRA performance evaluations dated January 1, 2016, March 1, 2018, and June 1, 2020, respectively.

The goals for "Outstanding" that Discover Bank met or exceeded included:

(a) **Strategic Plan Goal 1: New CD Loans and Investments** – Discover Bank provided $274.1 million in new qualified CD loans and investments, including $134.5 million in 2020 and $139.6 million in 2021; this activity exceeded the respective annual goals for outstanding performance.

The FDIC noted that during the evaluation period, Discover Bank took a leadership role in preserving hundreds of affordable multi-family rental units and used innovative approaches to finance economic development projects and revitalization efforts throughout the assessment area and the broader area. Notable examples of new CD loans and qualified investments provided during the evaluation period included:

- **Discover Affordable Housing Investment Fund ("DAHIF")** – The DAHIF is a bank-created LIHTC program for financing the development and preservation of affordable rental housing. Discover Bank's CRA team works with for-profit and non-profit developers to identify projects in need of tax credit equity and seeks to provide terms and pricing that meet long-term financing needs of the property, while balancing the benefits of the LIHTC program. Discover Bank also provides funding to help developers offset costs for project development, resident programs, and educational opportunities.

- **DSHA Mortgage-Backed Security ("MBS") Purchase** – Discover Bank and Delaware State Housing Authority ("DSHA") developed the "forward" MBS purchase commitment agreement whereby Discover Bank provides DSHA with the liquidity and funding to (a) reduce interest rates and (b) provide down payment and settlement assistance funds to LMI individuals seeking to purchase or refinance a home loan. Under this agreement, Discover Bank makes a pre-defined commitment to purchase DSHA's MBSs at a fixed price above market pricing, a premium of 100 basis points, and LMI borrowers benefit directly from the premium pricing. DSHA is Delaware's housing finance agency, and its mission is to provide affordable housing opportunities and supportive services to LMI individuals.

- **Discover Economic Development Investment Fund** – In 2018, Discover Bank created the Discover Economic Development Investment Fund (the "Development Fund"). The Development Fund is a bank-owned NMTC fund. The Development Fund is a federal program incentivizing economic development in LMI communities through a federal tax credit. Discover Bank's CRA team works with for-profit and non-profit partners to identify projects in need of tax credit equity within Discover Bank's assessment area and broader area. The FDIC found that Development Fund's projects (a) helped revitalize local communities, spur economic development and job growth, and (b) provided vital services to LMI individuals and geographies. In addition to funding through the Development Fund, Discover Bank's CRA team worked with various non-profit organizations to inform them about the NMTC program and the benefits it could provide.

- **National Development Council ("NDC") SBA 7(a) Program** – In 2014, Discover Bank partnered with the NDC's Grow America Fund and leveraged the City of Wilmington's Urban Development Action Grant Corporation's portfolio of loans to launch a Grow Wilmington SBA 7(a) Loan Fund (the "SBA Loan Fund"). The SBA Loan Fund uses this economic development tool for the City of Wilmington to attract new small businesses and maintain existing small businesses. The SBA 7(a) program offers below-market fixed interest rates and longer amortizations through the leveraging of the federal guarantee that comes with a SBA 7(a) guaranteed portion of a loan. In 2014, Discover Bank provided a $3.0 million warehouse loan to help launch the program and in 2019, Discover Bank provided $8.3 million. In 2021, Discover Bank continued to increase the SBA 7(a) loan fund by $10.6 million to provide small businesses with a total of $14.1 million in funding capacity. To date, the SBA 7(a) loan fund has assisted 17 small businesses and helped to create 334 jobs statewide. Furthermore, the CRA team secured an additional $1.0 million commitment from an economic development corporation, which increases the overall fund size.

- **National Development Council ("NDC") Delaware Technology Park FinTech Building** – NDC is a CDFI that provides capital to support (a) the development and preservation of affordable housing, (b) the creation of jobs through training and small business lending, and (c) the advancement of communities through investment in social infrastructure in economically disadvantaged urban and rural neighborhoods. In 2020, Discover Bank provided the capital resources at a below-market interest rate needed for the NDC Community Impact Loan Fund ("CILF") to provide the funding for the construction and permanent financing of the FinTech Building. The building is to be a center of excellence for the digital sciences, FinTech, and data management. Discover Bank invested time identifying and recruiting partners focused on these areas, and organizations developing products and services for LMI communities and small businesses to occupy the space. Discover Bank identified a nonprofit, which seeks to unite business leaders, policy makers, and innovators to design and implement solutions that improve financial health for all people, including LMI individuals. Discover Bank also engaged a nonprofit, supported by the Independent Community Bankers Association, with a mission to help accelerate the trajectory of FinTech companies and promote corporate innovation. Given the economic development impact the projects are expected to have in Delaware, Discover Bank agreed to purchase 100% participation in the NDC CILF CDFI's direct loan and NMTC leveraged loans, totaling $34.4 million. The NMTC allocation will facilitate up to 5,000 square feet of space in the FinTech Building dedicated to the delivery of technology solutions to meet the financial service needs of LMI consumers and small businesses for five years at no cost to the tenants.

(b) **Strategic Plan Goal 2: Ratio of CD Loans and Qualified Investments to Average Assets** – Discover Bank achieved at least a 0.60% ratio of CD loans and qualified investments to average assets in 2020 and 2021; this activity met the respective annual goals for outstanding performance.

(c) **Strategic Plan Goal 3: CD Grants** – Discover Bank provided 130 CD grants and in-kind contributions totaling $8.4 million, including $4.1 million in 2020 and $4.3 million in 2021; this activity met the respective annual goals for outstanding performance.

Discover Bank also provided grants and in-kind contributions to various organizations, financial institutions, and governments to help meet the credit needs of LMI persons and small businesses within the AA and Discover Bank's Broader Area. Qualified grants focused on issues relating to affordable housing, small business and economic development, financial literacy, and Covid-19 response and recovery. Notable examples of qualified grants provided during the evaluation period include:

- Discover Bank provided an organization serving LMI individuals with a $100,000 grant for the renovation of a vacant home in the Quaker Hill Community. The property will provide long-term housing assistance to people who meet the Department of Housing and Urban Development's definition of "chronically homeless." These individuals have at least one member of the household with a disability that affects their housing stability. Residents will face no minimum income requirement, pay no more than 30% of their income for housing, and receive supportive services.

- Discover Bank provided the Delaware Community Reinvestment Action Council a grant of $250,000 to support technology improvements at Stepping Stones Community Federal Credit Union ("SSCFCU"). The credit union serves low-income communities in Wilmington, DE and provides services at no cost. The grant will enable the credit union to offer a debit card and a social banking app to its members. Furthermore, Discover Bank facilitated a relationship between SSCFCU and a minority- and women-owned FinTech company, Wellthi Technologies, Inc., to provide technology for the debit card product.

- Discover Bank provided the Community Legal Aid Society with a $25,000 grant to increase the capacity to provide eviction defense counsel for low-income renters. These free services include legal defense and connecting clients to resources available from the DSHA (for example, the DEHAP to pay delinquent rent). Additionally, the organization counseled those facing eviction due to the Covid-19 pandemic.

- Discover Bank afforded LMI households access to technology and remote services through partnerships with NERDiT NOW and public libraries. In 2020, Discover Bank provided the NERDiT Foundation with a $75,000 grant to purchase and deploy computers for nonprofits that had to transition staff to a work-from-home environment at the start of the Covid-19 pandemic. In 2021, Discover Bank provided the Seaford Library, in partnership with the Laurel and Frankford Libraries in Sussex County, with a $25,000 grant for technology upgrades and support for residents of LMI communities.

- Discover Bank provided several grants to support individuals and families impacted by the Covid-19 pandemic.

- Discover Bank provided two organizations with crowd-funding technology platforms to solicit donations for nonprofits and small businesses.

- Discover Bank provided Children & Families First with a $25,000 grant to pilot the Community of Hope Program. The program aims to stabilize families, with an overarching goal to reduce child abuse, neglect, and referral into the child welfare system. Employing another place-based strategy, Discover Bank provided REACH Riverside with a $25,000 grant in support of the Poverty to Prosperity Initiative. REACH's areas of focus for the Riverside neighborhood include redevelopment, education, and community health. The program supports REACH housing residents in Wilmington, DE by offering tools to increase economic independence, reducing neighborhood unemployment and poverty, and providing opportunities for families to move to new housing in the community. Additionally, the initiative will increase retention of Riverside residents in the new development, improve community health, and create a mixed-income community.

- During the evaluation period, Discover Bank provided approximately $345,000 in corporate grants to organizations and programs serving LMI people and communities.

During the evaluation period, Discover Bank also provided approximately $265,000 of in-kind contributions to area nonprofits providing services to LMI individuals, including the following:

- In 2020, Discover Bank provided schools, homeless shelters, and libraries with donations of unused marketing space, printing services, Google Chromebooks, baby supplies, and kitchen items.

- In 2021, Discover Bank assisted with the Covid-19 response by donating cleaning and disinfecting supplies to Delaware nonprofits serving LMI individuals.

- Following downsizing the call center in New Castle, Delaware in 2021, Discover Bank donated office furniture and equipment to local non-profit organizations.

(d) **Strategic Plan Goal 4: CD Services** – Discover Bank created a point system to track CD services provided by personnel within the AA and Discover Bank's broader area. Discover Bank achieved 292 points, including 145 points in 2020 and 147 points in 2021, which exceeded the respective annual goal of 140 for outstanding performance.

The primary purpose of services performed must meet the definition of CD and use the financial expertise or technical assistance of the employee who provided the service. Categories of service included: (i) technical assistance and intensive or long-term service; (ii) board membership; (iii) committee membership; and (iv) CD services.

(e) **Strategic Plan Goal 5: Consumer Loans in Moderate-Income Census Tracts in the Assessment Area** – Discover Bank extended $5.8 million in consumer credit to individuals who resided in moderate-income census tracts within Discover Bank's AA, including nearly $2.8 million in 2020 and $3.0 million in 2021. Discover Bank's performance in 2020 substantially met the goal for outstanding performance and exceeded the goal for outstanding performance in 2021.

The CRA requires that the FDIC consider an institution's compliance with laws and regulations prohibiting discrimination on a prohibited basis and other illegal credit practices when evaluating CRA performance and assigning a CRA rating. The CFPB executed a Consent Order against Discover Bank in 2015 due to alleged deficiencies regarding Discover Bank's student loan servicing practices. Due to alleged ongoing deficiencies in Discover Bank's student loan servicing practices, the CFPB executed a new Consent Order in December 2020.

The FDIC considered the ongoing deficiencies within Discover Bank's student loan servicing operation when assigning the overall CRA rating. Accordingly, although Discover Bank met or exceeded its goals for "Outstanding" performance in 2020 and 2021, the agency lowered the assigned rating to "Satisfactory" in recognition of the ongoing student loan servicing deficiencies.

C. CONA/COBNA's and Discover Bank's CRA Activity Since Their Last CRA Evaluations

Commitment to the communities where CONA employees live and work has always been embedded in the culture of CONA. Since the CONA CRA Evaluation, CONA has remained actively engaged with the communities within its AAs. CONA's commitment to the communities within its AAs is evidenced in the lines of businesses' performance and their efforts to further strengthen their CRA impact in the communities it serves.

1. CONA/COBNA's CRA Activity Since Their Last CRA Evaluations

As discussed above, the evaluation periods for the CONA CRA Evaluation and for the COBNA CRA Evaluation each concluded on December 31, 2019. Since the end of its evaluation period, CONA has demonstrated very strong CRA performance and significant positive impacts on its communities. Similarly, COBNA also demonstrated very strong CRA performance and significant positive impacts on its communities in the period from January 1, 2020 until it merged into CONA on October 1, 2022.

Small Business Lending

CONA understands the important role that small businesses play in the U.S. economy as well as to individual communities. As a result, CONA strives to ensure that the bank is a provider of small business banking products and services across all the markets and communities it serves. CONA also offers small farm loans, although this is not a major product of the bank.

As discussed in the *Convenience and Needs of the Communities* section above, CONA offers term loans, lines of credit, and credit cards to small businesses. In addition to traditional financing, CONA offers loans guaranteed by the SBA. The bank provides financing through the SBA 504, SBA 7(a), and SBA Express programs, which collectively offer long terms, fixed rates, and lower equity requirements.

CONA's suite of credit card products accommodates small business owners across the credit spectrum, from those with fair credit to those with excellent credit. Several products have no annual fee. In addition, there are various options relating to cash rewards and travel miles.

During the Covid-19 pandemic, CONA prioritized resources in small business lending to participate in the SBA's Paycheck Protection Program ("PPP"), designed to help businesses keep their workforces employed. CONA mobilized associates across the company to create a digital PPP process for handling customer applications. This was an exceptionally complex and demanding, multi-week, 24/7 effort undertaken by almost 3,000 bank associates, many of whom were not part of the small business banking team. CONA originated 21,489 PPP loans totaling $1.1 billion in the bank's AAs. The bank's efforts targeted those businesses most in need, as companies with 20 or fewer employees comprised 93% of CONA's PPP loans. Similarly, 86% of the PPP loans were for $100,000 or less. In fact, CONA ranked #1 in PPP customer satisfaction in two (Northeast and South) of the four regions in the 2020 JD Power Small Business Banking Satisfaction Study.[58]

CONA also took action to help existing small business customers during the pandemic, including:

- Deferring payments on 1,852 loans for a total of 5,957 payments, totaling $21.2 million. In addition, over 700 of CONA's small business loans received six-month loan forgiveness from the SBA (through the SBA Cares Act), totaling more than $22 million.

- For credit card customers, providing 64,000 payment deferrals for a total of $81.9 million. In addition, CONA reduced the APR to 9.99% on 662 credit card accounts for nine months, for customers who were 60+ days past due and impacted by the pandemic.

Below is a table outlining CONA/COBNA's small business and small farm lending within their respective AAs in 2020, 2021, 2022 and 2023, by number and dollar amount. Of the 752,476 loans originated during the four years, 28% were to businesses in LMI census tracts. In addition, 98% of the loans were for $100,000 or less, a strong indicator of Capital One's willingness and ability to lend to the smallest businesses.

CONA/COBNA Combined (Dollar Amounts in Thousands)				
	2020		**2021**	
	$	**#**	**$**	**#**
Total Loans	2,300,018	126,907	2,723,087	193,964
Loans in LMI Census Tracts	494,179	34,601	616,169	54,097
Loans of $100,000 or Less	1,303,055	123,614	1,727,540	190,463
PPP Loans	767,821	13,549	371,946	7,940
In LMI Tracts	164,772	2,950	70,749	1,799
$100,000 or Less	300,492	11,698	167,328	7,096

CONA/COBNA Combined* (Dollar Amounts in Thousands)				
	2022		**2023**	
	$	**#**	**$**	**#**
Total Loans	3,925,066	239,715	3,255,822	191,890
Loans in LMI Census Tracts	968,628	66,308	804,418	54,739
Loans of $100,000 or Less	2,554,664	234,871	1,906,549	186,926
PPP Loans				
In LMI Tracts				
$100,000 or Less				

[58] *See* J.D. Power, Press Release, *Banks' Response to Paycheck Protection Program Helps Drive Small Business Customer Satisfaction to Record High during Pandemic, J.D. Power Finds* (Oct. 29, 2020), https://www.jdpower.com/business/press-releases/2020-us-small-business-banking-satisfaction-study.

* COBNA merged with and into CONA on October 1, 2022. Accordingly, after that date the data reflects CONA alone.

Residential Mortgage Lending

As discussed above, in November 2017, due to the highly competitive marketplace and challenging rate environment, CONA made the business decision to cease new originations of residential mortgage and home equity loan products within the consumer banking business and, since that time, almost all of CONA's HMDA-reportable originations have been multifamily loans.

The table below summarizes CONA's residential mortgage lending in its AA since December 31, 2019. The loans originated during 2020, 2021, and 2022 were reported in CONA's HMDA data. In 2023, CONA did not submit a HMDA loan application register since it did not meet the HMDA reporting threshold for 2023.

CONA				
	2020		2021	
	Total #	Total $ (in thousands)	Total #	Total $ (in thousands)
Total Loans	353	6,416,155	258	5,327,195
Loans in LMI Census Tracts	170	2,759,520	149	2,207,484

CONA				
	2022		2023	
	Total #	Total $ (in thousands)	Total #	Total $ (in thousands)
Total Loans	202	4,356,203	N/A	N/A
Loans in LMI Census Tracts	94	1,339,995	N/A	N/A

* COBNA merged with and into CONA on October 1, 2022. Accordingly, after that date the data reflects CONA alone.

Community Development Activities

CONA is dedicated to providing support to economically disadvantaged communities within its footprint through making qualified CD loans and investments. In fact, CONA has been a national leader in CD lending for many years. For five consecutive years (2016 through 2020), the Bank had a higher dollar volume of CD loans than any other reporting lender in the country. In 2021 and 2022, CONA was second only to the largest bank in the country based on assets. This is significant considering CONA's size and capacity in relation to other, much larger peer banks. (Peer CD lending data for 2023 is not yet available.)

Since the CONA CRA Evaluation and the COBNA CRA Evaluation, CONA and COBNA combined have made 2,052 CD loans totaling over $30 billion when PPP loans are excluded. CONA and COBNA combined also made 471 CRA-qualified investments (excluding grants), totaling $4.1 billion. See the table below for a summary of the total dollar amounts of CONA and COBNA's CRA qualifying CD loans, investments and grants in 2020, 2021, 2022 and 2023. These sources of CD funding amount to $34.7 billion, approximately two-thirds of which was provided in CONA's AAs. The loans, investments, and grants made outside CONA's AAs were allocated either to COBNA or, following the CONA-COBNA merger, to broader statewide or regional areas supporting CONA rating areas.

CONA/COBNA Combined ($ amounts)		
	2020	**2021**
CD Lending (Excludes PPP Loans)	9,010,602,250	9,251,152,146
CD Investments	822,868,982	1,059,514,891
CD Grants	46,940,760	42,209,763

CONA/COBNA Combined* ($ amounts)		
	2022	**2023**
CD Lending (Excludes PPP Loans)	7,274,390,732	4,869,920,884
CD Investments	899,069,597	1,293,229,608
CD Grants	37,192,412	43,431,510

* COBNA merged with and into CONA on October 1, 2022. Accordingly, after that date the data reflects CONA alone.

During the 2020-2023 time period, CONA and COBNA provided large volumes of CD loans and investments that were highly responsive to the needs of their communities. Most of these transactions were complex, and many reflected leadership and/or innovation on the bank's part. Examples of these transactions follow. Some of the geographies (e.g., Michigan) are rating areas added since the CONA CRA Evaluation of August 24, 2020.

Examples of CONA's leadership in CD loans and investments from 2020-2023 include the following:

- Provided more than $58 million in financing, including a loan of $32.9 million and a LIHTC equity investment of $25.2 million, to help finance the new construction of a 105-unit senior affordable housing development in the Bronx. A majority of units (104 out of 105) will be restricted to LMI seniors earning up to 50% and 60% of AMI (18 and 86 units, respectively) and supported by project-based Section 8 vouchers; there will be one manager's unit. Thirty-two units will be set aside for formerly homeless seniors and supported by New York City project-based rental assistance. In addition to providing financing for the property's construction, CONA also contributed a $150,000 grant to fund resident services. The nonprofit developer, which has a longstanding history of serving LMI seniors, will provide services to residents including, but not limited to, case management, services coordination, crisis intervention, counseling, and nutritional services. In addition to funding from CONA, this complex project involved significant public financing, including over $20 million from city and state-wide entities, such as New York City's Department of Housing Preservation and Development and New York State's Homeless Housing and Assistance Program. This development provides much-needed affordable housing coupled with supportive services for LMI seniors, including the formerly homeless, in a market with a very high cost of living.

- In 2021, CONA provided two loans totaling $17 million to the New York chapter of a national nonprofit organization that offers social services to LMI individuals. For example, it provides assistance for the homeless, families recovering from domestic violence, veterans, the elderly, at-risk youth, and those with intellectual and/or developmental disabilities. One of the loans, a $7 million line of credit, provided working capital and bridged the receipt of government receivables benefiting LMI populations in the AA. The other loan, for $10 million, was PPP financing to help stabilize the organization during the Covid-19 pandemic. In 2023, CONA increased the line of credit from $7 million to $10 million. In addition, in 2022 and 2023, the bank provided $20,000 in grants to support a financial education program and the organization's general operations. CONA's efforts are part of a long-standing partnership between the bank and the organization.

- Provided a loan of $10 million and invested $10.6 million in LIHTC equity to finance the rehabilitation of a 201-unit affordable housing development in Montgomery County, Pennsylvania. All 199 units for rent are reserved for LMI seniors (62+) and benefit from development-based Section 8 contracts. (There are also two manager units.) The development targets very low-income and LMI seniors, with 10 units restricted to 20% AMI; 90 units restricted to 50% AMI; and 99 units restricted to 60% AMI. The nonprofit developer provides supportive services that enable residents to age in-place, such as counseling, education, and in-home services; and to maintain health through screenings, fitness programs, and assistance in accessing health services. Residents also benefit from close proximity to public transportation and neighborhood amenities such as shopping centers. The development involved numerous sources of financing, including private activity bonds from the Pennsylvania Housing Finance Agency and solar tax credits to fund enhancements that will create energy efficiencies and reduce residents' utility costs. This complex development addresses rising housing-cost burdens facing seniors in a market where the demand for affordable senior housing is expected to grow over the next five years.

- Provided a loan of $12 million and LIHTC equity investments totaling $46.8 million to help finance the rehabilitation of a 300-unit senior affordable housing development in Northeast Washington, DC. All units are restricted to LMI households earning up to 30%, 60% and 80% of AMI (88, 155 and 57 units, respectively). Over one-third of the units (103 out of 300) will be supported by project-based rental subsidies. A nonprofit organization will provide resident services for all tenants, focusing on childhood and youth development, health and wellness, economic mobility and stability, and aging in community. When faced with a substantial funding shortfall during construction, CONA stepped in to provide additional financing that balanced the budget, demonstrating the bank's leadership and commitment to the development's success. This development preserves 300 units of affordable housing for tenants who would otherwise be at risk of displacement, given that the original LIHTC compliance period and housing subsidy contract term expired and the property is considered prime real estate in a high-cost market with significant market-rate development activity. A large percentage of renter households spend more than 30% of their incomes on housing expenses (i.e., 41.9%) in Washington, DC, further demonstrating the critical need for affordable housing preservation in this area.

- Provided NMTC financing in the amount of $11.8 million for the construction of a hospice facility in Baltimore to replace an existing hospice facility that operated out of several structures that were over 130 years old. The facility primarily serves LMI patients. Other financing was provided by a minority-controlled depository institution that was the first financial institution to receive both CDE and CDFI certifications. The new facility better serves the unique needs of seriously ill residents of Baltimore City, which has a large LMI population. It is located in a community that was developed by a local nonprofit agency that currently serves over 500 adults aged 62 and older and addresses poverty, homelessness, hunger, and affordable housing. This addition to the community provides a continuum of care for the aging population in one location, and meets the growing need for hospice care in Baltimore as identified by the Maryland Health Care Commission.

- Provided loans totaling $6.5 million to three small businesses through the SBA 7(a) Loan Program. This program is designed to help small businesses that are creditworthy but cannot qualify for a conventional loan. These three businesses, all located in Phoenix, are a landscaping service, a manufacturer of animal collars and hospital identification bracelets, and a machine shop. This financing addresses economic development needs by supporting jobs and helping bring revenue to the community.

- Provided more than $80 million, including a $42.3 million loan and $38.2 million in LIHTC equity, for the construction of an 81-unit, mixed use, affordable and special needs housing development in San Jose. The development will include studio, one-, two-, and three-bedroom units at up to 30%, 50%, and 60% of AMI. Of the 81 units, 40 will be reserved for transitional-aged youth, ages 14-29 (20 for formerly chronically homeless and 20 for currently homeless or at risk of homelessness). Sixty-one of the units will be subsidized. The local housing authority will provide project-based Section 8 vouchers for 21 of the units reserved for families up to 50% of AMI and 20 of the units for Transitional Aged Youth. The remaining 20 Transitional Aged Youth units will be subsidized through Santa Clara County's Rapid Rehousing program. The ground floor of the development will house a youth community center operated by the county, offering a computer room and free clothes, backpacks and hygiene products, medical services, mental health support and counseling, and parenting, educational, and employment resources and legal services. The residential portion will feature a full-time Service Coordinator and intensive case management supportive services. Residents will have access to educational programming, peer support activities, mental health care, substance use services, benefits counseling and advocacy, recreational and social activities, education classes, employment services, and referrals to third-party service providers. Additionally, the construction is expected to receive a LEED Silver rating, and is GreenPoint Platinum Rated, built to sustainable and efficient environmental standards. This complex transaction included significant public finance support totaling more than $35.7 million, including a $15.7 million City of San Jose loan, a $20 million County of Santa Clara loan, and another $12.6 million in soft funding from the county for the youth community center. This development provides quality affordable housing for a particularly vulnerable population, as estimates suggest that nearly 30% of the nation's entire homeless youth population is located in California.

- In 2020, CONA provided a $500,000 working capital line of credit to a local CDFI whose mission is to provide flexible, affordable, and responsible financing and technical assistance for community stabilization and development initiatives that benefit LMI communities in metropolitan Chicago. The organization was created to ensure that Chicagoland CD organizations (including small and emerging organizations) would have a lender to turn to for difficult-to-underwrite developments and enterprises. The CDFI carries out its mission through three key programs that provide (1) small for-profit and nonprofit developers with the support and capital needed to acquire, rehabilitate and own 1-4 unit buildings to help stabilize low-wealth communities impacted by foreclosures; (2) technical assistance and loans for commercial development in LMI communities; and (3) fixed-rate loans for organizations engaged in community-based social service, housing, or economic development. In addition, CONA provided $45,000 in grants to support the organization's general operations, technical assistance for small businesses, and assistance for households seeking to purchase or maintain affordable housing in LMI neighborhoods. In 2023, CONA renewed and increased the credit line to $1.5 million. The bank's financing illustrates its willingness to originate small loans for CD purposes and addresses the need to support CDFIs with funding for general and specific CD purposes.

- Provided two loans totaling $17.4 million and two LIHTC equity investments totaling $20.9 million to help finance the new construction of a 110-unit mixed-income housing development in downtown Lake Charles, Louisiana. A majority of units (89 out of 110) will be restricted to LMI households earning up to 20%, 30%, 50%, 60%, and 80% of AMI (4, 10, 33, 34 and 8 units, respectively); there will be 21 market-rate units, which will be marketed to households earning up to 75% of AMI. Ten units will be subsidized, including six units supported by project-based voucher HUD Section 8 contracts and four units supported by HUD Section 811 Rental Assistance contracts; six of the 10 subsidized units will be set aside as permanent supportive housing units. A nonprofit organization will provide services to residents including, but not limited to, daycare and afterschool programs; financial and budgeting seminars; job training and continued education; preventive healthcare programs; and coordination with local veterans service providers. In addition to funding from CONA, this highly complex financing structure involved numerous public sources including the federal Community Development Block Grant (CDBG) Disaster Recovery Program, the state of Louisiana's energy tax credit program, and the City of

Lake Charles. The property also received funds from a CDFI loan fund. This development will be constructed to meet disaster-resiliency standards to withstand severe weather such as hurricanes. It will provide much-needed affordable housing for LMI households, including very low-income households earning up to 20% and 30% of AMI, in a region that has experienced several natural disasters in recent years, persistently high poverty rates, and an acute shortage of quality affordable housing.

- In 2022, CONA provided NMTC financing in the amount of $15.6 million for the expansion of a university medical center's emergency department in Cincinnati. The hospital's mission is to provide care for the aged, indigent, and orphaned, and it serves as a first-line resource for the community. The financing will facilitate the addition of 46,000 square feet of new emergency department space, the renovation of the existing 30,000 square-foot space, and the creation of an ICU and an observation unit. Prior to the expansion, the emergency department had been operating at an unsafe patient capacity on at least two days of each week, for the last 10 years. The physical expansion will improve patient care and accommodate patient surges. The project is expected to retain 131 existing full-time employees, create an additional 42 full-time roles, and create 150 full-time construction jobs. Jobs created and maintained will have above-average wages and benefits for hourly employees. Due to the pandemic, the medical center experienced an increase in operating expenses to protect staff and a decrease in revenues due to elective procedures being temporarily shut down. This caused a strain on its capitalization strategy for the development, making NMTC allocations critical in moving the development forward without deferring elements of expansion or impacting patient programs. This complex financing addressed the need for expanded healthcare for LMI families, the creation and retention of living-wage jobs, and pandemic-related assistance for a critical community facility. In 2023, CONA provided another $10 million in NMTC financing to expand the medical center's intensive care unit. This second transaction demonstrates CONA's ongoing commitment to addressing community needs.

- Provided a construction loan in the amount of $12.1 million and an investment of $14.9 million in LIHTC equity for the new construction of a 56-unit affordable housing development for LMI households earning 30-60% of AMI. Of the 55 rental units (there is also a manager's unit), 20 give preference to Tribal Member households and have rent subsidies such that rent does not exceed 30% of household income. Ten units have three bedrooms, making this development suitable for larger families. The co-developer, a Portland nonprofit organization that serves Native Americans, provides on-site resident services to include life and wellness, career, and technical assistance services, such as financial wellness classes, business development coaching and classes, home ownership and workforce development training, after-school and summer programs, and community engagement for all residents. This transaction was exceptionally complex with many layers of financing from state, local and municipal sources. These sources included, for example, an Indian Housing Block Grant (IHBG), a grant from the Oregon Housing and Community Services Department's Multifamily Energy Program for developments that provide weatherization and energy conservation services, and a Portland Metro Transit-Oriented Development grant to stimulate private development of highdensity, affordable, and mixed-use developments near public transit. The development is located approximately 500 feet from the Tri-Met bus line. In addition, the transaction was innovative as it was only the second in the country to combine IHBG and LIHTC funding in the same development. This transaction meets many identified community needs including affordable housing targeted to the Native American population, use of green-building techniques, transit-oriented developments, and social services that include self- sufficiency training for LMI people.

- Provided $18.7 million in NMTC financing for the construction of a new facility to support victims of domestic abuse in Dallas. CONA also provided $60,000 in grants to support the center's general operating expenses. The center is operated by an organization that offers the most comprehensive domestic violence recovery program in Dallas, including an emergency shelter; transitional housing; on-site schooling, daycare, and afterschool programming; mental health counseling; and legal support. This full continuum of care for women and children who are escaping domestic violence is provided at no cost to its clients. The new center increased the organization's overall capacity by 40% and legal service provision by 100%, assists children traumatized by domestic violence, and provides education opportunities for advocates and therapists. The new center was estimated to create 40 or more new jobs and will retain 30 or more current jobs. This financing addresses the critical community credit need of providing crisis intervention and long-term solutions for women and children who are survivors of domestic violence. It helps to prevent homelessness by offering an alternative to those needing to escape abusive surroundings.

- Provided a loan of $41.6 million to a public school district in Mississippi to finance capital improvements at various schools in the district. Almost all (99.9%) of the students in the district are from LMI families. This financing was especially important due to the district's declining enrollment and, consequently, declining support from the state. The decreases in enrollment resulted from declining population in the area (due at least partly to lower birth rates) and competition from charter schools. This transaction illustrates CONA's willingness to help address critical needs in areas beyond its physical footprint.

For additional examples of CONA's CD lending and investing activity for the period from 2020-2023, please see Exhibit 24.

Capital One Philanthropy

Capital One believes it has a unique responsibility to contribute to the economic well-being of the communities in which it does business. It invests in its communities by providing resources that support economic opportunity for residents and local businesses. By focusing on philanthropic grants, specialized CD services and associate volunteerism on education, financial literacy, affordable housing and small business/workforce development, Capital One helps make communities dynamic places where families can live, work, grow and realize their dreams.

During the period 2020 through 2023, Capital One distributed 8,404 grants to non-profit organizations totaling $370 million. Approximately half of these funds have been CRA-qualified, serving primarily LMI populations. Capital One also shared the professional expertise of its associates with these same community partners. CONA associates delivered more than 208,500 hours of volunteer service in 2020-2023 to further community impact. Approximately 61% of these hours were CRA-qualified (i.e., CD services). Investing time, money and intellectual capital into each community partnership demonstrates Capital One's commitment to sustainable change.

The Covid-19 pandemic had a very significant impact on Capital One's ability to deliver in-person services. However, the bank worked with its partners to establish virtual capabilities so that it could continue delivering valuable CD services to partners and their clients during the pandemic.

Many of CONA's volunteer activities involve pro bono services contributed by CONA associates. This type of volunteerism is particularly valuable to CD organizations and small businesses because it gives them access to specialized talent, high-impact skills, and industry insight and innovations. CONA provides services from a variety of practice areas, including Brand, Communications, Cybersecurity, Data, Design, Finance, Human Resources, Legal, Product, and Technology.

Capital One is honored to have been recognized for the 11th consecutive year as one of America's most community-minded companies in the Points of Light Civic 50.[59] The following are a few examples of the company's philanthropic programs, focus areas and grants:

- CONA associates provided 401 total hours of CD service to a New York nonprofit organization whose mission is to close the opportunity divide by ensuring that LMI young adults gain the skills, experiences, and support that will empower them to reach their potential in higher education and their careers. Classroom training in technical courses and soft-skills training, such as time management and networking, equip students with the attitudes, behaviors, and versatility needed to excel in the 21st century economy. Students then enter an internship with a corporate partner in order to put their classroom training into practice. The volunteer service hours, most of which were pro bono services provided by associates from the bank's human resources and technology areas, trained program participants on resume writing and interviewing skills. CONA also provided the organization with $65,000 in grants. The bank's efforts served the critical community needs of workforce development and increasing self-sufficiency for the LMI population.

- Provided a grant of $125,000 to support the programs of the Philadelphia chapter of an organization that works to increase economic opportunities for formerly incarcerated people in order to improve their lives and help them remain in their

[59] The Civic 50 is an annual initiative organized by Points of Light that recognizes the 50 most community-minded companies in the United States. The Civic 50 winners are public and private companies with U.S. operations and revenues of $1 billion or more and are selected based on four dimensions of their U.S. community engagement program—investment, integration, institutionalization, and impact. For more information, *see* https://ww2.pointsoflight.org/civic50/https://www.pointsoflight.org/the-civic-50/.

communities. The organization provides low-interest loans and financial coaching to formerly incarcerated people, helping them build credit and achieve their self-determined goals. CONA's funding helps address a critical need, as people who have been incarcerated often face permanent barriers to securing transportation, housing, employment, and capital for building a business. When individuals are released from jail or prison, they are further burdened by court-ordered debt. Most are ineligible for traditional bank financing or are subject to prohibitively high interest rates. These combined hurdles limit the economic opportunity of formerly incarcerated people and prevent them from reaching their potential. As a result, some return to criminal behavior, increasing the likelihood of reincarceration and damaging the stability of their families and communities.

- CONA technology associates provided 242 hours of pro bono service to benefit a Phoenix nonprofit financial counseling agency that helps people transform their financial situation with one-on-one guidance to pay off debts, regain financial independence, and save for the future. Most of the organization's clients are LMI. An industry pioneer and leader, it has supported consumers in financial distress since 1987. Bank associates helped develop technology applications for the organization.

- In 2023, CONA provided a $50,000 grant to a CDFI that makes small business loans ranging from $5,000 to $100,000 to financially marginalized entrepreneurs. The CDFI's loans offer affordable rates and include a restorative approach, which includes modifications on a case-by-case basis if the business runs into challenges. The organization also offers business consulting and training. CONA's 2023 funding supports small businesses in Oakland. Previously, during the period 2020 through 2022, the bank provided $60,000 in grants to support the CDFI's programs, including pandemic response, in San Francisco and Oakland.

- Provided a total of $115,000 in grants to a CDC with a mission to provide a comprehensive array of social welfare and CD services to assist LMI individuals and other persons in need, and to contribute to community revitalization and cultural preservation in the Little Tokyo neighborhood in Los Angeles. Grants totaling $80,000 provided funding for a resident services support program, which provides bilingual case management, employment preparedness, childcare referrals and financial wellness programs to empower people to achieve greater self-sufficiency. In addition to these services, the program assists clients with their deferred rent and connects them to landlords to establish payment plans. The provision of these services is intended to reduce the number of evictions and allow more families to maintain their housing. The remaining $35,000 of CONA's grant funds supported a small business program and pandemic emergency relief.

- Provided $300,000 in grants to a nonprofit health system that serves Louisiana. A majority of the grant funds support the organization's workforce development program to close the nursing shortage in Louisiana by creating more opportunities for aspiring nurses of all backgrounds. The organization partners with colleges, universities, and high schools around the state to identify nursing candidates. This innovative program, the only of its kind in the state, is a free, four-year dual enrollment program that provides students from various parishes the opportunity to earn college requirements for Licensed Practical Nurse (LPN) programs. The program launched in 2023 with a cohort of 20 students. Trainees complete coursework and clinical requirements equivalent to other state-approved LPN programs. In addition to the intensive healthcare and medical coursework, trainees complete "impact training" provided by the health system, which includes workplace ethics training, communications, and problem-solving strategies. In addition to supporting the LPN program, CONA helped fund a program that trains both incumbent workers and job seekers from non-traditional or under-skilled entry level career pathways for roles in the healthcare industry. In addition, CONA associates provided financial education training for the organization.

- Provided $150,000 to a Detroit microloan fund to support underserved entrepreneurs who cannot qualify for a CDFI loan or mainstream financing sources. The mission of the fund is to provide access to capital to historically underserved populations and/or populations located in LMI neighborhoods in Detroit, Hamtramck, and Highland Park who have been excluded from traditional and alternative capital sources. The fund's mission includes small business education, building credit scores, and encouraging financial stability that will help aspiring entrepreneurs to transition to mainstream banking. The fund provides access to capital to small businesses in the form of loans ranging from $5,000 to $50,000. It also offers pre-loan technical assistance for aspiring entrepreneurs that includes, but is not limited to, business plan development, the pre-loan application process, understanding financial statements and the need for projections, and financial education to existing and emerging underserved entrepreneurs. CONA's funds have supported counseling, financial education and training services for small businesses.

- Provided a $200,000 grant to a Houston organization whose mission is to unlock opportunity by connecting families in underserved communities to affordable internet service and computers, and delivering digital skills training. The bank's grant supports a digital skills training program designed to engage LMI adults, including those 65 and older. CONA's efforts address the critical need to close the digital divide.

- From 2020 through 2023, CONA provided $2.9 million in grants and 580 pro bono service hours to improve college access for LMI students nationally. This multi-year effort started during the Covid-19 pandemic, which exacerbated the phenomenon of "summer melt," when high school graduates cancel their plans to attend college before classes begin. A major barrier to improving college access, particularly for LMI and first-generation students, involves a lack of information, in part due to overloaded school counselors who juggle caseloads of nearly 500 students per counselor, on average. Students' lack of awareness about financial aid options and the overall cost of college contributes to low completion rates of the Free Application for Federal Student Aid (FAFSA) form and billions of dollars in federal student aid left on the table each year. Capital One responded to this critical need by investing in a free virtual assistant powered by artificial intelligence that served approximately 773,000 LMI and first-generation students across the country from 2020 through

2022. Capital One associates also volunteered 580 pro bono hours to help optimize the virtual assistant's technology. Early results demonstrated the effectiveness of this intervention, including an engagement rate (i.e., the percentage of students who sent at least one message to the virtual assistant) of 62.7%, significantly higher than the average of 15% for similar interventions; and 18,000 hours saved that traditionally would have been spent consulting with a college advisor. Capital One, in partnership with several community organizations, has continued the positive momentum generated by the program's promising early results by expanding the virtual assistant and continuing to refine the technology to ensure equitable access to different groups of students, including English language learners and students of color. These efforts demonstrate CONA's innovation in addressing the problem of college access at scale; its responsiveness, in tailoring the technology to meet the needs of specific student populations, with a focus on LMI and first-generation students; and its thought leadership in the field of education and technology, in partnering with research institutions to publish white papers and share the program's learnings to further expand its impact and improve its effectiveness.

- During the Covid-19 pandemic, CONA provided grants totaling $1,029,521 to a nonprofit organization that feeds the hungry through a nationwide network of food banks, pantries, and meal programs. The bank's funding supported the organization's pandemic response efforts.

- And beyond CRA, but a vital example of Capital One's commitment to the community, in 2021, CONA donated a historic building on the Wilmington Riverfront valued at $4.7 million to Delaware State University, a Historically Black College or University, to establish a new Downtown campus. Through the DSU Foundation, and the Delaware State University's Office of Adult and Continuing Education, CONA is funding 30 scholarships for DSU students to participate in technology and credentialing certification programs designed to develop critical job skills across various industry platforms to increase employability opportunities for TTC customers. All students who complete the program are eligible for national certifications.

Lastly, CONA's physical network is complemented by its digital delivery systems, such as online and mobile banking. CONA's overall service delivery strategy has proven extremely effective in attracting, serving, and retaining customers in LMI geographies.

Since the last evaluation period, from 2020 through 2023, customers in LMI areas opened approximately 1,550,000 new checking accounts with no monthly fees, no minimum balance requirements, and over 1,200,000 new savings accounts in CONA's AAs. Additionally, customers in LMI areas opened more than 435,000 new checking accounts in 2023 in CONA's AAs, which was more than 200,000 (or 89%) above the number opened during 2019. Similarly, customers in LMI areas opened over 390,000 new savings accounts in 2023 in CONA's AAs, which was about 190,000 (or 93%) more than the number opened during 2019. This represents a significant increase in the number of accounts held by customers in LMI areas and demonstrates the effectiveness of CONA's overall retail strategy in serving LMI populations through a combination of branch, cafe and digital strategies with best-in-class products.

Furthermore, there were more than 1,960,000 open (i.e., retained) checking accounts, with no monthly fees, no minimum balance requirements and no overdraft fees, owned by customers in LMI areas in CONA's AAs on December 31, 2023, which was more than 910,000 (or 87%) above the number of retained checking accounts held by customers in LMI areas in CONA's AAs on December 31, 2019. Similarly, there were more than 1,660,000 retained savings accounts held by customers in LMI areas in CONA's AAs on December 31, 2023, which was more than 540,000 (or 49%) higher than the number of retained savings accounts held by customers in LMI areas in CONA's AAs on December 31, 2019. This represents a significant increase in the number of accounts held by customers in LMI areas and the successful retention of account holders in LMI areas reinforces the effectiveness of CONA's overall retail strategy in serving LMI populations through a combination of branch, cafe and digital strategies with best-in-class products.

CONA's consumer checking and savings accounts are designed with the customer's needs being foundational, having no monthly fees or minimum balance requirements, and are particularly attractive and beneficial to LMI populations. CONA became the first top-ten retail bank to eliminate all overdraft fees and non-sufficient fund ("NSF") fees for its consumer banking customers in 2022. As a result of this change, CONA's flagship 360 Checking account was awarded "Bank On" certification by the Cities for Financial Empowerment Fund, a national nonprofit organization that works to ensure that everyone has access to a safe, affordable transactional banking account. The certification standards include core and strongly recommended features that address cost, functionality, and consumer safety. They establish an ambitious, but achievable, baseline for safe, affordable, and appropriate accounts that meet the needs of consumers with low incomes, particularly those outside the financial mainstream.

For additional examples of CONA's grants and philanthropic activities, please see Exhibit 25.

2. Discover Bank's CRA Activity Since Their Last CRA Evaluations

Discover Bank is also proud of the key attributes of its CRA program and governance. The following illustrates Discover Bank's performance against goals for "Outstanding" in 2022 and 2023:

(a) **Strategic Plan Goal 1: New CD Loans and Investments** – To meet the "Outstanding" goal, Discover Bank needed to provide $278 million ($134 million for 2022 and $144 million for 2023) in new financing and commitments for qualified community development loans and investments. In total, Discover Bank provided over $330 million with over $134 million lent, invested, and committed in 2022 and over $196 million lent, invested, and committed in 2023.

- As noted above, Discover Bank created the DAHIF, a Discover Bank-owned LIHTC fund, with Nationwide Mutual Insurance Company ("Nationwide") as the manager and guarantor of the fund. Nationwide works with syndicator partners to originate, underwrite, and provide asset management for specific LIHTC-eligible properties in geographical areas defined by Discover Bank.

In 2022, Discover Bank committed $62 million in equity to 13 properties in 2022 and $112 million in equity to 16 properties in 2023.

- Discover Bank continued to help the Milford Housing Development Corporation ("MHDC"), the largest nonprofit developer in Discover Bank's AA, to acquire the funding needed for the redevelopment of 410 critical units of affordable housing located in the highly desirable beach resort area within Discover Bank's AA. The projects were awarded $8 million in American Rescue Plan Act ("ARPA") funding in 2023 and a $8 million congressional appropriation was approved with the 2024 federal budget, thus setting up the projects for commencement of rehabilitation in 2025.

- As noted above, Discover Bank created the Development Fund, a NMTC fund owned to invest in opportunities in geographical areas defined by Discover Bank. Discover Bank committed $13 million in equity to three projects in 2022 and $31 million in equity to 10 projects in 2023. Two noted projects Discover Bank invested in were the Justice Thurgood Marshall Center Amenity and the East Side Charter School STEM facility.

    - The Thurgood Marshall Amenity Center, a former segregated elementary school in Baltimore's Upton community, will be a 22,068 square foot facility consisting of 12 repurposed classrooms, which are expected to be subleased for use as a museum and art gallery, public event space, and office space. In addition, the Beloved Community Services Corporation ("BCSC") will join forces with the University of Maryland to utilize the facility as a source for critical services related to crime prevention for the residents of Upton and West Baltimore.

    - The Chemours Community Discovery STEM HUB will be a 40,000 square foot STEM facility for a charter school located in a low-income census tract in the City of Wilmington. The addition will be to the existing school East Side Charter facility that currently serves 474 students in kindergarten through 8th grade. The STEM facility will be available during non-school hours and will be managed by the Wilmington Public Library to offer educational, employment and cultural programs to community residents. Discover Bank contributed greatly to enabling the project to receive two allocations of NMTCs. In addition to the NMTC investment, Discover Bank provided a $3.6 million permanent loan facility and up to a $3.5 million bridge loan facility in 2023. This innovative approach demonstrates Discover Bank's ability to utilize multiple financing channels and relationships to support development.

- Discover Bank continues to support the DSHA MBS Purchase Program. In 2022 and 2023, Discover Bank funded (or committed to fund) $48.2 million and $35 million, respectively.

- Discover Bank established the Discover Financial Health Improvement Fund ("DFHIF") in 2023, which supports start-ups and early-stage companies that offer the type of products and services that are focused on underserved LMI individuals and small businesses. Discover Bank committed to investing $36 million in total equity capital to facilitate the funding of companies and to meet the fund's obligations over the expected 10-year life of DFHIS. The purpose of the DFHIF is to help entrepreneurs scale their technologies so that they can deliver appropriate financial/payment products and services that support LMI consumers and small businesses. Where appropriate, the fund's managers will emphasize supporting diverse founders (i.e., founders of color and female founders) and founders who have lived experience as LMI consumers.

(b) **Strategic Plan Goal 2: Ratio of Community Development Loans and Qualified Investments to Average Assets** – Discover Bank achieved the 0.60% ratio of new community development loans and qualified investments and prior book value of investments to average its assets in 2022 and 2023; this activity met the respective annual goals for Outstanding performance.

(c) **Strategic Plan Goal 3: Community Development Grants** – Discover Bank provided $3,960,000 in community development grants in 2022. In 2023, Discover Bank provided $4,020,000 in community development grants; this activity met the respective annual goals for Outstanding performance.

Discover Bank continued to provide grants and in-kind contributions to various organizations, financial institutions, and governments to help meet the credit needs of LMI persons and small businesses within the AA and Discover Bank's Broader Area. Areas of emphasis continued to include qualified grants for affordable housing, small business and economic development, financial literacy, and Covid-19 response and recovery. Notable examples of qualified grants provided since the last evaluation period include:

- Discover Bank provided SSCFCU $975,000 in funding needed to support three startup minority owned fintech companies to issue the credit union's first debit card, secured credit card, and an investing application. The Discover team worked with the early-stage companies to have the cards associated with the debit card and secured credit card issued on the Discover Global Network and provided technical assistance in helping to identify their issuing bank partners. The debit card product is built in connection with a mobile wallet and social networking platform that will encourage savings, investing and other wealth building opportunities including homeownership and entrepreneurship. Bank representatives also worked to identify a fintech company capable of delivering a fractional share investing platform that will allow members to buy and sell stocks of companies in amounts as low as $5 with an easy and simplified application. With these three products, SSCFCU will now have additional tools to allow its members to participate in mainstream financial services for free in a safe and sound environment.

- In response to the increased need for emergency shelter, Discover Bank provided a $75,000 grant to Springboard Collaborative to make improvements to the communal areas of their new pallet village, which provides 64 square foot micro homes for people experiencing homelessness. The village opened within Discover Bank's AA in 2023 and serves nearly 50 people. Discover Bank also supported a nearby transitional home that serves individuals and families with $15,000 annual operating grants and assisted West End Neighborhood House with a $100,000 grant to support the site acquisition of a property within Discover Banks AA that will serve as an expansion of a program that provides housing and supportive services to youth experiencing homelessness and youth exiting foster care.

- Discover Bank provided a $50,000 grant to support a collaboration between the Delaware Community Foundation, the University of Delaware's Partnership for Healthy Communities, and the Delaware Community Foundation, which provides funding and technical support to LMI communities to develop and implement approaches to address health and economic disparities.

- To support workforce development, Discover Bank provided a $50,000 to the NERDiT Foundation to support their apprentice and pre-apprentice programs in electronic device repair and recycling. NERDiT operates the only Responsible Recycling (R2) certified electronic recycling business in Delaware, providing an environmentally friendly place for the community to recycle old or broken technology, while providing the skills necessary for people who are either unemployed or underemployed to get training and establish a career in the technology repair business.

- Discover Bank made a $25,000 grant to Survivor Ventures, which addresses the employment needs of survivors of human trafficking–an emerging issue in Delaware. The program empowers trafficking survivors by reimbursing small businesses for participants' wages during the first year of employment, which supports small businesses while lowering barriers for survivors re-entering the workforce. The program also provides entrepreneurship training to empower survivors to develop their own small businesses to augment their income.

- A $60,000 grant to The Pete Du Pont Freedom Foundation supports the Equitable Entrepreneurial Ecosystem (E3) initiative that delivers in-depth, personalized training and technical assistance to Black and Latinx small business owners within Discover Bank's AA.

- To support financial education for the community and children in the classroom, Discover Bank provided a grant of $57,000 to support the Delaware Council on Economic Education for two initiatives. The first, Delaware.Money, aggregates financial education resources of nonprofits that provide services to LMI adults. The second initiative focused on training K-12 educators to deliver personal finance and economic education instruction.

- Discover Bank provided a $50,000 grant to Roofs from the Heart to repair and replace roofs for LMI homeowners throughout Delaware. The program works in concert with MHDC's home repair program to leverage funding from multiple sources to ensure that properties can receive repairs inside and out, since roofs are often one of the costliest repair items.

- Discover Bank provided a $15,000 grant to the Delaware Recreation Education Athletics and Mentoring ("DREAM") Association to support the Stocks on the Block program. The program seeks to educate LMI children and their parents on the importance of wealth creation through investing in a safe and sound manner.

- Discover Bank provided grants of $250,000 each to Kent and New Castle Counties in Delaware to establish the Kent County Growth Fund and the Grow NCC Fund as part of a SBA 7a lending program.

(d) **Strategic Plan Goal 4: Community Development Services** – As discussed above, Discover Bank has created a point system to track community development services provided by personnel within the AA and Discover Bank's regional area. Discover Bank achieved 305 points, including 152 points in 2022 and 153 points in 2023, which exceeded the respective annual goals of 142 points in 2022 and 144 points in 2023. Notable examples of qualified services provided during the evaluation period included:

- Discover Bank supported the Delaware Community Reinvestment Action Council ("DCRAC") in their efforts to reduce the racial wealth gap in the City of Wilmington through homeownership. Specifically, the bank connected DCRAC with the Metropolitan Wilmington Urban League to form a partnership for identifying families interested in homeownership and providing them with U.S. Housing and Urban Development (HUD)-certified housing counseling services.

- Discover Bank partnered with Stepping Stones Community Federal Credit Union and two small minority-owned development companies, WilmInvest and PittPass Holdings, to secure funding to purchase and rehabilitate homes for homeownership. Discover Bank representatives took a leadership role in helping WilmInvest and PittPass Holdings obtain a loan from NeighborGood Partners CDFI to purchase a portfolio of properties that can be converted into homeownership and led the successful application process for a Federal Home Loan Bank Affordable Housing Program grant of $750,000 to renovate the first five homes. With the FHLB grant and DCRAC downpayment and settlement cost assistance, the mortgages are estimated to be $90,000, allowing the program to serve very low-income families. Discover Bank representatives also helped to identify program partners including the Wilmington Housing Authority, the Community Education Building, YWCA of Delaware, and the United Way to provide financial coaching, case management services, pre- and post-homeownership counseling, and identification of potential homebuyers.

- Discover Bank took a leadership role in providing capital to small businesses, nonprofits, and underserved consumers through engagement with CDFIs. Bank representatives also serve on the boards of Locus (formerly Virginia Community Capital), NeighborGood Partners, Stepping Stones Community Federal Credit Union, and True Access Capital.

- Discover Bank representatives worked with Capital Good Fund, Nemours Children's Hospital and United Way's $tand by Me program to offer financial coaching and low interest loans to the LMI parents of patients that need to purchase handicapped accessible vehicles or make home repairs to facilitate the discharge of their children from the hospital to home.

- Bank representatives supported small business serving entities in a variety of ways. As a new member of the Kent and Sussex County Equitable Entrepreneurial Ecosystem (E3) committees, a Bank representative works with the Pete Du Pont Freedom Foundation to help underserved small businesses grow, sustain, and accelerate their businesses. The representative reviews applications for the program and makes individual recommendations for each applicant about additional programs, partners, or markets to consider pursuing and assists the Foundation's leadership by reviewing the cohort's progress throughout the year. Representatives also served on the Small Business Development Center's Advisory Committee, the board of True Access Capital, a CDFI that provides technical assistance and lending to small businesses with a focus on minority and women owned businesses, the board of the Emerging Enterprise Center that provides technical assistance and a coworking space to small businesses, and supported the launch of the Kent County Growth Fund and Grow NCC Fund.

(e) **Strategic Plan Goal 5: Consumer Loans in Moderate-Income Census Tracts in the Assessment Area** – Discover Bank extended $11.4 million in consumer credit to individuals who resided in moderate-income census tracts within Discover Bank's AA, including $4.35 million in 2022 and $7.06 million in 2023, which exceeded Discover Bank's goals for Outstanding performance in both years.

These attributes have contributed to Discover Bank's CRA performance since Discover Bank's last CRA Evaluation. As discussed above, the evaluation period for the Discover Bank CRA Evaluation concluded on December 31, 2021. Since the end of its evaluation period, Discover Bank, for 2022, operated under its FDIC-approved 2021-2025 CRA Strategic Plan (effective January 1, 2021 through December 31, 2025) and, for 2023, under its modified FDIC-approved 2023-2027 CRA Strategic Plan (effective January 1, 2023 through September 31, 2027). Discover Bank has continued to demonstrate very strong CRA performance and significantly positive impacts on its communities.

D. Pro Forma CRA Program at CONA

CONA will continue to be committed to advancing its strong record of CRA performance while helping to serve the needs of its communities after consummation of the Proposed Transaction. The Proposed Transaction will provide CONA with an opportunity to bring the best CRA practices and products of both entities to the combined bank's customers.

On consummation of the Proposed Transaction, the combined banking organization will continue to operate under CONA's policies and procedures. CONA expects to maintain or exceed the level of Discover Bank's CRA activities in the Discover Bank AA and broader area and will collaborate with Discover Bank to evaluate CRA activities, programs, products, and business strategies ensuring CONA's continued strong performance under the CRA. Care will be taken to meet with the existing Discover Bank CRA staff to understand their current compliance practices, policies and procedures, in addition to understanding how to best integrate the Discover Bank CRA and outreach teams and data into the CONA CRA program and governance structure. CONA will work with Discover Bank to understand its product set in more detail, and how the products and programs are meeting the needs of the community. As new opportunities are identified to address community needs, CONA and Discover will apply their resources and expertise to work with community organizations to address those needs. The combined entities will leverage respective learning and capabilities on strategies to best serve LMI populations and communities.

CONA will engage with Discover Bank staff in meeting with community and advocacy groups to understand the impacts and needs of LMI and underserved communities and will prioritize the findings to serve communities throughout their respective AAs, including LMI and other underserved communities. The combined bank will have a community outreach team that has a comprehensive skillset and broad CRA expertise. Lastly, the CONA CD lending and investment teams will work with Discover Bank staff to understand each other's products and programs to best meet the needs of the community.

In summary, the merging of CONA and Discover Bank bring together two strong banking entities with a longstanding commitment to CRA. The combination of the best practices and complementary areas of expertise of these two financial institutions will result in an enhanced and more impactful contribution to the communities in which they operate.

Conclusion

The Proposed Transaction will join two banks with highly compatible business models. The resulting institution will have a comprehensive risk management system and compliance culture better able to serve consumers, businesses and other customers across the nation. All of the statutory factors that the Federal Reserve must consider in acting on the Application are consistent with approval. Capital One has ample financial and managerial resources to successfully consummate the Proposed Transaction. COFC, Merger Sub, CONA, Discover and Discover Bank are well capitalized, and COFC and CONA will remain so upon consummation of the Proposed Transaction.

Capital One, including CONA, has designated the ILT and established the IMO with cross-divisional representatives and workstreams to ensure a successful integration of Discover Bank into CONA. CONA has a robust risk management program, including for BSA/AML/Sanctions Compliance and Consumer Compliance. Capital One will use its expanded risk management program for the combined bank to ensure continued safe and sound operations.

The Proposed Transaction will not substantially lessen competition in any banking market. The parties do not overlap in any local banking market and will have a *de minimis* impact with respect to nationwide deposits. Both COFC and Discover are credit card issuers, but any such market is not concentrated and intensely competitive, and the Proposed Transaction will not affect the competitive dynamics of card issuing. The Proposed Transaction will enable COFC to invest in and grow its banking products, to innovate and bring to market new products and services, and make Discover's payments networks more attractive through, *inter alia*, improved compliance and risk management. By vertically integrating a more scaled credit card portfolio with Discover's payments networks, the Proposed Transaction will further strengthen these networks. The Proposed Transaction and this Application thus present the most viable chance to deconcentrate and increase competition among payments networks in the United States.

In addition, the Proposed Transaction will not result in any material increased risk to the U.S. banking or financial system. Instead, the Proposed Transaction will have a systemically stabilizing impact by creating a combined company that has increased earnings capability and financial strength. These benefits will enable the combined organization to compete more effectively against the largest U.S. banking organizations that operate nationally and are aggressively seeking to increase their deposit market shares, particularly in the major metropolitan areas of the United States, as well as the larger regional banks that also operate on a national level and have seen substantial growth over the last decade. Capital One's financial strength will also support its continued high level of investment in technologies and innovation to effectively address the evolving needs of customers and communities for innovative banking services and cybersecurity protections.

CONA's commitment to continuing its Outstanding CRA performance record will benefit the customers and communities served by the combined bank. Customers of CONA and Discover Bank will also benefit from the resulting broader banking products and service offerings of the combined organization. In addition, customers and communities will benefit from the culture and dedication of Capital One that is focused on providing superior customer service to consumers and businesses alike and economic support to all segments of its communities, including LMI and other underserved populations. In addition, the continuation of Capital One's shared prioritization of diversity and inclusion of customers, communities and employees will benefit all of Capital One's constituents.

For all the reasons discussed in this Application, including the exhibits, COFC and Merger Sub respectfully submit that the Application should be approved.

RESPONSES TO THE FORM FR Y-3 INFORMATION REQUEST ITEMS

Proposed Transaction

1. Describe the transaction's purpose. Identify any changes to the business plan of the Bank/Bank Holding Company to be acquired or the Resultant Institution. Identify any new business lines.

The purpose of the Proposed Transaction is to combine two highly compatible banking organizations with complementary business models, strong financials and capital ratios, and dedication to the communities they serve. Capital One will acquire and operate the Discover Global Network to process transactions for the branded credit and debit cards and provide payment transaction processing and settlement services.

Please see the discussion in the *Preliminary Statement – Convenience and Needs of the Communities and Preliminary Statement – Executive Summary* for additional information.

2. Provide the following with respect to the Bank/Bank Holding Company to be acquired:

a. Total number of shares of each class of stock outstanding;

As of February 15, 2024, there were (i) 250,557,658 shares of Discover Common Stock issued and outstanding; (ii) 320,984,826 shares of Discover Common Stock held in treasury; (iii) 1,345,280 shares of Discover Common Stock reserved for issuance upon the settlement of outstanding Discover RSU Awards (other than Discover RSU Awards outstanding under the Discover Directors' Compensation Plan); (iv) 255,748 Discover RSU Awards outstanding under the Discover Directors' Compensation Plan; (v) 334,218 shares of Discover Common Stock reserved for issuance upon the settlement of outstanding Discover PSU Awards (assuming performance goals are satisfied at the target level) or 501,327 shares of Discover Common Stock reserved for issuance upon the settlement of outstanding Discover PSU Awards (assuming performance goals are satisfied at the maximum level); (vi) 1,559,512 shares of Discover Common Stock reserved for issuance under the Discover ESPP; and (vii) (A) 5,700 shares of Discover Series C Preferred Stock issued and outstanding and (B) 5,000 shares of Discover Series D Preferred Stock issued and outstanding.

b. Number of shares of each class now owned or under option by the applicant, by subsidiaries of the applicant, by principals of the applicant,[60] by trustees for the benefit of the applicant, its subsidiaries, shareholders, and employees as a class, or by an escrow arrangement instituted by the applicant;

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[60] **The term principal as used herein means any individual, corporation, or other entity that (1) owns, or controls, directly or indirectly, individually or as a member of a group acting in concert, 10 percent or more of any class of voting securities or other voting equity interest of the entity; (2) is a director, trustee, partner, or executive officer; or (3) with or without ownership interest, participates, or has the authority to participate in major policy-making functions, whether or not the individual has an official title or is serving without compensation. If the applicant believes that any such individual should not be regarded as a principal, the applicant should so indicate and give reasons for such opinion.**

To the best of COFC's knowledge, none of COFC or CONA, or any of their subsidiaries or principals (including directors or senior executive officers), or any trustee for the benefit of any of the foregoing or employees of COFC or its subsidiaries (as a class), own or hold an option to acquire any shares of Discover or Discover Bank.

c. **Number of shares of each class to be acquired by cash purchase; the amount to be paid, per share and in total; and the source of funds to be applied to the purchase;**

None. As discussed in the *Preliminary Statement – Structure and Terms of the Proposed Transaction*, the Proposed Transaction is an all-stock transaction.

d. **Number of shares of each class to be acquired by exchange of stock, the exchange ratio, and the number and description of each class of the applicant's shares to be exchanged; and**

Each outstanding share of Discover Common Stock will be converted into the right to receive the Exchange Ratio. Each share of Discover preferred stock will be automatically converted into the right to receive one (1) share of the applicable series of new COFC preferred stock and each outstanding Discover depositary share will be automatically converted into a new COFC depositary share. Each Discover RSU award that is outstanding immediately prior to the effective time will be converted into a COFC RSU award, with the number of shares underlying such award adjusted based on the Exchange Ratio. Each such COFC RSU award will otherwise continue to be subject to the same terms and conditions (including vesting terms) as applied to the corresponding Discover RSU award. Each Discover PSU award that is outstanding immediately prior to the effective time will be converted into a COFC cash-based award in respect of an amount in cash equal to the product of (i) the total number of shares subject to the Discover PSU award, with the number of shares of Discover Common Stock determined based on the greater of target and actual performance through the last quarter ending simultaneously with or prior to the effective time for Discover PSU awards for which as of the effective time more than one year of the performance period has elapsed, and target performance for Discover PSU awards for which as of the effective time one year or less of the performance period has elapsed, multiplied by the product of the Exchange Ratio and the average of the closing sale prices of COFC Common Stock for the five full trading days ending on the day preceding the closing date. Each converted COFC cash-based award will otherwise continue to be subject to the same terms and conditions (including service-based vesting terms) as applied to the corresponding Discover PSU award.

A summary of the classes of stock to be exchanged pursuant to the Proposed Transaction is provided in the *Preliminary Statement – Structure and Terms of the Proposed Transaction*.

e. **A copy of the purchase, operating, shareholder, trust or other agreements associated with the Proposed Transaction. Also, provide the expiration dates of any contractual arrangement between the parties involved in this application and a brief description of any unusual contractual terms, especially those terms not disclosed elsewhere in the application. Note any other circumstances that might affect timing of the proposal.**

A summary of the principal terms of the Proposed Transaction is provided in the *Preliminary Statement – Structure and Terms of the Proposed Transaction* section above. An execution version of the Agreement is provided in Exhibit 1.

Resolutions approving the Proposed Transaction by COFC's Board of Directors and resolutions of the Board of Directors of CONA approving the Bank Merger and the filing of the related regulatory filings, as well as the related consent of COFC as the sole stockholder of CONA approving the Bank Merger, are provided in Exhibit 8, Exhibit 9 and Exhibit 10, respectively. Stockholder consent of COFC, as the sole stockholder of Merger Sub, and resolutions of Merger Sub's Board of Directors approving the First Step Merger are provided in Exhibit 11 and Exhibit 12, respectively.

Joint resolutions of the Boards of Directors of Discover and Discover Bank approving the Proposed Transaction, including the Bank Merger, and the filing of the Bank Merger application, as well as the related consent of Discover as the sole stockholder of Discover Bank, are provided in Exhibit 13 and Exhibit 14, respectively.

Capital One and Discover would like to consummate the Proposed Transaction as soon as practicable, in order to preserve the benefits of the Proposed Transaction and minimize the loss of employees and customers that results from a protracted period between announcing and closing a transaction.

3. If the Proposed Transaction is an acquisition of assets and assumption of liabilities, indicate the total price and the source of funds that the applicant intends to use for the proposed purchase, and discuss the effect of the transaction on the operations of the applicant.

Not applicable. The Proposed Transaction is not an acquisition of assets and assumption of liabilities.

4. If the Proposed Transaction involves the acquisition of an unaffiliated banking operation or otherwise represents a change in ownership of established banking operations, describe briefly the due diligence review conducted on the target operations by Applicant. Indicate the scope of and resources committed to the review, explain any significant adverse findings, and describe the corrective action(s) to be taken to address those weaknesses.

A summary of Capital One's due diligence review is provided in Confidential Exhibit A and the *Preliminary Statement – Financial and Managerial Resources* and *Future Prospects/Managerial Resources/Integration Planning and Experience* sections above.

5. Provide a list of all regulatory approvals and filings required for the Proposed Transaction and the status of each filing.

Please see the *Preliminary Statement – Required Approvals* section above for responsive information.

6. Provide a copy of any findings, orders, approvals, denials or other documentation regarding the Proposed Transaction issued by any regulatory authority.

Not applicable. There is no such documentation regarding the Proposed Transaction issued by any regulatory authority.

7. For applications filed pursuant to section 3(a)(1) of the BHC Act, if the Proposed Transaction would result in an organization other than a shell one-bank holding company, submit a pro forma organization chart showing the applicant's percentage of ownership of all banks and companies, both domestic and foreign, in which it directly or indirectly will own or control more than 5 percent of the outstanding voting shares.

Not applicable. The Application is filed pursuant to sections 3(a)(3) and 3(a)(5) of the BHC Act.

<u>**Financial and Managerial Information**</u>

8.

a. For an applicant that is not or would not be subject to consolidated capital standards following consummation of the Proposed Transaction,[61] provide parent company balance sheet as of the end of the most recent quarter, showing separately each principal group of assets, liabilities, and capital accounts; debit and credit adjustments (explained by detailed footnotes) reflecting the Proposed Transaction; and the resulting pro forma balance sheet. The pro forma balance sheet should reflect the adjustments required under business combination and fair value accounting standards.

Not applicable. COFC is subject to consolidated capital standards, which will continue to be the case after consummation of the Proposed Transaction.

b. For an applicant that is or would be subject to consolidated capital standards following consummation of the Proposed Transaction,[62] provide parent company and consolidated balance sheets as of the end of the most recent quarter, showing separately each principal group of assets, liabilities, and capital accounts; debit and credit adjustments (explained by detailed footnotes) reflecting the Proposed Transaction; and the resulting pro forma balance sheets; and the financial information provided should be prepared in accordance with GAAP, and be in sufficient detail to reflect any:

- **Common equity and preferred stock;**

[61] **This type of applicant includes a company or similar organization that on a pro forma basis would be subject to the Board's Small Bank Holding Company Policy Statement.**
[62] **This type of applicant includes a company or similar organization that on a pro forma basis would not be subject to the Board's Small Bank Holding Company Policy Statement.**

- **Other qualifying capital;[63]**

- **Long- and short-term debt;**

- **Goodwill and all other types of intangible assets; and**

- **Material changes between the date of the balance sheet and the date of the application (explained by footnotes).**

Please see Confidential Exhibit C, which includes the requested balance sheet information, as of December 31, 2023.

c. Provide a broad discussion on the valuation of the target entity and any anticipated goodwill and other intangible assets. Also discuss the application of fair value and any election to apply push-down accounting adjustments, as appropriate.

Please see Confidential Exhibit C, which includes the requested information in the Notes or Assumptions to the financial charts provided.

9. For an applicant that is or would be subject to consolidated capital requirements under Regulation Q (12 CFR part 21) following consummation of the Proposed Transaction, provide a breakdown of the organization's existing and pro forma risk-weighted assets as of the end of the most recent quarter, showing each principal group of on and off-balance sheet assets and the relevant risk-weight. Also, identify the existing and pro forma components of common equity tier 1, additional tier 1 and tier 2 capital pursuant to the capital adequacy regulations as of the end of the most recent quarter, and provide calculations of applicant's existing and pro forma common equity tier 1 capital, tier 1 capital, total capital, and leverage ratios pursuant to the capital adequacy regulations. If applicable, also provide the applicant's existing and pro forma supplementary leverage ratio pursuant to the capital adequacy regulations.

Please see Confidential Exhibit C, which includes the requested capital-related information for the Proposed Transaction.

10. Provide for the applicant and any other Bank(s)/Bank Holding Company(ies) that would result from the proposal:

a. A description of any plans (in connection with the Proposed Transaction, or otherwise) to issue, incur, or assume additional common equity, preferred stock, other qualifying capital, and/or debt. Specify the amount, purpose, name and location of the issuer and/or lender; provide a copy of any loan agreement, loan commitment letter from the lender, or other underlying agreement which provides the interest rate, maturity, collateral, and proposed amortization

[63] **Other qualifying capital includes, but is not limited to, trust preferred securities.**

schedule; and discuss what resources would be used to service any debt or capital instruments arising from the Proposed Transaction.

Each outstanding share of Discover common stock will be converted into the right to receive 1.0192 shares of COFC Common Stock. In addition, each outstanding share of Discover preferred stock will be converted into the right to receive one share of a newly created series of COFC preferred stock having materially the same terms as the applicable series of Discover preferred stock. COFC intends to file a registration statement on Form S-4 with the SEC to register the shares of COFC's common stock that will be issued to Discover stockholders in connection with the Proposed Transaction. The registration statement will include a joint proxy statement of COFC and Discover that will also constitute a prospectus of COFC.

b. If the Proposed Transaction results in a change in ownership of the company (e.g., due to an exchange of stock), provide a current and pro forma shareholders list.

COFC

COFC is a public company whose common stock trades on the New York Stock Exchange under the symbol "COF." COFC has a broad shareholder base. Pursuant to COFC's Form 10-K, filed February 23, 2024, as of January 31, 2024, 380,212,220 shares of COFC Common Stock were issued and outstanding. As of the date of this Application, there were no persons or entities known by COFC to beneficially own 10% or more of the outstanding shares (a "10% Shareholder") of any class of COFC Common Stock and the only persons or entities known by COFC to beneficially own 5% or more of the outstanding shares (a "5% Shareholder") of any class of COFC Common Stock are (a) Vanguard Group Inc. ("Vanguard"), (b) Capital Research and Management Company (aka World Investors) ("World Investors"), (c) Dodge & Cox Inc. ("Dodge & Cox") and (d) BlackRock, Inc. ("BlackRock"). Shown below are the number of shares of COFC Common Stock (and percentage of COFC Common Stock outstanding) held by such holders (based on the most recent Schedule 13G filed by such holders with the SEC:

Beneficial Owner[64]	Number of Shares of COFC Common Stock Held	Percent of Outstanding COFC Common Stock Held
Vanguard	30,666,688[65]	8.1%
World Investors	27,262,580[66]	7.2%
Dodge & Cox	25,220,598[67]	6.6%
BlackRock	24,742,445[68]	6.5%

[64] "Beneficial ownership" for purposes of the table is determined according to the meaning of applicable securities regulations and based on a review of reports filed with the SEC pursuant to section 13(d) of the Securities Exchange Act of 1934 (the "Exchange Act").
[65] As of December 29, 2023, as filed on Schedule 13G.
[66] As of December 31, 2023, as filed on Schedule 13F.
[67] As of December 31, 2023, as filed on Schedule 13G.
[68] As of December 31, 2023, as filed on Schedule 13G.

Discover

Discover is a public company whose common stock trades on the New York Stock Exchange under the symbol "DFS." Like COFC, Discover also has a broad shareholder base. Pursuant to Discover's Form 10-K, filed February 23, 2024, as of February 16, 2024, 250,555,294 shares of Discover common stock were issued and outstanding. As of the date of this Application, the only 10% Shareholder of any class of Discover common stock is Vanguard and the only 5% Shareholders of any class of Discover common stock are (a) World Investors, and (b) BlackRock. Shown below are the number of shares of Discover common stock (and percentage of Discover common stock outstanding) held by such holders (based on the most recent Schedule 13G filed by such holders with the SEC:

Beneficial Owner[69]	**Number of Shares of DFS Common Stock Held**	**Percent of Outstanding DFS Common Stock Held**
Vanguard	32,331,025[70]	12.9%
World Investors	22,295,421[71]	8.9%
BlackRock	18,704,918[72]	7.5%

Pro Forma COFC

As discussed above, COFC does not know of any entity or individual that beneficially owns 5% or more of the outstanding shares of any class of COFC Common Stock currently, except Vanguard, World Investors, Dodge & Cox, and BlackRock. As a result of the Proposed Transaction, (a) the only 10% Shareholder of COFC on a *pro forma* basis would be Vanguard and (b) the only 5% Shareholders of COFC on a pro forma basis would be World Investors and BlackRock. None of these parties trigger any presumptions of control outlined in subpart D of the Federal Reserve's Regulation Y.

Beneficial Owner[73]	**Number of Shares of COFC Common Stock Held – *Pro Forma***	**Percent of Outstanding COFC Common Stock Held – *Pro Forma***[74]

[69] "Beneficial ownership" for purposes of the table is determined according to the meaning of applicable securities regulations and based on a review of reports filed with the SEC pursuant to section 13(d) of the Securities Exchange Act of 1934 (the "Exchange Act").

[70] As of December 29, 2023, as filed on Schedule 13G.

[71] As of December 29, 2023, as filed on Schedule 13G.

[72] As of December 31, 2023, as filed on Schedule 13G

[73] "Beneficial ownership" for purposes of the table is determined according to the meaning of applicable securities regulations and based on a review of reports filed with the SEC pursuant to section 13(d) of the Exchange Act.

[74] The pro forma organization will have approximately 635,578,176 shares of COFC Common Stock outstanding. This number was calculated as follows: 250,555,294 shares of Discover common stock outstanding as of February 15, 2024, multiplied by the exchange ratio of 1.0192 = 255,365,955 new shares of COFC Common Stock; 255,365,955 new shares of COFC Common Stock plus 380,212,220 shares of COFC Common Stock = 635,578,176 shares.

Vanguard	63,618,468[75]	10.0%
World Investors	49,986,073[76]	7.9%
BlackRock	43,806,497[77]	6.9%

To the best of Discover's knowledge, Dodge & Cox does not own any shares of Discover common stock and would hold only 4.0% of the outstanding common shares of COFC on a *pro forma* basis.[78]

c. Cash flow projections under the following limited circumstances:

(i) **For an applicant that is or would be subject to consolidated capital standards following consummation of the Proposed Transaction and that would incur or assume any debt in the proposal such that parent company long-term debt would exceed 30 percent of parent company equity capital, provide cash flow projections for the parent company for each of the next three years, along with supporting schedules for each material cash receipt and disbursement. If an applicant projects that dividends or other payments from subsidiary banks will be used to service parent company debt and/or other obligations, provide projections of subsidiary bank(s) assets, earnings, and dividends, as well as common equity tier 1, additional tier 1, total capital, and leverage ratios (including the supplementary leverage ratio, if applicable) pursuant to the capital adequacy regulations. If the combined assets of the subsidiary banks exceed the asset threshold of the Board's Small Bank Holding Company Policy Statement, subsidiary bank data may be shown on an aggregate basis;**

Please see Confidential Exhibit C for information about COFC's long-term debt and cash flow projections.

(ii) **For an applicant that is not or would not be subject to consolidated capital standards following consummation of the Proposed Transaction and that would incur or assume any debt or other obligations in the proposal such that parent company debt[79] would exceed 30 percent of parent company equity capital, provide cash flow projections for the parent company for each of the next twelve years, along with supporting**

[75] Calculated as follows: 32,331,025 shares of Discover common stock as of December 31, 2023, multiplied by the exchange ratio of 1.0192 = 32,951,780 new shares of COFC Common Stock; 32,951,780 new shares of COFC Common Stock plus 30,666,688 shares of COFC Common Stock = 63,618,468 shares.
[76] Calculated as follows: 22,295,421 shares of Discover common stock as of December 31, 2023, multiplied by the exchange ratio of 1.0192 = 22,723,493 new shares of COFC Common Stock; 22,723,493 new shares of COFC Common Stock plus 27,262,580 shares of COFC Common Stock = 49,986,073 shares.
[77] Calculated as follows: 18,704,918 shares of Discover common stock as of December 31, 2023, multiplied by the exchange ratio of 1.0192 = 19,064,052 new shares of COFC Common Stock; 19,064,052 new shares of COFC Common Stock plus 24,742,445 shares of COFC Common Stock = 43,806,497 shares.
[78] Calculated as follows: 25,220,598 shares of COFC Common Stock divided by 635,578,176 shares = 4.0%.
[79] **Including any debt issued/incurred by nonbanking subsidiaries, such as trust preferred securities.**

schedules for each material cash receipt and disbursement. These projections must clearly demonstrate the ability of the parent company to reduce the debt to equity ratio to 30 percent or less within twelve years of consummation and must take into account the schedule of principal reduction required by the parent company's creditor(s). Include projections of subsidiary bank(s) assets, earnings, dividends, and other payments to affiliates, as well as common equity tier 1 capital, tier 1 capital, total capital and leverage ratios. Explain the methods and assumptions utilized in the projections, and support all assumptions which deviate from historical performance.

Not applicable. COFC is subject to consolidated capital standards, which will continue to be the case after consummation of the Proposed Transaction.

d. If the subject transaction will be funded in whole, or in part, through the issuance of additional stock instruments, describe the current status of the stock raising efforts. Provide copies of the prospectus, private placement memorandum, and other documents associated with the capital raise. In addition, provide copies of any stock commitments, subscription agreements, or escrow account statements evidencing capital raised. Before submitting a final application, please contact the appropriate Federal Reserve Bank to discuss the timing considerations of the capital raising efforts with regard to submission of the application.

Please see the response to item 10.a. above summarizing the issuance of COFC Common Stock in connection with the Proposed Transaction. The joint proxy statement of COFC and Discover, which will also constitute a prospectus of COFC, will include a shareholder proposal requesting approval of the share issuance pursuant to applicable New York Stock Exchange rules and regulations, which the COFC Board of Directors will unanimously recommend a vote "FOR." The approval of the share issuance from the stockholders of Capital One is a condition to the completion of the Merger.

11. For applications filed pursuant to section 3(a)(1) of the BHC Act, provide for the applicant and the Bank a list of principals (including changes or additions to this list to reflect consummation of the transaction), providing information with respect to each as follows:

a. Name and address (City and State/Country). If the principal's country of citizenship is different from his or her country of residence, then state the country of citizenship;

b. Title or positions with the applicant and the Bank;

c. Number and percentage of each class of shares of the applicant and the Bank owned, controlled, or held with power to vote by this individual;[80]

d. Principal occupation if other than with the applicant or the Bank;

e. Percentage of direct or indirect ownership, if such ownership represents 10 percent or more of any class of shares, or positions held in any other depository institution or depository institution holding company.[81] Give the name and location of such other depository institution or depository institution holding company. (Information that has been collected or updated within the past 12 months may be submitted, unless the applicant has reason to believe that such information is incorrect.);

f. Interagency Biographical and Financial Reports (IBFRs) are required for certain individuals. Consult with the appropriate Reserve Bank for guidance on who should provide an IBFR. See SR 15-8 Name Check Process for Domestic and International Applications for more details; and

g. If the principal is a corporation or partnership, provide financial statements (balance sheets and income statements) for the two most recent fiscal years and the most recent quarter end. Discuss any negative trends in the financial statements.

Not applicable. The Application is being filed under sections 3(a)(3) and 3(a)(5) of the BHC Act.

12. For applications filed pursuant to sections 3(a)(3) or 3(a)(5) of the BHC Act, list any changes in management or other principal relationships for the applicant and any other Bank(s)/Bank Holding Company(ies) that would result from the proposal. For any existing or proposed principal of the applicant or the Bank/Bank Holding Company that is also a principal of any other depository institution or depository institution holding company, provide the following information:

a. Name, address, and title or position with Applicant, Bank/Bank Holding Company, and any other depository institution or depository institution holding company (give the name and location of the other depository institution or depository institution holding company);

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[80] Include shares owned, controlled or held with power to vote by principal's spouse, dependents and other immediate family members. Give record ownership and, to the extent information is available, beneficial ownership of shares held by trustees, nominees, or in street names.

[81] For purposes of this application, a "depository institution" is defined as a commercial bank (including a private bank), a savings bank, a trust company, a savings and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union.

b. **Number and percentage of each class of shares of the applicant and the Bank/Bank Holding Company owned, controlled, or held with power to vote by this individual;[82]**

c. **Principal occupation if other than with the applicant or the Bank/Bank Holding Company; and**

d. **Percentage of direct or indirect ownership held in the other depository institution or depository institution holding company if such ownership represents 10 percent of more of any class of shares (Information that has been collected or updated within the past 12 months may be submitted, unless the applicant has reason to believe that such information is incorrect.); and**

e. **For any new (to applicant) principal shareholders, directors, or senior executive officer, provide an IBFR including completion of all required financial information.**

Please see the *Preliminary Statement – Financial and Managerial Resources and Future Prospects* section above for information on the directors and senior executive officers of COFC, Merger Sub and CONA. Information relating to the Discover directors who will become new directors of COFC will follow at a later date.

No principal of COFC, CONA, Discover or Discover Bank is a principal of any other unaffiliated insured depository institution or insured depository institution holding company.

13. **If the consolidated assets of the resulting organization are less than the asset threshold of the Board's Small Bank Holding Company Policy Statement for each principal of the applicant who either would retain personal indebtedness or act as guarantor for any debt that was incurred in the acquisition of shares of the applicant or the Bank/Bank Holding Company, provide the following:**

a. **Name of borrower and title, position, or other designation that makes the borrower a principal of the applicant;**

b. **Amount of personal indebtedness to be retained;**

c. **A description of the terms of the borrowing, the name and location of the lender, and a copy of any related loan agreement or loan commitment letter from the lender;**

d. **Statement of net worth as of a date within three months of the applicant's final filing of the application. The statement of net worth should be in sufficient detail to indicate each principal group of assets and liabilities of the reporting principal, and the basis for the valuation of assets (provide supporting documentation, as appropriate). In addition to debts and liabilities, the reporting principal should state on a separate schedule, any endorsed,**

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[82] **As defined in footnote number [65].**

guaranteed, or otherwise indirect or contingent liability for the obligation of others; and

e. Statement of most current year's income. In addition to indicating each principal source of annual income, the reporting principal should list annual fixed obligations arising from amortization and other debt servicing. (If the most current year's statement is not representative of the future, the reporting principal should submit a pro forma income statement and discuss the significant changes and the basis for those changes.)

Not applicable. The total banking assets of the resulting organization will exceed the asset threshold of the Board's Small Bank Holding Company Policy Statement.

14. Describe any litigation or investigation by local, state, or federal authorities involving the applicant or any of its subsidiaries or the target or any of its subsidiaries that is currently pending or was resolved within the last two years.

Except as provided in Confidential Exhibits M and N, none of COFC or Discover, nor any of their respective subsidiaries, have been subject to any litigation or investigation by local, state or federal authorities (whether ongoing, pending or resolved) within the last two years.[83]

Competition

If the subject transaction is a bank holding company formation involving only one bank or an application filed pursuant to section 3(a)(3) or 3(a)(5) of the BHC Act to acquire a *de novo* bank, a response to items 14 and 15 is not required. Otherwise, the applicant should contact the appropriate Reserve Bank to determine whether a response to items 14 and 15 will be necessary. If a response is required, the applicant should obtain a preliminary definition of the relevant banking markets from the appropriate Reserve Bank. If the applicant disagrees with the Reserve Bank's preliminary definition of the banking market(s), it may in addition to supplying the information requested on the basis of the Reserve Bank's definition of the banking market(s), include its own definition of the banking market(s), with supportive data, and answer the questions based on its definition. If later analysis leads Federal Reserve staff to alter the preliminary definition provided, The applicant will be so informed.

15. Discuss the effects of the Proposed Transaction on competition considering the structural criteria specified in the Board's Rules Regarding Delegation of Authority (section 265.11c(11)(v)). The applicant may be required to provide additional information if Federal Reserve staff determines that the proposal exceeds existing competitive guidelines. Also, if divestiture of all or any portion of any bank or

[83] In addition to litigation and investigations by governmental authorities, Capital One and Discover and their respective affiliates are involved in a number of judicial proceedings relating to matters arising from conducting normal business activities. For information on material proceedings, please see COFC's 2023 Annual Financial Statement, Note 18, "Commitments, Contingencies, Guarantees and Others" available at https://investor.capitalone.com/static-files/994c8bec-608e-49d1-8ae2-a039bc43ba54 and Discover 2023 Annual Financial Statement, Note, "Litigation and Regulatory Matters," available at https://d18rn0p25nwr6d.cloudfront.net/CIK-0001393612/f3103b18-c2f1-4357-aa14-331e3771515c.pdf.

nonbanking company constitutes part of this proposal, discuss in detail the specifics and timing of such divestiture.

Please refer to the *Preliminary Statement – Competitive Effects*, Exhibit 21 and Confidential Exhibit J.

16. **If the proposal involves the acquisition of nonbank operations under sections 4(c)(8) and 4(j) of the Bank Holding Company Act, a Form FR Y-4 should be submitted in connection with FR Y-3 filing. At a minimum, the information related to the nonbank operations should include the following:**

    a. **A description of the proposed activity(ies);**

    b. **The name and location of the applicant's and the Bank's direct or indirect subsidiaries that engage in the proposed activity(ies);**

    c. **Identification of the geographic and product markets in which competition would be affected by the proposal;**

    d. **A description of the effect of the proposal on competition in the relevant markets; and**

    e. **A list of major competitors in each affected market.**

    In addition, the applicant should identify any other nonbank operations to be acquired, with brief descriptions of the activities provided.

The Proposed Transaction involves the acquisition of nonbanking subsidiaries of Discover that engage in operations under section 4(c)(8) of the BHC Act. The Form FR Y-4 notification is being submitted to the Federal Reserve concurrent with this Application with respect to these nonbanking subsidiaries of Discover, which sets forth their activities, including the vast majority which are conducted pursuant to section 4(c)(8) of the BHC Act.

The following Discover subsidiaries are being acquired by Capital One as part of the Proposed Transaction and are not subject to approval under the Form FR Y-4. As noted below, all of the below activities are permissible for a bank holding company.

Acquired Subsidiary	Activities	Relevant BHC Authority
Discover Ventures Inc.	Holds and manages direct and indirect minority interest investments.	12 CFR 225.22(d)(5) (passive equity investments)
Discover Services Corporation	Holds the operations of the Discover employee business card used for employee travel and other business expenses.	12 CFR 225.22(b) (servicing for affiliates)
DFS International, Inc.	Provides payment of compensation and benefits to expatriate employees who are working outside the country of their legal citizenship or residence.	12 CFR 225.22(b) (servicing for affiliates)

Acquired Subsidiary	Activities	Relevant BHC Authority
DFS Corporate Services LLC	Provides corporate control and support services to conduct the operations of Discover's businesses and legal entity. Services include business technology, human resources, corporate risk management, internal audit, and other shared services for all of the Company's businesses, including Discover Bank's core business lines. DFS Corporate Services LLC solely faces affiliates and all revenue is generated via intercompany agreements.	12 CFR 225.22(b) (servicing for affiliates)
Diners Club Services Taiwan Ltd.	Supports the Taiwan operations of Discover Global Network. Services provided include support to partners on the Discover Global Network for acceptance.	12 CFR 225.22(b) (servicing for affiliates)
Discover Financial Services (Hong Kong) Limited	Serves as an investment holding company. It supports the growth of Discover Global Network in the APAC region and provides support to network partners of Discover Global Network.	12 CFR 225.22(b) (servicing for affiliates)
Discover Information Technology (Shanghai) Limited	Holds the operations of the Shanghai office of Discover Financial Services (Hong Kong) Limited, which provides services to Discover Bank.	12 CFR 225.22(b) (servicing for affiliates)
Discover Home Loans, Inc.	Provided mortgage lending services. In 2015, Discover Home Loans, Inc. stopped offering mortgage origination products.	12 CFR 225.22(b) (servicing for affiliates)
Discover Global Employment Company Private Limited	Assist in the support and expansion of franchise business, network arrangements and product/program launches for partners and fellow subsidiaries. The principal activity of the Dubai, Japan and Sweden branches is the provision of regional office functions for partners and fellow subsidiaries. All costs incurred in the provision of services or the provision of regional office functions are recovered from certain fellow subsidiaries. This entity provides services to affiliates only, and does not provide services to third parties.	12 CFR 225.22(b) (servicing for affiliates)

17. In an application in which any principal of the applicant or the Bank/Bank Holding Company is also a principal of any other insured depository institution or depository institution holding company, give the name and location of each office of such other institution that is located within the relevant banking market of the Bank/Bank Holding Company, and give the approximate road miles by the most accessible and traveled route between those offices and each of the offices of Bank/Bank Holding Company.

Not applicable. Please see the response to item 12. above.

Convenience and Needs

18. Describe how the proposal would assist in meeting the convenience and needs of the community(ies) to be served, including but not limited to the following:

a. Summarize efforts undertaken or contemplated by the applicant to ascertain and address the needs of the community(ies) to be served, including community outreach activities, as a result of the proposal.

b. For the combining institutions, list any significant anticipated changes in services or products offered by the depository subsidiary(ies) of the applicant or target that would result from the consummation of the transaction.

c. To the extent that any products or services of the depository subsidiary(ies) of the applicant or target would be offered in replacement of any products or services to be discontinued, indicate what these are and how they would assist in meeting the convenience and needs of the communities affected by the transaction.

d. Discuss any enhancements in products or services expected to result from the transaction.

Please see the *Preliminary Statement – Convenience and Needs of the Communities* and *Commitment to the CRA* sections above for information on how the Proposed Transaction will meet the convenience and needs of the communities to be served by the combined company and bank.

19. Describe how the applicant and resultant institution, including its depository subsidiary(ies) would assist in meeting the existing and anticipated needs of its community(ies) under the applicable criteria of the Community Reinvestment Act (CRA) and its implementing regulations, including the needs of low and moderate income geographies and individuals. This discussion should include, but not necessarily be limited to, a description of the following:

a. The significant current and anticipated programs, products, and activities, including lending, investments, and services, as appropriate, of the depository subsidiary (ies) of the applicant and the resultant institution.

Please see the *Preliminary Statement – Convenience and Needs of the Communities* and *Commitment to the CRA* sections above for information on the CRA performance records, including their products and programs that are designed to meet the needs of LMI communities and individuals, and other responsive information.

b. The anticipated CRA assessment areas of the depository subsidiary(ies) of the combined institution. If assessment areas of the depository subsidiary(ies) of the resultant institution would not include any portion of the current assessment area of that subsidiary, describe the excluded areas.

The Proposed Transaction would result in CONA establishing a new AA in Delaware, which will include all census tracts in Sussex County and seven contiguous census tracts in Kent County.

c. The plans for administering the CRA program for the depository subsidiary(ies) of the resultant institution following the transaction.

Please see the *Preliminary Statement – Commitment to the CRA* section above for a discussion of the plans for administering the CRA Program after the Proposed Transaction.

d. The plans for administering the CRA program for the depository subsidiary (ies) of the resultant institution following the transaction. For a subsidiary of the applicant or target that has received a CRA composite rating of "needs to improve" or "substantial noncompliance" institution-wide or, where applicable, in a state or multi-state Metropolitan Statistical Area (MSA), or has received an evaluation of less than satisfactory performance in an MSA or in the non-MSA portion of a state in which the applicant is expanding as a result of the transaction, describe the specific actions, if any, that have been taken to address the deficiencies in the institution's CRA performance record since the rating.

Not applicable.

20. List all offices of the depository subsidiary (ies) of the applicant or target that (a) will be established or retained as branches, including the main office, of the target's depository subsidiary (ies), (b) are approved but unopened branch(es) of the target's depository subsidiary (ies), including the date the current federal and state agencies granted approval(s), and (c) are existing branches that will be closed or consolidated as a result of the proposal (to the extent the information is available) and indicate the effect on the branch customers served. For each branch, list the popular name, street address, city, county, state, and zip code specifying any that are in low and moderate-income geographies.[84]

CONA and Discover Bank believe that customers will be well served by the combined bank's resulting branch network following consummation of the Proposed Transaction. As noted above, Discover Bank has only one branch, located at 502 E Market Street, Greenwood, DE, 19950.

There are no approved, but unopened, branches of Discover Bank. CONA will not relocate its main office in connection with the Proposed Transaction. CONA and Discover Bank do not anticipate that there will be any branch closures or consolidations in connection with the Proposed Transaction.

[84] **Please designate branch consolidations as those terms are used in the Joint Policy Statement on Branch Closings, [64 FR 34844 (June 29, 1999)].**

Interstate Banking

21. If the transaction involves the acquisition of a bank located in a State other than the home State of the applicant, please provide the following information, as applicable:

a. Identify any host state(s) involved with this transaction that require the target to be in operation for a minimum number of years and discuss compliance with this age requirement.

b. Discuss compliance with nationwide and statewide deposit concentration limits to the transaction.

c. Discuss compliance with state-imposed deposit caps.

d. Discuss compliance with community reinvestment laws.

e. Discuss any other restrictions that the host state(s) seek to apply (including state antitrust restrictions).

Please see the *Preliminary Statement – Interstate Banking Requirements* section above for an analysis of the Proposed Transaction's compliance with section 3(d) of the BHC Act.

Financial Stability

If either the acquirer or the target's total assets exceeds $10 billion as of the most recent quarter for which data is available, address the following questions:

22. If either the acquirer or the target conducts any cross-border activities, please describe the nature of these activities and the amounts of cross-border assets and liabilities as of the most recent quarter for which data is available.

23. For each financial service below, if the dollar volume related to the service provided either by the acquirer or the target exceeds $1 billion, please report the annual volume over the past 12 months (otherwise, do not report).

Financial Service	Acquirer	Target
Short-term funding (e.g., in repos, fed funds)		
Underwriting services (e.g., equity, corporate bonds, commercial paper, ABS)		
Trading activities (e.g., equity, corporate bonds, derivatives)		
Payments, clearing, settlement, and custody services		
Prime brokerage		
Securities lending		
Corporate trust		

Financial Service	Acquirer	Target
Correspondent banking		
Wealth management		
Insurance (including reinsurance)		

Please see the *Preliminary Statement – Financial Stability Risk Considerations* section above for a discussion of why the Proposed Transaction would not result in greater or more concentrated risks to the stability of the U.S. banking or financial system. In addition, please see Exhibits 22 and 23 and Confidential Exhibit L for additional responsive information to this item.