

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

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<b>In the Matter of:</b>	)	
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Capital One, N.A.	)	AA-EC-2014-71
McLean, VA	)	
	)	
Capital One Bank (U.S.A.), N.A.	)	
Glen Allen, VA	)	
_____	)	

**CONSENT ORDER FOR A CIVIL MONEY PENALTY**

The Comptroller of the Currency of the United States of America (“Comptroller”), through his national bank examiners and other staff of the Office of the Comptroller of the Currency (“OCC”), conducted examinations of Capital One N.A., McLean, Virginia (“CONA”) and Capital One Bank (U.S.A.), N.A., Glen Allen, Virginia (“COBNA”), (collectively referred to as “Bank”) in 2012 relating to the Bank’s compliance with requirements under the Service-members Civil Relief Act (“SCRA”), 50 U.S.C. app. 50 §§501-597b. Through that examination, the OCC identified (1) violations of the SCRA, from at least July 15, 2006 to July 25, 2012, and (2) deficiencies in the Bank’s program for compliance with the SCRA. These violations and deficiencies were addressed by Consent Cease and Desist Orders issued by the OCC on July 25, 2012 against both CONA and COBNA (“2012 Consent Orders”). The 2012 Consent Orders, in part, required the Bank to undertake remedial and corrective actions, including restitution, with respect to its SCRA compliance program. The Bank initiated and completed corrective action, including reimbursing affected servicemembers, to remedy the violations of the SCRA and deficiencies identified by the OCC and to enhance the Bank’s SCRA compliance practices.

The Bank, by and through its duly elected and acting Board of Directors (“Board”), has executed a Stipulation and Consent to the Issuance of an Order for a Civil Money Penalty, dated November 6, 2014, that is accepted by the Comptroller (“Stipulation”). By this Stipulation, which is incorporated herein by reference, the Bank has consented to the issuance of this Consent Order for a Civil Money Penalty (“Consent Order”) by the Comptroller.

## ARTICLE I

### COMPTROLLER’S FINDINGS

The Comptroller finds, and the Bank neither admits nor denies that, primarily during the period of at least July 15, 2006 to July 25, 2012:

- (1) In connection with the Accounts, as defined in Article I of the 2012 Consent Orders and incorporated herein by reference, the Bank:
  - (a) foreclosed on certain mortgages of SCRA-Protected Servicemembers without a court order or waiver in violation of 50 U.S.C. app. § 533; repossessed certain SCRA-Protected Servicemembers’ recreational and non-recreational motor vehicles without a court order in violation of 50 U.S.C. app. § 532;
  - (b) obtained default judgments on debts owed on credit card accounts, mortgages, and motor vehicle finance loans without filing accurate affidavits of military service in violation of 50 U.S.C. app. § 521;
  - (c) denied certain written requests made by SCRA-Protected Servicemembers to have their interest rate on their credit cards lowered to six percent (6%) per annum in violation of 50 U.S.C. app. § 527; and
  - (d) provided insufficient benefits pursuant to 50 U.S.C. app. § 527 on certain

credit card accounts that were enrolled for such benefits by not applying the six percent (6%) interest limitation correctly in violation of 50 U.S.C. app. § 527.

(2) The Bank failed to devote to its compliance with the SCRA adequate oversight, internal controls, policies and procedures, internal audit, third-party management, and training.

(3) The Bank serves as the master servicer for certain mortgage loans, and has transferred the subservicing of these loans to Bank of America and DMI.

(4) The Bank failed to adequately oversee the mortgage loan subservicers described in Paragraph (4) of this Article to ensure their compliance with the SCRA.

(5) The Bank's violations of 50 U.S.C. app. §§ 521, 527, 532, and 533 caused substantial consumer injury.

(6) The Bank's violations of 50 U.S.C. app. §§ 521, 527, 532, and 533 are part of a pattern of misconduct.

## ARTICLE II

### ORDER FOR A CIVIL MONEY PENALTY

Pursuant to the authority vested in him by the Federal Deposit Insurance Act, 12 U.S.C. § 1818(i), the Comptroller orders, and the Bank consents to the following:

(1) The Bank shall make payment of a civil money penalty in the total amount of four million dollars (\$4,000,000), which shall be paid upon the execution of this Order:

- (a) If a check is the selected method of payment, the check shall be made payable to the Treasurer of the United States and shall be delivered to: Comptroller of the Currency, P.O. Box 979012, St. Louis, Missouri 63197-9000.

- (b) If a wire transfer is the selected method of payment, it shall be sent in accordance with instructions provided by the Comptroller.
- (c) The docket number of this case (AA-EC-2014-71) shall be entered on the payment document or wire confirmation and a photocopy of the payment document or confirmation of the wire transfer shall be sent immediately, by overnight delivery, to the Director of Enforcement and Compliance, Office of the Comptroller of the Currency, 400 7th Street, S.W., Washington, D.C. 20219.

(2) This Consent Order shall be enforceable to the same extent and in the same manner as an effective and outstanding order that has been issued and has become final pursuant to 12 U.S.C. § 1818(h) and (i).

### ARTICLE III

#### OTHER PROVISIONS

(1) This Consent Order is intended to be, and shall be construed to be, a final order issued pursuant to 12 U.S.C. § 1818(i)(2), and expressly does not form, and may not be construed to form, a contract binding on the Comptroller or the United States.

(2) This Consent Order constitutes a settlement of the civil money penalty proceeding against the Bank contemplated by the Comptroller, based on the violations of the SCRA described in the Comptroller's Findings set forth in Article I of this Consent Order. The Comptroller releases and discharges the Bank from all potential liability for a civil money penalty that has been or might have been asserted by the Comptroller based on the violations of the SCRA described in the Comptroller's Findings set forth in Article I of this Consent Order, to the extent known to the Comptroller as of the effective date of this Consent Order. Provided,

however, that nothing in the Stipulation or this Consent Order, which settles all civil money penalty proceedings against the Bank based on the Comptroller's findings set forth in Article I of this Consent Order, shall prevent the Comptroller from instituting other enforcement actions against the Bank or any of its institution-affiliated parties based on the findings set forth in this Consent Order, or any other findings. The violations of the SCRA described in Article I of this Consent Order may be utilized by the Comptroller in other future enforcement actions against the Bank or its institution-affiliated parties, including without limitation, to establish a pattern or practice of violations or unsafe or unsound practices or the continuation of a pattern or practice of violations or unsafe or unsound practices. This release shall not preclude or affect any right of the Comptroller to determine and ensure compliance with the terms and provisions of the Stipulation or this Consent Order.

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

IT IS SO ORDERED, this 6th day of November 2014.

/s/ Ron A. Pasch  
Ron A. Pasch  
Deputy Comptroller  
Large Bank Supervision

**UNITED STATES OF AMERICA  
DEPARTMENT OF THE TREASURY  
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McLean, Virginia	)	
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Capital One Bank (U.S.A.), N.A.,	)	
Glen Allen, Virginia	)	

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**STIPULATION AND CONSENT TO THE ISSUANCE  
OF AN ORDER FOR A CIVIL MONEY PENALTY**

**WHEREAS**, the Comptroller of the Currency of the United States of America (“Comptroller”), based upon information derived from the exercise of his regulatory and supervisory responsibilities, intends to initiate a civil money penalty proceeding against Capital One, N.A., McLean, Virginia and Capital One Bank (U.S.A.), N.A., Glen Allen, Virginia, (collectively referred to as “Bank”) pursuant to 12 U.S.C. § 1818(i), for the violations of violations of the Servicemembers Civil Relief Act (“SCRA”), 50 U.S.C. app. 50 §§501-597;

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

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

## ARTICLE I

### JURISDICTION

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

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

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

## ARTICLE II

### CONSENT

(1) The Bank, without admitting or denying any wrongdoing, consents and agrees to issuance of the accompanying Consent Order for a Civil Money Penalty (“Consent Order”) by the Comptroller.

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

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

(4) Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under his supervisory powers, including 12 U.S.C. § 1818(i), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the Comptroller has any intention to enter into a contract.

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

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

### ARTICLE III

#### WAIVERS

(1) The Bank, by executing this Stipulation and consenting to the Consent Order, waives:

- (a) Any and all rights to the issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818(i);
- (b) Any and all procedural rights available in connection with the issuance of the Consent Order;

- (c) Any and all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(i), 12 C.F.R. Part 19;
- (d) Any and all rights to seek any type of administrative or judicial review of the Consent Order;
- (e) Any and all claims for fees, costs or expenses against the Comptroller, or any of his agents or employees, related in any way to this enforcement matter or the Consent Order, whether arising under common law or under the terms of any statute, including, but not limited to, the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412;
- (f) Any and all rights to assert this proceeding, this Stipulation, consent to the issuance of the Consent Order, and/or the issuance of the Consent Order, as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity; and
- (g) Any and all rights to challenge or contest the validity of the Consent Order.

#### ARTICLE IV

##### CLOSING

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

(2) The Consent Order constitutes a settlement of the civil money penalty proceeding against the Bank contemplated by the Comptroller, based on the violations of the SCRA

described in the Comptroller's Findings set forth in Article I of the Consent Order. The Comptroller releases and discharges the Bank from all potential liability for a civil money penalty that has been or might have been asserted by the Comptroller based on the violations of the SCRA described in the Comptroller's Findings set forth in Article I of the Consent Order, to the extent known to the Comptroller as of the effective date of the Consent Order. Provided, however, that nothing in this Stipulation or the Consent Order shall prevent the Comptroller from instituting other enforcement actions against the Bank or any of its institution-affiliated parties based on the findings set forth in the Consent Order, or any other findings. The violations of the SCRA described in Article I of the Consent Order may be utilized by the Comptroller in other future enforcement actions against the Bank or its institution-affiliated parties, including, without limitation, to establish a pattern or practice of violations or unsafe or unsound practices or the continuation of a pattern or practice of violations or unsafe or unsound practices. This release shall not preclude or affect any right of the Comptroller to determine and ensure compliance with the terms and provisions of this Stipulation or the Consent Order.

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

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

/s/ Richard D. Fairbank  
Richard D. Fairbank

10/30/2014  
Date

/s/ Stephen S. Crawford  
Stephen S. "Steve" Crawford

10/30/2014  
Date

/s/ Ann Fritz Hackett  
Ann Fritz Hackett

10/30/2014  
Date

/s/ Lewis Hay, III  
Lewis Hay, III

10/30/2014  
Date

/s/ Benjamin P. Jenkins  
Benjamin P. Jenkins III

10/30/2014  
Date

/s/ Mayo A. Shattuck  
Mayo A. Shattuck III

10/30/2014  
Date

/s/ Sanjiv Yajnik  
Sanjiv Yajnik

10/30/2014  
Date

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

/s/ Richard D. Fairbank  
Richard D. Fairbank

10/30/2014  
Date

/s/ Stephen S. Crawford  
Stephen S. "Steve" Crawford

10/30/2014  
Date

/s/ Patrick W. Gross  
Patrick W. Gross

10/30/2014  
Date

/s/ Pierre E. Leroy  
Pierre E. Leroy

10/30/2014  
Date

/s/ Peter E. Raskind  
Peter E. Raskind

10/30/2014  
Date

/s/ Ryan M. Schneider  
Ryan M. Schneider

10/30/2014  
Date

/s/ Bradford H. Warner  
Bradford H. Warner

10/30/2014  
Date

/s/ Catherine G. West  
Catherine G. West

10/30/2014  
Date

Accepted by:  
THE COMPTROLLER OF THE CURRENCY

/s/ Ron A. Pasch

11/6/14

By:

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Ron A. Pasch  
Deputy Comptroller  
Large Bank Supervision

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Date