UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 OR 15(d) of
The Securities Exchange Act of 1934

July 13, 2011
Date of Report (Date of earliest event reported)

Commission File No. 1-13300

CAPITAL ONE FINANCIAL CORPORATION

(Exact name of registrant as specified in its charter)

Delaware	**54-1719854**
(State or Other Jurisdiction of Incorporation or Organization)	***(I.R.S. Employer Identification No.)***
1680 Capital One Drive, McLean, Virginia	**22102**
(Address of Principal Executive Offices)	***(Zip Code)***

Registrant's telephone number, including area code:
(703) 720-1000

(Former name, former address and former fiscal year, if changed since last report)
(Not applicable)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01. Entry Into a Material Definitive Agreement.

On July 13, 2011, Capital One Financial Corporation (the "Company") announced that it had priced an underwritten public offering of its common stock, par value $0.01 per share ("Common Stock"), subject to the Forward Sale Agreements described below. In connection with the offering of Common Stock, the Company: (i) entered into letter agreements (the "Forward Sale Agreements"), dated as of July 14, 2011, with each of Barclays Capital Inc., acting as agent for Barclays Capital PLC, and Morgan Stanley & Co. LLC (collectively, the "Forward Purchasers") and (ii) entered into an underwriting agreement, dated as of July 14, 2011 (the "Equity Underwriting Agreement" and, together with the Forward Sale Agreements, the "Equity Offering Agreements"), with Barclays Capital Inc. and Morgan Stanley & Co. LLC, as representatives of the several underwriters listed therein (the "Equity Underwriters"), relating to the public offering of 40,000,000 shares of Common Stock (the "Equity Offering").

Pursuant to the Equity Offering Agreements, the Forward Purchasers or their affiliates agreed to borrow and sell to the public, through the Equity Underwriters, 40,000,000 shares of Common Stock (the "Offered Shares"). Under the terms of the Forward Sale Agreements, the settlement of the Forward Sale Agreements must occur on or before February 15, 2012. Although the Company expects to settle the Forward Sale Agreements entirely by physical delivery of shares of Common Stock, the Company may, subject to certain conditions, elect cash or net share settlement for all or a portion of its obligation to deliver shares of Common Stock.

The closing of the sale of the Offered Shares occurred on July 19, 2011. The Company did not receive any proceeds from the sale of the Offered Shares. Pursuant to the Equity Underwriting Agreement, the Company also granted the Equity Underwriters a 30-day option to purchase an additional 6,000,000 shares of Common Stock (the "Option Shares") from the Company, at the same price paid for the Offered Shares, to cover any over-allotments. The Option Shares are not subject to the Forward Sale Agreements.

In connection with the Equity Offering, the Company and certain of its officers and directors entered into 75-day "lock-up" agreements in substantially the form included in the Equity Underwriting Agreement and subject to customary exceptions.

The Equity Offering was made under a prospectus supplement and the accompanying prospectus filed with the Securities and Exchange Commission pursuant to the Company's automatic shelf registration statement on Form S-3 (Registration No. 333-159085).

The Equity Offering Agreements contain customary representations, warranties and agreements by the Company, conditions to closing, indemnification rights, obligations of the parties and acceleration and termination provisions. The descriptions of the Equity Underwriting Agreement, the Common Stock and the Forward Sale Agreements set forth above are qualified in their entirety by reference to such documents, which are attached as Exhibits 1.1, 4.1, 10.1 and 10.2 hereto respectively and incorporated by reference in this Item 1.01.

Item 7.01. Regulation FD Disclosure

On July 13, 2011, the Company issued a press release announcing the pricing of the Equity Offering. The press release is attached as Exhibit 99.1 hereto and incorporated by reference in this Item 7.01.

Item 8.01. Other Events.

On July 19, 2011, the Company closed the public offering of: (i) $250,000,000 aggregate principal amount of its Floating Rate Senior Notes due 2014, (ii) $750,000,000 aggregate principal amount of its 2.125% Senior Notes due 2014, (iii) $750,000,000 aggregate principal amount of its 3.150% Senior Notes due 2016, and (iv) $1,250,000,000 aggregate principal amount of its 4.750% Senior Notes due 2021 ((i), (ii), (iii), and (iv) are collectively referred to as the "Notes"), pursuant to an underwriting agreement (the "Debt Underwriting Agreement") with Barclays Capital Inc., Morgan Stanley & Co. LLC and Citigroup Global Markets Inc., as representatives of the several underwriters listed therein. The Notes were issued pursuant to a Senior Indenture, dated as of November 1, 1996, between the

Company and The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A. (as successor to Harris Trust and Savings Bank), as Indenture Trustee. The Notes have been registered under the Securities Act of 1933, as amended, by a shelf registration statement on Form S-3 (File No. 333-159085)

The foregoing description of the Debt Underwriting Agreement, Notes and other documents relating to this transaction does not purport to be complete and is qualified in its entirety by reference to the full text of these securities and documents, forms or copies of which are attached as exhibits to this Current Report on Form 8-K and are incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description of Exhibit
1.1	Underwriting Agreement, dated July 14, 2011, among Capital One Financial Corporation, Barclays Capital Inc. and Morgan Stanley & Co. LLC, as representatives of the several Underwriters
1.2	Underwriting Agreement, dated July 14, 2011, among Capital One Financial Corporation, Barclays Capital Inc., Morgan Stanley & Co. LLC and Citigroup Global Markets Inc., as representatives of the several Underwriters
4.1	Specimen certificate representing the Common Stock (incorporated by reference to Exhibit 4.1 of the Corporation's Annual Report on Form 10-K filed March 5, 2004)
4.2	Senior Indenture, dated as of November 1, 1996, between Capital One Financial Corporation and The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A. (as successor to Harris Trust and Savings Bank), as trustee (incorporated by reference to Exhibit 4.1 of the Corporation's Report on Form 8-K, filed on November 13, 1996)
4.3	Form of Floating Rate Senior Note due 2014
4.4	Form of 2.125% Senior Note due 2014
4.5	Form of 3.150% Senior Note due 2016
4.6	Form of 4.750% Senior Note due 2021
5.1	Opinion of Gibson, Dunn & Crutcher LLP
10.1	Forward Sale Agreement between Capital One Financial Corporation and Barclays Capital Inc., dated July 14, 2011
10.2	Forward Sale Agreement between Capital One Financial Corporation and Morgan Stanley & Co. LLP, dated July 14, 2011
12.1	Computation of Ratio of Earnings to Fixed Charges
23.1	Consent of Gibson, Dunn & Crutcher LLP (included in Exhibit 5.1)
99.1	Press release dated July 13, 2011

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Company has duly caused this Current Report on Form 8-K to be signed on its behalf by the undersigned hereunto duly authorized.

CAPITAL ONE FINANCIAL CORPORATION

Dated: July 19, 2011

By: /s/ John G. Finneran, Jr.
John G. Finneran, Jr.
General Counsel and Corporate Secretary

40,000,000 SHARES OF COMMON STOCK

OF

CAPITAL ONE FINANCIAL CORPORATION

UNDERWRITING AGREEMENT

July 14, 2011

Barclays Capital Inc.
745 Seventh Avenue
New York, New York 10019

Morgan Stanley & Co. LLC
1585 Broadway
New York, New York 10036

As Representatives of the several
Underwriters named in Schedule I hereto

Dear Sirs:

Capital One Financial Corporation, a Delaware corporation (the "Company") and Barclays Capital Inc. as agent for one of its affiliates ("Barclays") and Morgan Stanley & Co. LLC ("Morgan Stanley" and, together with Barclays, the "Forward Sellers"), at the Company's request in connection with the letter agreement dated the date hereof between the Company and Barclays Bank plc, acting through Barclays as agent (the "Barclays Forward Agreement"), and the letter agreement dated the date hereof between the Company and Morgan Stanley (the "Morgan Stanley Forward Agreement" and, together with the Barclays Forward Agreement, the "Forward Agreements"), each relating to the forward sale by the Company, of a number of shares (the "Shares") of common stock, par value $0.01 per share, of the Company (the "Common Stock") equal to the number of Shares to be borrowed and sold by each of the Forward Sellers pursuant to this Agreement, confirm their respective agreements with the several underwriters named in Schedule I-A hereto (the "Underwriters"), for which Barclays and Morgan Stanley are acting as representatives (together, the "Representatives") with respect to the sale by the Forward Sellers and the purchase by the Underwriters, acting severally and not jointly, of the respective number of Shares set forth in Schedules I-A and I-B hereto respectively. Barclays Bank plc and Morgan Stanley & Co. LLC are hereinafter referred to as the "Forward Counterparties." In addition, the Company proposes to grant to the Underwriters the option to purchase from the Company up to an additional 6,000,000 shares of Common Stock (the "Option Shares"). The Shares to be borrowed and sold by

the Forward Sellers to the Underwriters are referred to as the "Underwritten Securities," subject to Section 14 hereof. The Underwritten Securities to be purchased by the Underwriters, any Shares to be issued and sold by the Company to the Underwriters pursuant to Section 14 hereof (the "Additional Company Shares") and the Option Shares are hereinafter called, collectively, the "Securities."

1. Registration Statement and Prospectus. The Company has prepared and filed with the Securities and Exchange Commission (the "Commission") a registration statement on Form S-3 (File No. 333-159085) under the Securities Act of 1933, as amended (the "Securities Act") in respect of its debt securities, its junior subordinated debt securities, shares of its preferred stock, $0.01 par value, depositary shares, shares of its Common Stock, its purchase contracts, units, trust preferred securities that may be issued by a related trust, and warrants (as amended through the date of this Agreement, being herein referred to as the "Registration Statement"). Such Registration Statement has become effective. The Registration Statement contains a base prospectus in the form in which it has most recently been filed with the Commission on or prior to the date of this Agreement (the "Base Prospectus"), to be used in connection with the public offering and sale of the Securities. Any preliminary prospectus supplement to the Base Prospectus that describes the Securities and the offering thereof and is used prior to filing of the Prospectus is called, together with the Base Prospectus, a "preliminary prospectus." The term "Prospectus" shall mean the final prospectus supplement relating to the Securities, together with the Base Prospectus, that is first filed pursuant to Rule 424(b) under the Securities Act after the date and time that this Agreement is executed and delivered by the parties hereto but shall not include any free writing prospectus (as such term is used in Rule 405 under the Securities Act). Any Prospectus shall be deemed to refer to and include the documents incorporated by reference therein pursuant to Item 12 of Form S-3 under the Securities Act; any reference to any amendment or supplement to any preliminary prospectus or the Prospectus shall be deemed to refer to and include any documents filed after the date of such preliminary prospectus or Prospectus, as the case may be, under the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (collectively, the "Exchange Act"), and incorporated by reference in such preliminary prospectus or Prospectus, as the case may be. The Company also has prepared and filed (or will file) with the Commission the Issuer Free Writing Prospectuses (as defined below) set forth on Schedule II hereto. All references in this Agreement to the Registration Statement, a preliminary prospectus, the Prospectus, or any amendments or supplements to any of the foregoing, shall include any copy thereof filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval System ("EDGAR").

2. Agreements to Sell and Purchase. (a) On the basis of the representations and warranties contained in this Agreement, and subject to its terms and conditions, each Forward Seller and the Company (with respect to any Additional Company Shares), severally and not jointly, agrees to sell to the Underwriters, and each Underwriter agrees, severally and not jointly, to purchase from each Forward Seller and the Company (with respect to any Additional Company Shares) the respective number of Securities set forth opposite the name of such Underwriter in Schedule I-A hereto (or the proportionate number of Additional Company Shares, as the case may be), in each case at a purchase price of $48.50 per share (the "Purchase Price").

(b) If a Forward Seller does not borrow and deliver for sale the number of Shares set forth in Schedule I-B opposite the name of such Forward Seller under the caption "Number of Underwritten Securities To Be Sold," such Forward Seller will use its best efforts to notify the Company no later than 5:00 p.m., New York City time, on the first business day prior to the Closing Date.

(c) In addition, the Company agrees to issue and sell the Option Shares to the several Underwriters as provided in this Agreement, and the Underwriters, on the basis of the representations and warranties contained in this Agreement, and subject to its terms and conditions, shall have the option to purchase, severally and not jointly, from the Company the Option Shares at the Purchase Price.

If any Option Shares are to be purchased, the number of Option Shares to be purchased by each Underwriter shall be the number of Option Shares which bears the same ratio to the aggregate number of Option Shares being purchased as the number of Shares set forth opposite the name of such Underwriter in Schedule I-A hereto (or such number increased as set forth in Section 11 hereof) bears to the aggregate number of Underwritten Securities being purchased from the Forward Sellers by the several Underwriters, subject, however, to such adjustments to eliminate any fractional Shares as the Representatives in their sole discretion shall make.

The Underwriters may exercise the option to purchase the Option Shares at any time in whole, or from time to time in part, on or before the thirtieth day following the date of this Agreement, by written notice from the Representatives to the Company. Such notice shall set forth the aggregate number of Option Shares as to which the option is being exercised and the date and time when the Option Shares are to be delivered and paid for which may be the same date and time as the Closing Date (as hereinafter defined) but shall not be earlier than the Closing Date nor later than the tenth full business day after the date of such notice (unless such time and date are postponed in accordance with the provisions of Section 11 hereof). Any such notice shall be given at least two business days prior to the date and time of delivery specified therein.

3. Terms of Public Offering. The Company, each Forward Seller and each Forward Counterparty is advised by the Representatives that the Underwriters propose (i) to make a public offering of their respective portions of the Securities as soon after the execution hereof as practicable and (ii) initially to offer the Securities upon the terms set forth in the Prospectus.

4. Delivery and Payment. Payment for the Underwritten Securities shall be made by or on behalf of the Underwriters to each Forward Seller (or, in the case of delivery of any Additional Company Shares and any Option Shares, to the Company) by wire transfer of Federal (same-day) funds to the accounts specified by the Forward Sellers (or, in the case of delivery of any Additional Company Shares and any Option Shares, the account specified by the Company) to the Representatives at least twenty-four

hours in advance, against delivery of such Underwritten Securities or any Additional Company Shares and any Option Shares, as the case may be for the respective accounts of the Underwriters at 10:00 A.M., New York City time on the third business day following the date of the Prospectus, unless otherwise permitted by the Commission pursuant to Rule 15c6-1 of the Exchange Act (the "Closing Date"), or such other time and date as the Representatives and the Company may agree upon in writing, and against delivery of any Option Shares at 10:00 A.M., New York City time, on the date specified by the Representatives in the written notice given by the Representatives of the Underwriters' election to purchase such Option Shares, or at such other time and date as the Representatives and the Company may agree upon in writing (the "Option Closing Date"). Delivery of the Underwritten Securities, as well as any Additional Company Shares and any Option Shares, shall be made at 10:00 A.M., New York City time, by causing The Depository Trust Company ("DTC") to credit the account of Barclays at DTC on the Closing Date. Delivery of the Underwritten Securities, as well as any Additional Company Shares and any Option Shares, shall be made, and the Underwritten Securities, as well as any Additional Company Shares and any Option Shares shall be registered in the name of Cede & Co., or such other nominee as DTC may designate, and available for checking in New York, New York at least one full business day prior to the Closing Date or any Option Closing Date, as applicable.

5. Agreements of the Company. The Company agrees with the Forward Sellers, the Forward Counterparties and the Underwriters:

(a) To file the Prospectus with the Commission pursuant to Rule 424(b)(5) not later than the second business day following the execution and delivery of this Agreement.

(b) During the period beginning at the Time of Sale (as defined below) and ending on the later of the Closing Date or such date as in the opinion of counsel for the Underwriters or counsel for the Forward Sellers, the Prospectus is no longer required by law to be delivered in connection with sales by an Underwriter or a dealer, including in circumstances where such requirement may be satisfied pursuant to Rule 172 (the "Prospectus Delivery Period"), prior to amending or supplementing the Registration Statement, the Disclosure Package (as defined below) or the Prospectus (including any amendment or supplement through incorporation by reference of any report filed under the Exchange Act), the Company shall furnish to the Representatives and the Forward Sellers for review a copy of each such proposed amendment or supplement.

(c) If, during the Prospectus Delivery Period, any event or development shall occur or condition exist as a result of which the Disclosure Package or the Prospectus as then amended and supplemented would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, or if in the judgment of the Company it shall be necessary to amend or supplement the Disclosure Package or the Prospectus, or to file under the Exchange Act any document incorporated by reference in the Disclosure Package or the Prospectus, in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, or

if it is otherwise necessary to amend or supplement the Registration Statement, the Disclosure Package or the Prospectus, or to file under the Exchange Act any document incorporated by reference in the Disclosure Package or the Prospectus, or to file a new registration statement containing the Prospectus, in order to comply with law, including in connection with the delivery of the Prospectus, the Company agrees to (i) notify the Representatives and the Forward Sellers of any such event or condition and (ii) promptly prepare (subject to paragraph (b) above), file with the Commission (and use its best efforts to have any amendment to the Registration Statement or any new registration statement be declared effective) and furnish at its own expense to the Underwriters and the Forward Sellers and to dealers, amendments or supplements to the Registration Statement, the Disclosure Package or the Prospectus, or any new registration statement, necessary in order to make the statements in the Disclosure Package or the Prospectus as so amended or supplemented, in light of the circumstances then prevailing or under which they were made, not misleading or so that the Registration Statement, the Disclosure Package or the Prospectus, as amended or supplemented, will comply with law.

(d) The Company represents that it has not made, and agrees that, unless it obtains the prior written consent of the Representatives and the Forward Sellers, it will not make, any offer relating to the Securities that would constitute an issuer free writing prospectus as defined in Rule 433 of the Securities Act (each, an "Issuer Free Writing Prospectus") or that would otherwise constitute a "free writing prospectus" as defined in Rule 405 of the Securities Act) required to be filed by the Company with the Commission or retained by the Company under Rule 433 of the Securities Act; provided that the prior written consent of the Representatives and the Forward Sellers shall be deemed to have been given in respect of any Free Writing Prospectus included in Schedule II hereto. Any such free writing prospectus consented to by the Representatives and the Forward Sellers is hereinafter referred to as a "Permitted Free Writing Prospectus." The Company agrees that (i) it has treated and will treat, as the case may be, each Permitted Free Writing Prospectus as an Issuer Free Writing Prospectus, and (ii) has complied or will comply, as the case may be, with the requirements of Rules 164 and 433 of the Securities Act applicable to any Permitted Free Writing Prospectus, including in respect of timely filing with the Commission, legending and record keeping. The Company and the Forward Sellers consent to the use by any Underwriter of (i) a free writing prospectus that contains no "issuer information" (as defined in Rule 433(h)(2) under the Securities Act) that was not included (including through incorporation by reference) in the Prospectus or a previously filed Issuer Free Writing Prospectus, (ii) any Issuer Free Writing Prospectus listed on Schedule II hereto, or (iii) information describing the preliminary terms of the Securities or their offering.

(e) To advise the Representatives and the Forward Sellers promptly and, if requested by a Representative or a Forward Seller, to confirm such advice in writing, (i) of any request by the Commission for amendments to the Registration Statement or amendments or supplements to the Prospectus or the Disclosure Package or for additional information, (ii) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or of the suspension of qualification of the Securities for offering or sale in any jurisdiction, or the initiation of any proceeding for

such purposes, and (iii) of the happening of any event during the Prospectus Delivery Period which makes any statement of a material fact made in the Registration Statement or the Prospectus untrue or which requires the making of any additions to or changes in the Registration Statement or the Prospectus in order to make the statements therein not misleading. To prepare and file with the Commission, promptly upon the Representatives' or the Forward Sellers' reasonable request, any amendment or supplement to the Registration Statement, the Base Prospectus, the Prospectus or the Disclosure Package which may be necessary or advisable in connection with the distribution of the Securities by the Underwriters, and to use its best efforts to cause any such post-effective amendment to the Registration Statement to become promptly effective. If at any time the Commission shall issue any stop order suspending the effectiveness of the Registration Statement, the Company will make every reasonable effort to obtain the withdrawal or lifting of such order at the earliest possible time.

(f) To furnish to each Underwriter or Forward Seller, without charge, signed copies of the Registration Statement as first filed with the Commission and of each amendment to it, including all exhibits, and to furnish to each Underwriter or Forward Seller such number of conformed copies of the Registration Statement as so filed and of each amendment to it, without exhibits, as such Underwriter or Forward Seller may reasonably request.

(g) During the Prospectus Delivery Period, to furnish to each Underwriter, Forward Seller and dealer as many copies of the Base Prospectus and the Prospectus (each as amended or supplemented) as such Underwriter, Forward Seller or dealer may reasonably request.

(h) If immediately prior to the third anniversary of May 8, 2009 (such third anniversary, the "Renewal Deadline") any of the Securities remain unsold by the Underwriters, the Company will, prior to the Renewal Deadline, promptly notify the Representatives and the Forward Sellers and file, if it has not already done so and is eligible to do so, an automatic shelf registration statement (as defined in Rule 405 of the Securities Act) relating to the Securities, in a form satisfactory to the Representatives and the Forward Sellers. If at the Renewal Deadline any of the Securities remain unsold by the Underwriters and the Company is not eligible to file an automatic shelf registration statement, the Company will, if it has not already done so, promptly notify the Representatives and the Forward Sellers and file a new shelf registration statement or post-effective amendment on the proper form relating to the Securities in a form satisfactory to the Representatives and the Forward Sellers, and will use its best efforts to cause such registration statement or post-effective amendment to be declared effective as soon as practicable after the Renewal Deadline and promptly notify the Representatives and the Forward Sellers of such effectiveness. The Company will take all other action necessary or appropriate to permit the public offering and sale of the Securities to continue as contemplated in the expired registration statement relating thereto. References herein to "Registration Statement" shall include such automatic shelf registration statement or such new shelf registration statement or post-effective amendment, as the case may be.

(i) Prior to any public offering of the Shares and any Option Shares, to cooperate with the Representatives and counsel for the Underwriters in connection with the registration or qualification of the Securities for offer and sale by the several Underwriters and by dealers under the state securities or Blue Sky laws of such jurisdictions as the Representatives may request, to continue such qualification in effect so long as required for distribution of the Securities and to file such consents to service of process or other documents as may be necessary in order to effect such registration or qualification, provided that in no event shall the Company be obligated to qualify to do business in any jurisdiction where it is not so qualified or take any action that would subject it to service of process in suits other than those arising out of the offering or sale of the Securities in any jurisdiction where it is not now so subject.

(j) To make generally available to its security holders as soon as reasonably practicable an earnings statement covering a period of at least twelve months after the effective date of the Registration Statement which shall satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 under the Securities Act.

(k) If at any time during the five year period after the date of this Agreement, or, in the case of the Forward Sellers, until the expiration or termination of the Forward Agreements, the Company ceases to file reports with the Commission pursuant to Section 13 or 15(d) of the Exchange Act, (i) to mail as soon as reasonably practicable after the end of each fiscal year to the record holders of its Securities a financial report of the Company and its subsidiaries on a consolidated basis (and a similar financial report of all unconsolidated subsidiaries, if any), all such financial reports to include a consolidated balance sheet, a consolidated statement of operations, a consolidated statement of cash flows and a consolidated statement of changes in stockholders' equity as of the end of and for such fiscal year, together with comparable information as of the end of and for the preceding year, certified by independent certified public accountants, and (ii) to mail and make generally available as soon as reasonably practicable after the end of each quarterly period (except for the last quarterly period of each fiscal year) to such holders, a consolidated balance sheet, a consolidated statement of operations and a consolidated statement of cash flows (and similar financial reports of all unconsolidated subsidiaries, if any) as of the end of and for such period, and for the period from the beginning of such year to the close of such quarterly period, together with comparable information for the corresponding periods of the preceding year.

(l) To pay all costs, expenses, fees and taxes incident to (i) the preparation, printing, filing and distribution under the Securities Act of the Base Prospectus, each preliminary prospectus and all amendments and supplements to any of them prior to or during the Prospectus Delivery Period, any Issuer Free Writing Prospectus and the Disclosure Package, (ii) the printing and delivery of the Prospectus and all amendments or supplements to it during the Prospectus Delivery Period, (iii) the registration or qualification of the Securities for offer and sale under the securities or Blue Sky laws of the several states (including in each case the fees and disbursements of counsel for the Underwriters relating to such registration or qualification and memoranda relating thereto), (iv) filings and clearance with the Financial Industry Regulatory Authority, Inc. in connection with the offering, (v) furnishing such copies of the Registration Statement,

the Prospectus and all amendments and supplements thereto as may be requested for use in connection with the offering or sale of the Securities by the Underwriters or by dealers to whom Securities may be sold, (vi) the preparation, issuance, execution and delivery of the Securities and (vii) the fees and expenses of any transfer agent or registrar in connection with the Securities.

(m) To apply the net proceeds from the sale of the Additional Company Shares and Option Shares or from the settlement of the Forward Agreements, as the case may be, in the manner described under the caption "Use of Proceeds" in the Prospectus.

(n) To use its best efforts to do and perform all things required or necessary to be done and performed under this Agreement by the Company prior to the Closing Date and any Option Closing Date and to satisfy all conditions precedent to the delivery of the Securities.

(o) For the period ending 75 days after the date of the Prospectus, the Company will not (i) offer, pledge, announce the intention to sell, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock or (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Common Stock, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or such other securities, in cash or otherwise, without the prior written consent of the Representatives, other than (v) the Securities to be sold hereunder, as well as any Additional Company Shares and any Option Shares, (w) the issuance of shares of Common Stock upon the exercise of an option or warrant or conversion of a security outstanding on the date of this Agreement, (x) grants and issuances of shares of Common Stock, options to acquire Common Stock or other derivative securities pursuant to stock-based compensation or incentive plans of the Company, (y) the issuance of shares of Common Stock pursuant to the Company's dividend reinvestment plans or employee stock purchase plans, and (z) the issuance, offer or sale of a Tier 1 instrument.

(p) Not to take, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of the price of the Securities.

(q) To use its best efforts to list, subject to notice of issuance, (i) the Shares (if any) to be issued pursuant to Physical Settlement or Net Share Settlement (as each such term is defined in the Forward Agreements) of each Forward Agreement and (ii) the Additional Company Shares (if any) and any Option Shares, on the New York Stock Exchange ("NYSE") and to maintain each such listing.

(r) To maintain a transfer agent and, if necessary under the jurisdiction of incorporation of the Company, a registrar for the Common Stock.

6. Representations and Warranties of the Company. The Company represents and warrants to each Underwriter, each Forward Seller and each Forward Counterparty that:

(a) The Company meets the requirements for use of Form S-3 under the Securities Act. The Registration Statement has become effective; no stop order suspending the effectiveness of the Registration Statement is in effect, and, to the best of the Company's knowledge, no proceedings for such purpose are pending before or threatened by the Commission. No order preventing the use of any preliminary prospectus or any Issuer Free Writing Prospectus has been issued by the Commission.

(b) (i) At the time of filing the Registration Statement, (ii) at the time of the most recent amendment thereto for the purposes of complying with Section 10(a)(3) of the Securities Act (whether such amendment was by post-effective amendment, incorporated report filed pursuant to Section 13 or 15(d) of the Exchange Act or form of prospectus), and (iii) at the time the Company or any person acting on its behalf (within the meaning, for this clause only, of Rule 163(c)) made any offer relating to the Securities in reliance on the exemption of Rule 163, the Company was a "well-known seasoned issuer" as defined in Rule 405, including not having been an "ineligible issuer" as defined in Rule 405.

(c) The Registration Statement is an "automatic shelf registration statement" as defined in Rule 405, that initially became effective within three years of the date hereof.

(d) The Company has not received from the Commission any notice pursuant to Rule 401(g) objecting to the use of the automatic shelf registration statement form. If at any time during the Prospectus Delivery Period the Company receives from the Commission a notice pursuant to Rule 401(g)(2) or otherwise ceases to be eligible to use the automatic shelf registration statement form, the Company will (i) promptly notify the Representatives and the Forward Sellers, (ii) promptly file a new registration statement or post-effective amendment on the proper form relating to the Securities, in a form satisfactory to the Representatives and the Forward Sellers, (iii) use its best efforts to cause such registration statement or post-effective amendment to be declared effective as soon as practicable, and (iv) promptly notify the Representatives and the Forward Sellers of such effectiveness. The Company will take all other action necessary or appropriate to permit the public offering and sale of the Securities to continue as contemplated in the registration statement that was the subject of the Rule 401(g)(2) notice or for which the Company has otherwise become ineligible. References herein to the Registration Statement shall include such new registration statement or post-effective amendment, as the case may be.

(e) The Company agrees to pay the required Commission filing fees relating to the Securities within the time required by Rule 456(b)(1) without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r).

(f) (i) At the respective times the Registration Statement and any post-effective amendment thereto became or becomes effective prior to the Closing Date, neither the Registration Statement nor such amendment included or will include an untrue statement of a material fact or omitted or will omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, (ii) the Registration Statement and the Prospectus comply and, as amended or supplemented, if applicable, as of the date such amendment becomes effective or such supplement is filed with the Commission, as the case may be, will comply in all material respects with the Securities Act, (iii) the Prospectus does not contain and, as amended or supplemented, if applicable, as of the date such amendment becomes effective or such supplement is filed with the Commission, as the case may be, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except that the representations and warranties set forth in this paragraph (f) do not apply to statements or omissions in the Registration Statement or the Prospectus based upon information relating to any Underwriter, any Forward Seller or any Forward Counterparty furnished to the Company in writing by such Underwriter, such Forward Seller or such Forward Counterparty expressly for use therein, it being understood and agreed that the only such information furnished by or on behalf of any Underwriter, any Forward Seller or any Forward Counterparty consists of the information described as such in Section 9 hereof and (iv) the documents incorporated by reference in the Prospectus pursuant to Item 12 of Form S-3 under the Securities Act, at the time they were or hereafter are filed with the Commission prior to the Closing Date, complied and will comply in all material respects with the requirements of the Exchange Act, and, when read together and with the other information in the Prospectus, as of the date of the Prospectus and at all times subsequent thereto up to the Closing Date, did not and will not contain an untrue statement of material fact or did not and will not omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(g) The term “Disclosure Package” shall mean (i) the Base Prospectus, including the preliminary prospectus supplement dated July 13, 2011, as amended or supplemented at the Time of Sale (as defined below), (ii) the Issuer Free Writing Prospectuses, if any, identified on Schedule II hereto and (iii) the public offering price of the Securities. As of the Time of Sale, the Disclosure Package did not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The preceding sentence does not apply to statements in or omissions from the Disclosure Package based upon and in conformity with written information furnished to the Company by any Underwriter through the Representatives, any Forward Seller or any Forward Counterparty specifically for use therein, it being understood and agreed that the only such information furnished by or on behalf of any Underwriter, any Forward Seller or any Forward Counterparty consists of the information described as such in Section 9 hereof. As used in this paragraph and elsewhere in this Agreement “Time of Sale” shall mean 6:11 p.m. on July 13, 2011.

(h) Each Issuer Free Writing Prospectus does not include any information that conflicts with the information contained in the Registration Statement, including any document incorporated by reference therein that has not been superseded or modified. The foregoing sentence does not apply to statements in or omissions from any Issuer Free Writing Prospectus based upon and in conformity with written information furnished to the Company by any Underwriter through the Representatives, any Forward Seller or any Forward Counterparty specifically for use therein, it being understood and agreed that the only such information furnished by or on behalf of any Underwriter, and Forward Seller or any Forward Counterparty consists of the information described as such in Section 9 hereof.

(i) The Company has not distributed and will not distribute, prior to the later of the Closing Date and the completion of the Underwriters' distribution of the Securities, any offering materials in connection with the offering and sale of the Securities other than a preliminary prospectus, the Prospectus, and any Issuer Free Writing Prospectus reviewed and consented to by the Representatives and the Forward Sellers and included in Schedule II hereto.

(j) The Company and each of its subsidiaries that is a "Significant Subsidiary" within the meaning of such term as defined in Rule 1-02 of Regulation S-X of the Commission (the "Significant Subsidiaries") is validly existing as a corporation (or, in the case of each of Capital One Bank (USA), National Association and Capital One, National Association, as a national banking association organized under the laws of the United States) in good standing under the laws of its jurisdiction of incorporation and has in all material respects the corporate power and authority to operate its business as it is currently being conducted and to own, lease and operate its properties, and each is duly qualified and is in good standing as a foreign corporation authorized to do business in each jurisdiction in which the nature of its business or its ownership or leasing of property requires such qualification, except where the failure to be so qualified would not have a material adverse effect on the Company and its subsidiaries, taken as a whole.

(k) All of the outstanding shares of capital stock of, or other ownership interests in, each of the Company's Significant Subsidiaries have been duly authorized and validly issued and are fully paid and non-assessable, and are owned by the Company, free and clear of any security interest, claim, lien, encumbrance or adverse interest of any nature.

(l) The Company has an authorized capitalization as set forth under the consolidated balance sheet data contained in the Company's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2011; all of the outstanding shares of capital stock of the Company have been duly authorized and validly issued and are fully paid and non-assessable and are not subject to any preemptive or similar rights; except as described in the Registration Statement, the Prospectus and the Disclosure Package, there are no outstanding rights (including, without limitation, pre-emptive rights), warrants or options to acquire, or instruments convertible into or exchangeable for, any shares of capital stock or other equity interest in the Company or any of its subsidiaries, or any contract, commitment, agreement, understanding or arrangement of any kind relating to

the issuance of any capital stock of the Company or any such subsidiary, any such convertible or exchangeable securities or any such rights, warrants or options; the capital stock of the Company, including the Securities, conforms in all material respects to the description thereof contained in the Registration Statement, the Prospectus and the Disclosure Package.

(m) Any Additional Company Shares and any Option Shares have been duly authorized and, when issued and delivered to the Underwriters against payment therefor as provided by this Agreement, will be validly issued, fully paid and non-assessable; the issuance of such Shares and such Option Shares is not subject to any preemptive rights or similar rights; such Shares and such Option Shares, when issued and delivered to the Underwriters against payment therefor as provided by this Agreement, will be free of any restriction upon the voting or transfer thereof pursuant to the Company's charter or by-laws or any agreement or other instrument to which the Company is a party.

(n) The Shares (if any) to be purchased by the Forward Counterparties from the Company pursuant to the Forward Agreements have been duly authorized and on the Closing Date will be reserved for issuance to the Forward Counterparties pursuant thereto and, when issued and delivered to the Forward Counterparties against payment therefor as provided by the Forward Agreements, will be validly issued, fully paid and non-assessable; the issuance of such Shares is not subject to any preemptive rights or similar rights; such Shares, when issued and delivered to the Forward Counterparties against payment therefor as provided by the Forward Agreements, will be free of any restriction upon the voting or transfer thereof pursuant to the Company's charter or by-laws or any agreement or other instrument to which the Company is a party.

(o) The Option Shares (if any) to be purchased by the Underwriters from the Company pursuant to this Agreement have been duly authorized and on the Closing Date will be reserved for issuance to the Underwriters pursuant hereto and, when issued and delivered to the Underwriters against payment therefor as provided by this Agreement, will be validly issued, fully paid and non-assessable; the issuance of such Option Shares is not subject to any preemptive rights or similar rights; such Option Shares, when issued and delivered to the Underwriters against payment therefor as provided by this Agreement, will be free of any restriction upon the voting or transfer thereof pursuant to the Company's charter or by-laws or any agreement or other instrument to which the Company is a party.

(p) This Agreement and each Forward Agreement has been duly authorized, executed and delivered by the Company and is a valid and binding agreement of the Company enforceable in accordance with its terms (except as limited by (i) bankruptcy, insolvency or similar laws affecting creditors' rights generally and (ii) equitable principles of general applicability and as rights to indemnity and contribution hereunder may be limited by applicable law).

(q) Neither the Company nor any of its Significant Subsidiaries is in violation of its respective charter or by-laws or in default in any material respect in the performance of any obligation, agreement or condition contained in any bond, debenture,

note or other evidence of indebtedness material to the Company and its subsidiaries, taken as a whole, or in any other agreement, indenture or instrument material to the conduct of the business of the Company and its subsidiaries, taken as a whole, to which the Company or any of its Significant Subsidiaries is a party or by which it or any of its Significant Subsidiaries or their respective property is bound.

(r) The execution, delivery and performance of this Agreement and each Forward Agreement, the issuance and sale of any Additional Company Shares and any Option Shares and compliance by the Company with all the provisions hereof and thereof and the consummation by the Company of the transactions contemplated hereby and thereby will not require any consent, approval, authorization or other order of any court, regulatory body, administrative agency or other governmental body (except as such may be required under the securities or Blue Sky laws of the various states) and will not conflict with or constitute a breach of any of the terms or provisions of, or a default under, the charter or by-laws of the Company or any of its Significant Subsidiaries or any material indenture, agreement, or other instrument to which it or any of its Significant Subsidiaries is a party or by which it or any of its Significant Subsidiaries or their respective property is bound, or violate or conflict with any laws, administrative regulations or rulings or court decrees applicable to the Company, any of its Significant Subsidiaries or their respective property.

(s) Except as otherwise set forth in the Disclosure Package, there are no material legal or governmental proceedings pending to which the Company or any of its subsidiaries is a party or of which any of their respective property is the subject, and, to the best of the Company's knowledge, no such proceedings are threatened or contemplated. No contract or document of a character required to be described in the Registration Statement or the Prospectus or to be filed as an exhibit to the Registration Statement is not so described or filed as required.

(t) The Company and each of its Significant Subsidiaries are in compliance in all material respects with all laws administered by and regulations of the U.S. Department of Treasury, Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and any other federal or state bank regulatory authority with jurisdiction over the Company or any of its subsidiaries (the "Bank Regulatory Authorities"), other than where such failures to comply would not have a material adverse effect on the Company and its subsidiaries, taken as a whole. Except in each case as set forth in the Disclosure Package and the Prospectus, neither the Company nor any of its Significant Subsidiaries is a party to any written agreement or memorandum of understanding with, or a party to any commitment letter or similar undertaking to, or is subject to any order or directive by, or is a recipient of any extraordinary supervisory letter from, or has adopted any board resolutions at the request of, any Bank Regulatory Authority which restricts materially the conduct of its business, or requires any material change in its policies or practices relating to capital, credit or management, nor have any of them been advised by any Bank Regulatory Authority that it is contemplating issuing or requesting (or is considering the appropriateness of issuing or requesting) any such order, decree, agreement, memorandum of understanding, extraordinary supervisory letter, commitment letter or similar submission, or any such board resolutions.

(u) The Company and each of its subsidiaries has such permits, licenses, franchises and authorizations of governmental or regulatory authorities ("permits"), as are necessary to own, lease and operate its respective properties that are material to the Company and its subsidiaries, taken as a whole, or to the conduct of the business of the Company and its subsidiaries, taken as a whole; the Company and each of its subsidiaries has fulfilled and performed all of its material obligations with respect to such permits and no event has occurred which allows, or after notice or lapse of time would allow, revocation or termination thereof or results in any other material impairment of the rights of the holder of any such permit; and, except as described in the Disclosure Package and the Prospectus, such permits contain no restrictions that are materially burdensome to the Company and its subsidiaries, taken as a whole.

(v) Ernst & Young LLP are independent public accountants with respect to the Company as required by the Securities Act.

(w) To the knowledge of the Company, Ernst & Young LLP, who have reviewed certain financial statements of ING Bank, fsb, a federal stock savings bank ("ING Direct") and its subsidiaries, are independent public accountants with respect to ING Direct and its subsidiaries within the applicable rules and regulations adopted by the Commission and the Public Company Accounting Oversight Board (United States).

(x) The consolidated financial statements, together with related schedules and notes forming part of the Registration Statement, the Disclosure Package and the Prospectus (and any amendment or supplement thereto), present fairly in all material respects the consolidated financial position, results of operations and cash flows of the Company and its consolidated subsidiaries on the basis stated in the Registration Statement at the respective dates or for the respective periods to which they apply; such statements and related schedules and notes have been prepared in accordance with generally accepted accounting principles consistently applied throughout the periods involved, except as disclosed therein; and the other financial and statistical information and data set forth in the Registration Statement, Disclosure Package and the Prospectus (and any amendment or supplement thereto) is, in all material respects, accurately presented and prepared on a basis consistent with such consolidated financial statements and the books and records of the Company.

(y) The preliminary unaudited pro forma condensed combined financial information of the Company and ING Direct and the related notes thereto included or incorporated by reference in the Registration Statement, the Disclosure Package and the Prospectus (and any amendment or supplement thereto) have been prepared in accordance with the Commission's rules and guidelines with respect to pro forma financial statements and have been properly presented on the bases described therein, and the assumptions used in the preparation thereof are reasonable, the adjustments used therein are appropriate to give effect to the transactions referred to therein and the pro forma information reflects the proper application of those adjustments to the historical financial statement amounts in the pro forma financial statements.

(z) To the knowledge of the Company, the consolidated financial statements of ING Direct, together with related schedules and notes of ING Direct, included in or incorporated by reference in the Registration Statement, the Disclosure Package and the Prospectus (and any amendment or supplement thereto), present fairly in all material respects the consolidated financial position, results of operations and cash flows of ING Direct and its consolidated subsidiaries on the basis stated in such documents as of their at the respective dates or for the respective periods to which they apply; to the knowledge of the Company, such statements and related schedules and notes have been prepared in accordance with generally accepted accounting principles consistently applied throughout the periods involved, except as disclosed therein; and, to the knowledge of the Company, the other financial and statistical information and data of ING Direct set forth in the Registration Statement, Disclosure Package and the Prospectus (and any amendment or supplement thereto) is, in all material respects, accurately presented and prepared on a basis consistent with such consolidated financial statements and the books and records of ING Direct.

(aa) That certain Purchase and Sale Agreement by and among ING Groep N.V., ING Bank N.V., ING Direct N.V., ING Direct Bancorp and the Company dated as of June 16, 2011 (the "Purchase and Sale Agreement") has been duly authorized, executed and delivered by the Company and is a valid and binding agreement of the Company enforceable in accordance with its terms; the Company is not in default under, nor has the Company materially breached or violated, the Purchase and Sale Agreement in any manner; to the knowledge of the Company, no other party to the Purchase and Sale Agreement is in default thereunder and no other party to such agreement has materially breached or violated such agreement in any manner.

(bb) The Company is not, and will not be after giving effect to the consummation of the transactions contemplated by this Agreement and the Forward Agreements, including the application of the net proceeds from the sale of the Securities, required to register under the provisions of the Investment Company Act of 1940, as an "investment company" amended (the "Investment Company Act"), and is not required to take any other action with respect to or under the Investment Company Act for such transactions or the offer and sale of the Securities as contemplated thereunder or hereunder.

(cc) The Company maintains (i) effective internal control over financial reporting as defined under Rule 13a-15(f) of the Exchange Act, and (ii) a system of internal accounting controls sufficient to provide reasonable assurance that (A) transactions are executed in accordance with management's general or specific authorizations; (B) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain asset accountability; (C) access to assets is permitted only in accordance with management's general or specific authorization; and (D) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(dd) Except as disclosed in the Prospectus and the Disclosure Package, or in any document incorporated by reference therein, since the end of the Company's most recent audited fiscal year, there has been (i) no material weakness in the Company's internal control over financial reporting (whether or not remediated) and (ii) no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

(ee) Neither the Company nor any of its subsidiaries, nor, to the knowledge of the Company, any director, officer, agent, employee or affiliate of the Company or any of its subsidiaries is aware of or has taken any action, directly or indirectly, including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" ((including any officer or employee of a government or government-owned or controlled entity or of a public international organization, or any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or party official or candidate for political office) to influence official action or secure an improper advantage; and the Company, its subsidiaries and, to the knowledge of the Company, its affiliates have conducted their businesses in compliance in all material respects with applicable anti-corruption laws and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(ff) Neither the Company nor any of its subsidiaries, nor, to the knowledge of the Company, any director, officer, agent, employee or affiliate of the Company or any of its subsidiaries is currently the subject of any sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC"); and the Company will not directly or indirectly use the proceeds of the offering of the Securities hereunder or of the settlement of the Forward Agreements, as the case may be, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of or with any person or entity or in any country or territory that, at the time of such financing, is the subject of any sanctions administered by OFAC.

(gg) The operations of the Company and its subsidiaries are in material compliance with applicable financial recordkeeping and reporting requirements, including those of the Currency and Foreign Transactions Reporting Act of 1970, as amended, Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), the applicable anti-money laundering statutes of all jurisdictions in which the Company and its subsidiaries conduct business, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency having jurisdiction over the Company and its subsidiaries

(collectively, the "Money Laundering Laws") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the best knowledge of the Company, threatened, which could reasonably be expected to have a material adverse effect on the Company and its subsidiaries, taken as a whole.

(hh) The charges, accruals and reserves on the books of the Company in respect of any income and corporation tax liability for any years not finally determined are adequate to meet any assessments or re-assessments for additional income tax for any years not finally determined, except to the extent of any inadequacy that would not have a material adverse affect on the Company and its subsidiaries, taken as a whole.

(ii) Since the date of the most recent financial statements of the Company included or incorporated by reference in the Registration Statement, the Prospectus and the Disclosure Package, (i) there has not been any change in the capital stock or any material change in the long-term debt of the Company, or any dividend or distribution of any kind declared, set aside for payment, paid or made by the Company on any class of capital stock (other than ordinary course dividends and equity issuances under the Company's existing employee compensation plans), or any material adverse change, or any development involving a prospective material adverse change, in or affecting the business, properties, management, financial position, stockholders' equity, results of operations or prospects of the Company and its subsidiaries, taken as a whole; (ii) neither the Company nor any of its subsidiaries has entered into any transaction or agreement (other than transactions entered into in the ordinary course of the Company's business) that is material to the Company and its subsidiaries, taken as a whole, or incurred any liability or obligation, direct or contingent, that is material to the Company's and its subsidiaries, taken as a whole; (iii) neither the Company nor any of its subsidiaries has sustained any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor disturbance or dispute or any action, order or decree of any court or arbitrator or governmental regulatory authority, except in each case as otherwise disclosed in the Registration Statement, the Prospectus and the Disclosure Package.

(jj) The Company has not received any notice from the NYSE regarding the delisting of the Common Stock from the NYSE.

(kk) The Company has not taken, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of the price of the Securities.

7. Representations and Warranties of the Underwriters. Each Underwriter, Forward Seller and Forward Counterparty severally represents and agrees that such Underwriter, Forward Seller or Forward Counterparty has not included and shall not include any "issuer information" (as defined in Rule 433 under the Securities Act) in any "free writing prospectus" (as defined in Rule 405 under the Securities Act) used or referred to by such Underwriter, Forward Seller or Forward Counterparty without the

prior consent of the Company; provided that (i) no such consent shall be required with respect to any such issuer information contained in any document filed by the Company with the Commission prior to the use of such free writing prospectus and (ii) "issuer information," as used in this Section 7, shall not be deemed to include information prepared by or on behalf of such Underwriter, Forward Seller or Forward Counterparty on the basis of or derived from issuer information.

8. Representations and Warranties of the Forward Sellers. Each of the Forward Sellers severally represents and agrees with each Underwriter and the Company that:

(a) This Agreement has been duly authorized, executed and delivered by such Forward Seller and, at the Closing Date, such Forward Seller will have full right, power and authority to sell, transfer and deliver the Underwritten Securities.

(b) The Forward Agreement between the Company and the Forward Counterparty affiliated with such Forward Seller has been duly authorized, executed and delivered by such affiliated Forward Counterparty and constitutes a valid and binding agreement of such Forward Counterparty, enforceable against such Forward Counterparty in accordance with its terms, except as limited by bankruptcy, insolvency or similar laws affecting creditors' rights generally or by equitable principles of general applicability.

(c) Such Forward Seller will, at the Closing Date, have the free and unqualified right to transfer the Underwritten Securities to be sold by such Forward Seller, and the Underwritten Securities, at the Closing Date, will be free and clear of any security interest, mortgage, pledge, lien, charge, claim, equity or encumbrance of any kind; and upon delivery of such Underwritten Securities and payment of the Purchase Price as herein contemplated, assuming each of the Underwriters has no notice of any adverse claim, each of the Underwriters will have the free and unqualified right to transfer the Underwritten Securities purchased by it from such Forward Seller, free and clear of any security interest, mortgage, pledge, lien, charge claim, equity or encumbrance of any kind.

(d) Such Forward Seller is acting as an agent for such affiliated Forward Counterparty in connection with the transactions contemplated hereby.

9. Indemnification. (a) The Company agrees to indemnify and hold harmless each Underwriter (including, for this purpose, any affiliated broker-dealer of such Underwriter participating as an initial seller in the offering of the Securities) and each person, if any, who controls any Underwriter within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act and each affiliate of any Underwriter within the meaning of Rule 405 under the Securities Act, and each Forward Seller and each Forward Counterparty and each person, if any, who controls any Forward Seller or any Forward Counterparty within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any and all losses, claims, damages, liabilities and judgments arising out of or based upon any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, the

Prospectus, the Disclosure Package or any Issuer Free Writing Prospectus (each as amended or supplemented if the Company shall have furnished any amendments or supplements thereto) or any preliminary prospectus, or arising out of or based upon any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such losses, claims, damages, liabilities or judgments are caused by any such untrue statement or omission or alleged untrue statement or omission based upon information relating to any Underwriter, any Forward Seller or any Forward Counterparty furnished in writing to the Company by or on behalf of such Underwriter, such Forward Seller or such Forward Counterparty through the Representatives expressly for use therein, it being understood and agreed that the only such information furnished by or on behalf of any Underwriter, any Forward Seller or any Forward Counterparty consists of the information described as such in this Section 9.

(b) In case any action shall be brought against any indemnified party based upon any preliminary prospectus, the Registration Statement, the Prospectus or the Disclosure Package or any amendment or supplement thereto and with respect to which indemnity may be sought against the Company, such indemnified party shall promptly notify the Company in writing and the Company shall assume the defense thereof, including the employment of counsel reasonably satisfactory to such indemnified party and payment of all fees and expenses. Any indemnified party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such indemnified party unless (i) the employment of such counsel shall have been specifically authorized in writing by the Company, (ii) the Company shall have failed to assume the defense and employ counsel or (iii) the named parties to any such action (including any impleaded parties) include both such indemnified party and the Company and such indemnified party shall have been advised by such counsel that there may be one or more legal defenses available to it which are different from or additional to those available to the Company (in which case the Company shall not have the right to assume the defense of such action on behalf of such indemnified party, it being understood, however, that the Company shall not, in connection with any one such action or separate but substantially similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys (in addition to any local counsel) for all such indemnified parties, which firm shall be designated in writing by the Representatives and the Forward Sellers, and that all such reasonable fees and expenses shall be reimbursed as they are incurred). The Company shall not be liable for any settlement of any such action effected without its written consent but if settled with the written consent of the Company, the Company agrees to indemnify and hold harmless any indemnified party from and against any loss or liability by reason of such settlement. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened proceeding in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party, unless such settlement includes (i) an unconditional release of such indemnified party from all liability on claims that are the subject matter of such proceeding and (ii) does not include any statement as to, or an admission of, fault, culpability or failure to act by or on behalf of any indemnified party.

(c) Each Underwriter agrees, severally and not jointly, to indemnify and hold harmless the Company, each of its directors and each of its officers who signs the Registration Statement and each person controlling the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, and each Forward Seller and each Forward Counterparty and each person, if any, who controls any Forward Seller or any Forward Counterparty within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, to the same extent as the foregoing indemnity from the Company to each Underwriter, each Forward Seller and each Forward Counterparty but only to the extent of losses, claims, damages, liabilities and judgments arising out of or based upon information relating to such Underwriter, such Forward Seller or such Forward Counterparty furnished in writing by or on behalf of such Underwriter, such Forward Counterparty expressly for use in the Registration Statement, the Base Prospectus, the Disclosure Package or the Prospectus. The Representatives, the Forward Sellers and the Forward Counterparties confirm that the Underwriters' names on the cover page of the preliminary prospectus supplement and the Prospectus and the Underwriters' names in the first paragraph and the statements set forth in the paragraphs under the heading "Forward Sale Agreement" in the preliminary prospectus supplement and the Prospectus were furnished in writing to the Company by or on behalf of the Underwriters, the Forward Sellers and the Forward Counterparties expressly for use therein. In case any action shall be brought against the Company, any of its directors, any such officer or any person controlling the Company based on the Registration Statement, the Base Prospectus, any preliminary prospectus or the Prospectus and in respect of which indemnity may be sought against any Underwriter, the Underwriter shall have the rights and duties given to the Company (except that if the Company shall have assumed the defense thereof, such Underwriter shall not be required to do so, but may employ separate counsel therein and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of the Underwriter), and the Company, its directors, any such officers and any person controlling the Company shall have the rights and duties given to the Underwriter, by Section 9(b) hereof.

(d) If the indemnification provided for in paragraphs (a), (b) and (c) of this Section 9 is unavailable to an indemnified party in respect of any losses, claims, damages, liabilities or judgments referred to therein, then each indemnifying party, in lieu of indemnifying such indemnified party, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages, liabilities and judgments (i) in such proportion as is appropriate to reflect the relative benefits received by the indemnifying party on the one hand and the indemnified party on the other hand from the offering of the Securities or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the indemnifying party on the one hand and the indemnified party on the other hand in connection with the statements or omissions which resulted in such losses, claims, damages, liabilities or judgments, as well as any other relevant equitable considerations. The relative benefits received by the Company, the Forward Sellers and the Underwriters

shall be deemed to be in the same respective proportion as the total net proceeds from the offering of the Securities (before deducting expenses) received by the Company (which benefits shall be deemed equal to the proceeds that would be received by the Company upon Physical Settlement (as such term is defined in the Forward Agreements) of the Forward Agreements assuming a Forward Price (as such term is defined in the Forward Agreements) equal to the Purchase Price of all of the Securities and the Spread (as such term is defined in the Forward Agreements) that would be received by the Forward Counterparty affiliated with such Forward Seller net of any costs incurred by such Forward Counterparty under the relevant Forward Agreement, respectively, bear to the sum of the aggregate public offering price of the Securities and the amount of such Spread. The relative fault of the Company, the Forward Sellers and the Underwriters shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the Company, the Forward Sellers or the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The Company, the Forward Sellers and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 9(d) were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to in the immediately preceding paragraph. The amount paid or payable by an indemnified party as a result of the losses, claims, damages, liabilities or judgments referred to in the immediately preceding paragraph shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 9, no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' respective obligations to contribute pursuant to this Section 9(d) are several in proportion to the respective number of Securities purchased by each of the Underwriters hereunder and not joint.

10. Conditions of Underwriters' Obligations. The several obligations of the Underwriters to purchase the Securities (or any Additional Company Shares or any Option Shares) and the several obligations of the Forward Sellers to deliver and sell the Underwritten Securities, are subject to the satisfaction of each of the following conditions:

(a) All the representations and warranties of the Company contained in this Agreement shall be true and correct on the Closing Date and any Option Closing Date with the same force and effect as if made on and as of the Closing Date or such Option Closing Date, as applicable.

(b) The Prospectus shall have been filed with the Commission in the manner and within the time period required by Rule 424(b) under the Securities Act, and at the Closing Date and any Option Closing Date, no stop order suspending the effectiveness of the Registration Statement shall have been issued and no proceedings for that purpose shall have been commenced or shall be pending before or, to the best knowledge of the Company, contemplated by the Commission.

(c) Any material required to be filed by the Company pursuant to Rule 433(d) under the Securities Act, shall have been filed with the Commission within the applicable time periods prescribed for such filings under Rule 433.

(d) Subsequent to the execution and delivery of this Agreement and prior to the Closing Date and any Option Closing Date, there shall not have been any downgrading, nor shall any notice have been given of any intended or potential downgrading or of any review for a possible change that does not indicate the direction of the possible change, in the rating accorded any of the Company's securities by any "nationally recognized statistical rating organization", as such term is defined for purposes of Rule 436(g)(2) under the Securities Act.

(e) (i) Since the date of the latest balance sheet included in the Registration Statement and the Prospectus, there shall not have been any material adverse change, or any development involving a prospective material adverse change, in the condition, financial or otherwise, or in the earnings, affairs or business prospects, whether or not arising in the ordinary course of business, of the Company and its subsidiaries taken as a whole, except as set forth or contemplated in the Prospectus, (ii) since the date of the latest balance sheet included in the Registration Statement and the Prospectus there shall not have been any material adverse change, or any development involving a prospective material adverse change, in the capital stock or in the long-term debt of the Company from that set forth or contemplated in the Registration Statement and Prospectus, (iii) the Company and its subsidiaries shall have no liability or obligation, direct or contingent, which is material to the Company and its subsidiaries, taken as a whole, other than those reflected in the Registration Statement and the Prospectus and (iv) on the Closing Date and any Option Closing Date the Underwriters, the Forward Sellers and the Forward Counterparties shall have received a certificate dated the Closing Date or such Option Closing Date, as applicable, signed by the Chief Financial Officer and the Treasurer of the Company, confirming the matters set forth in paragraphs (a), (b), (c), (d) and (e) (i) – (iii) of this Section 10.

(f) (i) Since the date of the latest balance sheet included in the Registration Statement and the Prospectus, there shall not have been any material adverse change, or any development involving a prospective material adverse change, in the condition, financial or otherwise, or in the earnings, affairs or business prospects, whether or not arising in the ordinary course of business, of ING Direct and its subsidiaries taken as a whole, except as set forth or contemplated in the Prospectus, (ii) since the date of the

latest balance sheet included in the Registration Statement and the Prospectus there shall not have been any material adverse change, or any development involving a prospective material adverse change, in the capital stock or in the long-term debt of ING Direct from that set forth or contemplated in the Registration Statement and Prospectus and (iii) ING Direct and its subsidiaries shall have no liability or obligation, direct or contingent, which is material to ING Direct and its subsidiaries, taken as a whole, other than those reflected in the Registration Statement and the Prospectus.

(g) The Underwriters and the Forward Sellers shall have received on the Closing Date and the Underwriters shall have received on any Option Closing Date an opinion (reasonably satisfactory to the Representatives and the Forward Sellers and counsel for the Underwriters and counsel for the Forward Sellers, as applicable), dated the Closing Date or such Option Closing Date, as applicable, of a Chief Counsel or General Counsel of the Company or such other person as the Representatives, the Forward Sellers and the Company may agree. The opinion of such counsel shall be rendered to the Underwriters and the Forward Sellers at the request of the Company and shall so state therein.

(h) The Underwriters and the Forward Sellers shall have received on the Closing Date and the Underwriters shall have received on any Option Closing Date an opinion (reasonably satisfactory to the Representatives and the Forward Sellers and counsel for the Underwriters and counsel for the Forward Sellers, as applicable), dated the Closing Date or such Option Closing Date, as applicable, of Gibson, Dunn & Crutcher LLP, special counsel to the Company.

(i) The Underwriters and the Forward Sellers shall have received on the Closing Date and the Underwriters shall have received on any Option Closing Date an opinion, dated the Closing Date or such Option Closing Date, as applicable, of Morrison & Foerster LLP, counsel for the Underwriters and counsel for the Forward Sellers, covering such matters as the Representatives and the Forward Sellers may request.

(j) The Underwriters and the Forward Sellers shall have received letters on and as of the date hereof and on and as of the Closing Date and the Underwriters shall have received a letter on and as of any Option Closing Date, in form and substance satisfactory to the Representatives and the Forward Sellers, from Ernst & Young LLP, independent public accountants, with respect to the financial statements and certain financial information of the Company contained in the Registration Statement, any preliminary prospectus and the Prospectus.

(k) The Underwriters and the Forward Sellers shall have received letters on and as of the date hereof and on and as of the Closing Date and the Underwriters shall have received a letter on and as of any Option Closing Date, in form and substance satisfactory to the Representatives and the Forward Sellers, from Ernst & Young LLP, independent public accountants, with respect to the financial statements and certain financial information of ING Direct contained in the Registration Statement, any preliminary prospectus and the Prospectus.

(l) The Shares reserved for listing upon issuance following Physical Settlement or Net Share Settlement (as each such term is defined in the Forward Agreements) of each Forward Agreement, the Additional Company Shares (if any) and the Option Shares (if any) shall have been approved for listing on the NYSE, subject to official notice of issuance.

(m) The lock-up agreements, each substantially in the form of Exhibit A hereto, between the Representatives and certain officers and directors of the Company relating to sales and certain other dispositions of shares of capital stock of the Company or certain other securities, delivered to the Representatives on or before the date hereof, shall be in full force and effect on the Closing Date and any Option Closing Date, as the case may be.

(n) The Company shall not have failed at or prior to the Closing Date and any Option Closing Date to perform or comply with any of the agreements herein contained and required to be performed or complied with by the Company at or prior to the Closing Date or such Option Closing Date, as applicable.

11. Effective Date of Agreement and Termination. This Agreement shall become effective upon the execution of this Agreement.

This Agreement may be terminated at any time prior to the Closing Date by the Representatives by written notice to the Company and each Forward Seller if any of the following has occurred: (i) since the respective dates as of which information is given in the Registration Statement and Prospectus and since the Time of Sale, any material adverse change or development involving a prospective material adverse change (including, without limitation, the enactment, publication, decree or other promulgation of any federal or state statute, regulation, rule or order of any court or other governmental authority) in the condition, financial or otherwise, of the Company and its subsidiaries taken as a whole or the earnings, affairs, or business prospects of the Company and its subsidiaries taken as a whole, whether or not arising in the ordinary course of business, which would, in the judgment of the Representatives, make it impracticable to market the Securities on the terms and in the manner contemplated in the Prospectus, (ii) any outbreak or escalation of hostilities or other national or international calamity or crisis (including, without limitation, an act of terrorism) or change in economic conditions or in the financial markets of the United States or elsewhere that, in the judgment of the Representatives, is material and adverse and would, in the judgment of the Representatives, make it impracticable to market the Securities on the terms and in the manner contemplated in the Prospectus, (iii) the suspension or material limitation of trading in securities generally, or in the securities of the Company listed, on the New York Stock Exchange, the American Stock Exchange or The NASDAQ Stock Market, limitation on prices on any such exchange, (iv) a material disruption in securities settlement that makes it impracticable to deliver the Securities in the manner contemplated by the Prospectus, or (v) the taking of any action by any federal, state or local government or agency in respect of its monetary or fiscal affairs which in the opinion of the Representatives has a material adverse effect on the financial markets in the United States.

If on the Closing Date any one or more of the Underwriters shall fail or refuse to purchase and pay for any of the Securities which it or they have agreed to purchase hereunder on such date and the number of Securities which such defaulting Underwriter or Underwriters, as the case may be, agreed but failed or refused to purchase is not more than one-tenth of the total number of Securities to be purchased on such date by all Underwriters, each non-defaulting Underwriter shall be obligated severally, in the proportion which the number of Securities set forth opposite its name in Schedule I-A bears to the total number of Securities which all the non-defaulting Underwriters, as the case may be, have agreed to purchase, or in such other proportion as the Representatives may specify, to purchase the Securities which such defaulting Underwriter or Underwriters, as the case may be, agreed but failed or refused to purchase on such date; provided that in no event shall the number of Securities which any Underwriter has agreed to purchase pursuant to Section 2 hereof be increased pursuant to this Section 11 by an amount in excess of one-ninth of the number of Securities without the written consent of such Underwriter. If on the Closing Date any Underwriter or Underwriters shall fail or refuse to purchase Securities and the aggregate number of Securities with respect to which such default occurs is more than one-tenth of the aggregate number of Securities to be purchased on such date by all Underwriters and arrangements satisfactory to the Representatives and the Company for purchase of such Securities are not made within 48 hours after such default, this Agreement will terminate without liability on the part of any non-defaulting Underwriter, any Forward Seller, any Forward Counterparty or the Company. In any such case which does not result in termination of this Agreement, either the Representatives, each Forward Seller or the Company shall have the right to postpone the Closing Date, but in no event for longer than seven days, in order that the required changes, if any, in the Registration Statement and the Prospectus or any other documents or arrangements may be effected. Any action taken under this paragraph shall not relieve any defaulting Underwriter from liability in respect of any default of any such Underwriter under this Agreement.

12. No Agency or Fiduciary Duty. The Company acknowledges and agrees that: (i) the purchase and sale of the Securities pursuant to this Agreement (including any Additional Company Shares and any Option Shares), including the determination of the public offering price of the Securities and any related discounts and commissions, is an arm's length commercial transaction between the Company, on the one hand, and the several Underwriters, on the other hand, and the Company is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated by this Agreement; (ii) in connection with each transaction contemplated hereby, each Underwriter is and has been acting solely as a principal and is not the agent or fiduciary of the Company or its affiliates, stockholders, creditors or employees or any other party; (iii) no Underwriter has assumed an advisory, agency or fiduciary responsibility in favor of the Company with respect to any of the transactions contemplated hereby (irrespective of whether such Underwriter has advised or is currently advising the Company on other matters) and no Underwriter has any obligation to the Company with respect to the offering contemplated hereby except the obligations expressly set forth in this Agreement; (iv) the several Underwriters and their respective affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company and the several Underwriters have no obligation to disclose

any of such interests by virtue of any advisory, agency or fiduciary relationship; and (v) the Underwriters have not provided any legal accounting, regulatory or tax advice with respect to the offering contemplated hereby and the Company has consulted its own legal, accounting, regulatory and tax advisors to the extent it deemed appropriate.

This Agreement supersedes all prior agreements and understandings (whether written or oral) among the Company and the several Underwriters, or any of them, with respect to the subject matter hereof. The Company hereby waives and releases, to the fullest extent permitted by law, any claims that the Company may have against the several Underwriters with respect to any breach or alleged breach of agency or fiduciary duty.

13. Miscellaneous. Notices given pursuant to any provision of this Agreement shall be addressed as follows: (a) if to the Company, to Capital One Financial Corporation, 1680 Capital One Drive, McLean, Virginia 22102, Attention: Director of Capital Markets, and (b) if to any Underwriter or to any Forward Seller, c/o Barclays Capital Inc., 745 Seventh Avenue, New York, New York 10019, Attention: Syndicate Registration (Fax: 646-834-8133), with a copy, in the case of any notice pursuant to Section 9 hereof, to the Director of Litigation, Office of the General Counsel, Barclays Capital Inc., 745 Seventh Avenue, New York, New York 10019 and Morgan Stanley & Co. LLC, 1585 Broadway, New York, New York 10036, Attention: Equity Syndicate Desk, with a copy to the Legal Department, or in any case to such other address as the person to be notified may have requested in writing.

14. Additional Issuance and Sale by the Company. In the event that a Forward Seller does not borrow and deliver in accordance with Section 4 hereof the number of Shares set forth in Schedule I-B opposite the name of such Forward Seller under the column captioned “Number of Underwritten Securities To Be Sold” pursuant to Section 6(b)(ii) of the applicable Forward Agreement, the Company shall issue and sell in whole but not in part a number of Shares equal to the number of Shares that such Forward Seller does not deliver. In such event, the aggregate number of Shares that such Forward Seller does so deliver for sale shall be the “Underwritten Securities” with respect to such Forward Seller. The Representatives shall have the right to postpone the Closing Date for a period not exceeding one (1) business day in order to effect any required changes in any documents or arrangements. A Forward Seller shall have no liability whatsoever for any Securities it does not deliver to the Underwriters or any other party if the applicable Forward Agreement does not become effective because all of the conditions to effectiveness set forth in Section 3(a) of the applicable Forward Agreement have not been satisfied.

15. Representations and Indemnities to Survive. The respective indemnities, contribution agreements, representations, warranties and other statements of the Company, its officers and directors and of the Forward Sellers, of the Forward Counterparties and of the several Underwriters set forth in or made pursuant to this Agreement shall remain operative and in full force and effect, and will survive delivery of and payment for the Securities, regardless of (i) any investigation, or statement as to the results thereof, made by or on behalf of any Underwriter, and Forward Seller or any

Forward Counterparty or by or on behalf of the Company, the officers or directors of the Company or any controlling person of the Company, (ii) acceptance of the Securities and payment for them hereunder and (iii) termination of this Agreement.

16. Reimbursement of Underwriters' Expenses. If this Agreement shall be terminated by the Underwriters for any reason under Section 11 of this Agreement, or because of any failure or refusal on the part of the Company to comply with the terms or to fulfill any of the conditions of this Agreement, the Company agrees to reimburse the several Underwriters, the Forward Sellers and the Forward Counterparties severally through the Underwriters or the Forward Sellers, as the case may be, for all out-of-pocket expenses (including the fees and disbursements of counsel) reasonably incurred by them.

17. Successors. Except as otherwise provided, this Agreement has been and is made solely for the benefit of and shall be binding upon the parties hereto, any director or officer of the Company referred to herein, any affiliated broker-dealer of an Underwriter referred to herein and any controlling persons referred to herein and any affiliate referred to herein and their respective successors and assigns, all as and to the extent provided in this Agreement, and no other person shall acquire or have any right under or by virtue of this Agreement. The term "successors and assigns" shall not include a purchaser of any of the Securities from any of the several Underwriters merely because of such purchase.

18. Applicable Law. This Agreement shall be governed and construed in accordance with the laws of the State of New York without reference to choice of law principles thereof.

19. Counterparts. This Agreement may be signed in various counterparts which together shall constitute one and the same instrument.

Please confirm that the foregoing correctly sets forth the agreement among the Company, the several Forward Sellers, the several Forward Counterparties and the several Underwriters.

Very truly yours,

CAPITAL ONE FINANCIAL CORPORATION

By: /s/ Stephen Linehan
Name: Stephen Linehan
Title: Treasurer

BARCLAYS CAPITAL INC.,
Acting in its capacity as Forward Seller and as agent for Barclays Bank plc

By: /s/ Paul Robinson
Name: Paul Robinson
Title: Managing Director

BARCLAYS BANK PLC,
Acting in its capacity as Forward Counterparty, solely as the recipient and/or beneficiary of certain representations, warranties, agreements and indemnities set forth in this Agreement

By: /s/ Paul Robinson
Name: Paul Robinson
Title: Managing Director

MORGAN STANLEY & CO. LLC,
Acting in its capacity as Forward Seller

By: /s/ Serkan Savasoglu
Name: Serkan Savasoglu
Title: Managing Director

MORGAN STANLEY & CO. LLC,
Acting in its capacity as Forward Counterparty, solely as the recipient and/or beneficiary of certain representations, warranties, agreements and indemnities set forth in this Agreement

By: /s/ Serkan Savasoglu
Name: Serkan Savasoglu
Title: Managing Director

Accepted:

BARCLAYS CAPITAL INC.
MORGAN STANLEY & CO. LLC

Acting on behalf of itself and the several Underwriters named in Schedule I-A hereto

By: BARCLAYS CAPITAL INC.

By: /s/ Victoria Hale
Name: Victoria Hale
Title: Vice President

By: MORGAN STANLEY & CO. LLC

By: /s/ Ken Pott
Name: Ken Pott
Title: Managing Director

SCHEDULE I-A

Underwriters	Number of Underwritten Securities To Be Purchased
Barclays Capital Inc.	12,000,000
Morgan Stanley & Co. LLC	12,000,000
J.P. Morgan Securities LLC	7,600,000
Merrill Lynch, Pierce, Fenner & Smith Incorporated	7,600,000
Keefe, Bruyette & Woods, Inc.	800,000
Total	40,000,000

SCHEDULE I-B

Name	Number of Underwritten Securities To Be Sold
Barclays Capital Inc.	20,000,000
Morgan Stanley & Co. LLC	20,000,000
Total	40,000,000

SCHEDULE II

EXHIBIT A

Lock-Up Agreement

July , 2011

Barclays Capital Inc.
745 Seventh Avenue
New York, New York 10019

Morgan Stanley & Co. LLC
1585 Broadway
New York, New York 10036

As Representatives of the several Underwriters
listed in Schedule I to the
Underwriting Agreement referred to below

Ladies and Gentlemen:

The undersigned understands that you, as Representatives of the several Underwriters, propose to enter into an Underwriting Agreement (the "Underwriting Agreement") with Capital One Financial Corporation, a Delaware corporation (the "Company"), providing for the public offering (the "Public Offering") by the several Underwriters named in Schedule I to the Underwriting Agreement (the "Underwriters"), of common stock of the Company (the "Securities"). Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Underwriting Agreement.

In consideration of the Underwriters' agreement to purchase and make the Public Offering of the Securities, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned hereby agrees that, without the prior written consent of Barclays Capital Inc. and Morgan Stanley & Co. LLC, on behalf of the Underwriters, the undersigned will not, during the period ending 75 days after the date of the prospectus relating to the Public Offering (the "Prospectus"), (1) offer, pledge, announce the intention to sell, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, or otherwise transfer or dispose of, directly or indirectly, any shares of common stock, par value $0.01 per share, of the Company (the "Common Stock") or any securities convertible into or exercisable or exchangeable for Common Stock (including without limitation, Common Stock which may be deemed to be beneficially owned by the undersigned in accordance with the rules and regulations of the Securities and Exchange Commission and securities which may be issued upon exercise of a stock option or warrant) or (2) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Common Stock, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of Common Stock or such other securities, in cash or otherwise. In addition, the undersigned agrees that, without the prior written consent of Barclays Capital Inc. and Morgan Stanley & Co.

LLC, on behalf of the Underwriters, it will not, during the period ending 75 days after the date of the Prospectus, make any demand for or exercise any right with respect to, the registration of any shares of Common Stock or any security convertible into or exercisable or exchangeable for Common Stock.

The foregoing sentence shall not apply to (a) bona fide gifts, (b) dispositions to any trust for the direct or indirect benefit of the undersigned and/or a member of the immediate family of the undersigned, (c) the transfer or intestate succession to the legal representative or a member of the immediate family of the undersigned, (d) the sale pursuant to any existing contract, instruction or plan that satisfies all of the requirements of Rule 10b5-1(c)(1)(i)(B) (a "Plan"), or (e) the establishment of any Plan provided that no sales of Common Stock or securities convertible into, or exchangeable or exercisable for, Common Stock, shall be made pursuant to a Plan prior to the expiration of the Lock-up Period if such Plan was established after the date hereof; provided that, in the case of any gift, transfer, disposition or distribution otherwise permitted by this paragraph, each donee, transferee or distributee, as the case may be, agrees in writing with the Underwriters to be bound by the terms of this Lock-Up Agreement. For purposes of this paragraph, "immediate family" shall mean the undersigned and any relationship by blood, marriage or adoption, not more remote than first cousin.

The transfers permitted by clauses (a), (b) and (c) in the paragraph immediately above, however are further limited as follows: (1) no filing by any party (donor, donee, transferor or transferee) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), shall be required or shall be voluntarily made in connection with such transfer or distribution (other than a filing on a Form 5, Schedule 13D or Schedule 13G (or 13D-A or 13G-A) made after the expiration of the 75-day period referred to above); and (2) each party (donor, donee, transferor or transferee) shall not be required by law (including without limitation the disclosure requirements of the Securities Act of 1933, as amended, and the Exchange Act) to make, and shall agree not to voluntarily make, any public announcement of the transfer or disposition.

In furtherance of the foregoing, the Company, and any duly appointed transfer agent for the registration or transfer of the securities described herein, are hereby authorized to decline to make any transfer of securities if such transfer would constitute a violation or breach of this Letter Agreement.

The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this Letter Agreement. All authority herein conferred or agreed to be conferred and any obligations of the undersigned shall be binding upon the successors, assigns, heirs or personal Representatives of the undersigned.

The undersigned understands that, if the Underwriting Agreement does not become effective, or if the Underwriting Agreement (other than the provisions thereof which survive termination) shall terminate or be terminated prior to payment for and delivery of the Shares to be sold thereunder, the undersigned shall be released from all obligations under this Letter Agreement. The undersigned understands that the Underwriters are entering into the Underwriting Agreement and proceeding with the Public Offering in reliance upon this Letter Agreement.

This Letter Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to the conflict of laws principles thereof.

Very truly yours,

Name (Print):

EXHIBIT A-1

List of Directors and Officers signing Lock-ups

Richard D. Fairbank

Edward R. Campbell

W. Ronald Dietz

Patrick W. Gross

Ann Fritz Hackett

Lewis Hay, III

Pierre E. Leroy

Mayo A. Shattuck, III

Bradford H. Warner

Gary L. Perlin

Robert M. Alexander

Jory A. Berson

John G. Finneran, Jr.

Lynn A. Carter

Peter A. Schnall

Ryan M. Schneider

Frank G. LaPrade, III

Sanjiv Yajnik

CAPITAL ONE FINANCIAL CORPORATION

$750,000,000 2.125% Senior Notes Due 2014
$250,000,000 Floating Rate Senior Notes Due 2014
$750,000,000 3.150% Senior Notes Due 2016
$1,250,000,000 4.750% Senior Notes Due 2021

UNDERWRITING AGREEMENT

July 14, 2011

Barclays Capital Inc.
745 Seventh Avenue
New York, New York 10019

Morgan Stanley & Co. LLC
1585 Broadway
New York, New York 10036

Citigroup Global Markets Inc.
388 Greenwich Street
New York, New York 10013

As Representatives of the several
Underwriters named in Schedule I hereto

Dear Sirs:

Capital One Financial Corporation, a Delaware corporation (the "Company"), proposes to issue and sell $750,000,000 principal amount of its 2.125% Senior Notes due 2014 (the "2.125 Rate Securities"), $250,000,000 principal amount of its Floating Rate Senior Notes due 2014 (the "Floating Rate Securities"), $750,000,000 principal amount of its 3.150% Senior Notes due 2016 (the "3.150 Rate Securities") and $1,250,000,000 principal amount of its 4.750% Senior Notes due 2021 (the "4.750 Rate Securities" and, together with the 2.125 Rate Securities, the Floating Rate Securities and the 3.150 Rate Securities, the "Securities") to the several underwriters named in Schedule I hereto (the "Underwriters"), for which Barclays Capital Inc., Morgan Stanley & Co. LLC and Citigroup Global Markets Inc. are acting as the representatives (together, the "Representatives"). The Securities are to be issued pursuant to the provisions of a Senior Indenture dated as of November 1, 1996 (the "Senior Indenture") between the Company and The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A. (as successor to Harris Trust and Savings Bank), as Trustee (the "Trustee").

1. Registration Statement and Prospectus. The Company has prepared and filed with the Securities and Exchange Commission (the "Commission") a registration statement on Form S-3 (File No. 333-159085) under the Securities Act of 1933, as amended (the "Securities Act") in respect of its debt securities, its junior subordinated debt securities, shares of its preferred stock, $0.01 par value, depositary shares, shares of its common stock, $0.01 par value, its purchase contracts, units, trust preferred securities that may be issued by a related trust, and warrants (as amended through the date of this Agreement, being herein referred to as the "Registration Statement"). Such Registration Statement has become effective. The Registration Statement contains a base prospectus in the form in which it has most recently been filed with the Commission on or prior to the date of this Agreement (the "Base Prospectus"), to be used in connection with the public offering and sale of the Securities. Any preliminary prospectus supplement to the Base Prospectus that describes the Securities and the offering thereof and is used prior to filing of the Prospectus is called, together with the Base Prospectus, a "preliminary prospectus." The term "Prospectus" shall mean the final prospectus supplement relating to the Securities, together with the Base Prospectus, that is first filed pursuant to Rule 424(b) under the Securities Act after the date and time that this Agreement is executed and delivered by the parties hereto but shall not include any free writing prospectus (as such term is used in Rule 405 under the Securities Act). Any Prospectus shall be deemed to refer to and include the documents incorporated by reference therein pursuant to Item 12 of Form S-3 under the Securities Act; any reference to any amendment or supplement to any preliminary prospectus or the Prospectus shall be deemed to refer to and include any documents filed after the date of such preliminary prospectus or Prospectus, as the case may be, under the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (collectively, the "Exchange Act"), and incorporated by reference in such preliminary prospectus or Prospectus, as the case may be. The Company also has prepared and filed (or will file) with the Commission the Issuer Free Writing Prospectuses (as defined below) set forth on Schedule II hereto. All references in this Agreement to the Registration Statement, a preliminary prospectus, the Prospectus, or any amendments or supplements to any of the foregoing, shall include any copy thereof filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval System ("EDGAR").

2. Agreements to Sell and Purchase. On the basis of the representations and warranties contained in this Agreement, and subject to its terms and conditions, the Company agrees to issue and sell, and each Underwriter agrees, severally and not jointly, to purchase from the Company the principal amount of each series of Securities set forth opposite the name of such Underwriter in Schedule I hereto, at (i) in the case of the 2.125 Rate Securities, 99.695% of the principal amount thereof (the "2.125 Rate Purchase Price"), (ii) in the case of the Floating Rate Securities, 99.750% of the principal amount thereof (the "Floating Rate Purchase Price"), (iii) in the case of the 3.150 Rate Securities, 99.399% of the principal amount thereof (the "3.150 Rate Purchase Price") and (iv) in the case of the 4.750 Rate Securities, 99.087% of the principal amount thereof (the "4.750 Rate Purchase Price" and, together with the 2.125 Rate Purchase Price, the Floating Rate Purchase Price and the 3.150 Rate Purchase Price, the "Purchase Prices"), in each case plus accrued interest thereon, if any, from July 19, 2011 to the date of payment and delivery.

3. Terms of Public Offering. The Company is advised by the Representatives that the Underwriters propose (i) to make a public offering of their respective portions of the Securities as soon after the execution hereof as practicable and (ii) initially to offer the Securities upon the terms set forth in the Prospectus.

4. Delivery and Payment. Delivery to the Underwriters of, and payment for, the Securities shall be made at 10:00 a.m., New York City time, on the third business day following the date of initial public offering, unless otherwise permitted by the Commission pursuant to Rule 15c6-1 of the Exchange Act (the "Closing Date"), at such place as the Representatives shall designate.

Certificates for the Securities shall be registered in such names and issued in such denominations as the Representatives shall request in writing not later than two full business days prior to the Closing Date. Such certificates shall be made available to the Representatives for inspection not later than 9:30 a.m., New York City time, on the business day next preceding the Closing Date. Certificates in definitive form evidencing the Securities shall be delivered to the Representatives on the Closing Date for the respective accounts of the several Underwriters, against payment of the Purchase Prices therefor by wire payable in Federal (same-day) funds to the order of the Company.

5. Agreements of the Company. The Company agrees with the Underwriters:

(a) To file the Prospectus with the Commission pursuant to Rule 424(b)(5) not later than the second business day following the execution and delivery of this Agreement.

(b) During the period beginning at the Time of Sale (as defined below) and ending on the later of the Closing Date or such date as in the opinion of counsel for the Underwriters, the Prospectus is no longer required by law to be delivered in connection with sales by an Underwriter or dealer, including in circumstances where such requirement may be satisfied pursuant to Rule 172 (the "Prospectus Delivery Period"), prior to amending or supplementing the Registration Statement, any Disclosure Package (as defined below) or the Prospectus (including any amendment or supplement through incorporation by reference of any report filed under the Exchange Act), the Company shall furnish to the Representatives for review a copy of each such proposed amendment or supplement.

(c) If, during the Prospectus Delivery Period, any event or development shall occur or condition exist as a result of which any Disclosure Package or the Prospectus as then amended and supplemented would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, or if in the judgment of the Company it shall be necessary to amend or supplement any Disclosure Package or the Prospectus, or to file under the Exchange Act any document incorporated by reference in any Disclosure Package or the Prospectus, in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, or

if it is otherwise necessary to amend or supplement the Registration Statement, any Disclosure Package or the Prospectus, or to file under the Exchange Act any document incorporated by reference in any Disclosure Package or the Prospectus, or to file a new registration statement containing the Prospectus, in order to comply with law, including in connection with the delivery of the Prospectus, the Company agrees to (i) notify the Representatives of any such event or condition and (ii) promptly prepare (subject to paragraph (b) above), file with the Commission (and use its best efforts to have any amendment to the Registration Statement or any new registration statement be declared effective) and furnish at its own expense to the Underwriters and to dealers, amendments or supplements to the Registration Statement, any Disclosure Package or the Prospectus, or any new registration statement, necessary in order to make the statements in each Disclosure Package or the Prospectus as so amended or supplemented, in the light of the circumstances then prevailing or under which they were made, not misleading or so that the Registration Statement, each Disclosure Package or the Prospectus, as amended or supplemented, will comply with law.

(d) The Company will prepare a final term sheet for each series of the Securities containing only a description of the applicable Securities, in each case in a form approved by the Representatives, and will file such term sheets pursuant to Rule 433(d) under the Securities Act within the time required by such rule (each such term sheet, a "Final Term Sheet"). Any such Final Term Sheet is an Issuer Free Writing Prospectus for purposes of this Agreement.

(e) The Company represents that (other than the Final Term Sheets) it has not made, and agrees that, unless it obtains the prior written consent of the Representatives, it will not make, any offer relating to any series of the Securities that would constitute an issuer free writing prospectus as defined in Rule 433 of the Securities Act (each, an "Issuer Free Writing Prospectus") or that would otherwise constitute a "free writing prospectus" as defined in Rule 405 of the Securities Act) required to be filed by the Company with the Commission or retained by the Company under Rule 433 of the Securities Act; provided that the prior written consent of the Representatives shall be deemed to have been given in respect of the Free Writing Prospectuses included in Schedule II hereto. Any such free writing prospectus consented to by the Representatives is hereinafter referred to as a "Permitted Free Writing Prospectus." The Company agrees that (i) it has treated and will treat, as the case may be, each Permitted Free Writing Prospectus as an Issuer Free Writing Prospectus, and (ii) has complied or will comply, as the case may be, with the requirements of Rules 164 and 433 of the Securities Act applicable to any Permitted Free Writing Prospectus, including in respect of timely filing with the Commission, legending and record keeping. The Company consents to the use by any Underwriter of (i) a free writing prospectus that contains no "issuer information" (as defined in Rule 433(h)(2) under the Securities Act) that was not included (including through incorporation by reference) in the Prospectus or a previously filed Issuer Free Writing Prospectus, (ii) any Issuer Free Writing Prospectus listed on Schedule II hereto, or (iii) (x) information describing the preliminary terms of any series of the Securities or their offering or (y) information that describes the final terms of any series of the Securities or their offering and that is included in a Final Term Sheet.

(f) To advise the Representatives promptly and, if requested by a Representative, to confirm such advice in writing, (i) of any request by the Commission for amendments to the Registration Statement or amendments or supplements to the Prospectus or any Disclosure Package or for additional information, (ii) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or of the suspension of qualification of any series of the Securities for offering or sale in any jurisdiction, or the initiation of any proceeding for such purposes, and (iii) of the happening of any event during the Prospectus Delivery Period which makes any statement of a material fact made in the Registration Statement or the Prospectus untrue or which requires the making of any additions to or changes in the Registration Statement or the Prospectus in order to make the statements therein not misleading. To prepare and file with the Commission, promptly upon the Representatives reasonable request, any amendment or supplement to the Registration Statement, the Base Prospectus, the Prospectus or any Disclosure Package which may be necessary or advisable in connection with the distribution of any series of the Securities by the Underwriters, and to use its best efforts to cause any such post-effective amendment to the Registration Statement to become promptly effective. If at any time the Commission shall issue any stop order suspending the effectiveness of the Registration Statement, the Company will make every reasonable effort to obtain the withdrawal or lifting of such order at the earliest possible time.

(g) To furnish to each Underwriter, without charge, signed copies of the Registration Statement as first filed with the Commission and of each amendment to it, including all exhibits, and to furnish to each Underwriter such number of conformed copies of the Registration Statement as so filed and of each amendment to it, without exhibits, as such Underwriter may reasonably request.

(h) During the Prospectus Delivery Period, to furnish to each Underwriter and dealer as many copies of the Base Prospectus and the Prospectus (each as amended or supplemented) as such Underwriter or dealer may reasonably request.

(i) Prior to any public offering of any series of the Securities, to cooperate with the Representatives and counsel for the Underwriters in connection with the registration or qualification of each series of the Securities for offer and sale by the several Underwriters and by dealers under the state securities or Blue Sky laws of such jurisdictions as the Representatives may request, to continue such qualification in effect so long as required for distribution of each series of the Securities and to file such consents to service of process or other documents as may be necessary in order to effect such registration or qualification, provided that in no event shall the Company be obligated to qualify to do business in any jurisdiction where it is not so qualified or take any action that would subject it to service of process in suits other than those arising out of the offering or sale of each series of the Securities in any jurisdiction where it is not now so subject.

(j) To make generally available to its security holders as soon as reasonably practicable an earnings statement covering a period of at least twelve months after the effective date of the Registration Statement which shall satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 under the Securities Act.

(k) If at any time during the five year period after the date of this Agreement, the Company ceases to file reports with the Commission pursuant to Section 13 or 15(d) of the Exchange Act, (i) to mail as soon as reasonably practicable after the end of each fiscal year to the record holders of any series of its Securities a financial report of the Company and its subsidiaries on a consolidated basis (and a similar financial report of all unconsolidated subsidiaries, if any), all such financial reports to include a consolidated balance sheet, a consolidated statement of operations, a consolidated statement of cash flows and a consolidated statement of changes in stockholders' equity as of the end of and for such fiscal year, together with comparable information as of the end of and for the preceding year, certified by independent certified public accountants, and (ii) to mail and make generally available as soon as reasonably practicable after the end of each quarterly period (except for the last quarterly period of each fiscal year) to such holders, a consolidated balance sheet, a consolidated statement of operations and a consolidated statement of cash flows (and similar financial reports of all unconsolidated subsidiaries, if any) as of the end of and for such period, and for the period from the beginning of such year to the close of such quarterly period, together with comparable information for the corresponding periods of the preceding year.

(l) To pay all costs, expenses, fees and taxes incident to (i) the preparation, printing, filing and distribution under the Securities Act of the Base Prospectus, each preliminary prospectus and all amendments and supplements to any of them prior to or during the Prospectus Delivery Period, any Issuer Free Writing Prospectus and each Disclosure Package, (ii) the printing and delivery of the Prospectus and all amendments or supplements to it during the Prospectus Delivery Period, (iii) the registration or qualification of each series of the Securities for offer and sale under the securities or Blue Sky laws of the several states (including in each case the fees and disbursements of counsel for the Underwriters relating to such registration or qualification and memoranda relating thereto), (iv) filings and clearance with the Financial Industry Regulatory Authority, Inc. in connection with the offering, (v) furnishing such copies of the Registration Statement, the Prospectus and all amendments and supplements thereto as may be requested for use in connection with the offering or sale of the Securities by the Underwriters or by dealers to whom Securities may be sold, (vi) the rating agencies in connection with the ratings of the Securities and (vii) the preparation, issuance, execution, authentication and delivery of the Securities, including any expenses of the Trustee.

(m) During the period beginning on the date hereof and continuing to and including the Closing Date, not to offer, sell, contract to sell or otherwise dispose of any debt securities of the Company or warrants to purchase debt securities of the Company substantially similar to any series of the Securities; provided, however, the Company may, at any time, offer or sell or announce the offering of commercial paper issued in the ordinary course of business.

(n) To apply the net proceeds from the sale of the Securities in the manner described under the caption “Use of Proceeds” in the Prospectus.

(o) To use its best efforts to do and perform all things required or necessary to be done and performed under this Agreement by the Company prior to the Closing Date and to satisfy all conditions precedent to the delivery of the Securities.

(p) Not to take, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of any price of the Securities.

6. Representations and Warranties of the Company. The Company represents and warrants to each Underwriter that:

(a) The Company meets the requirements for use of Form S-3 under the Securities Act. The Registration Statement has become effective; no stop order suspending the effectiveness of the Registration Statement is in effect, and, to the best of the Company’s knowledge, no proceedings for such purpose are pending before or threatened by the Commission. No order preventing the use of any preliminary prospectus or any Issuer Free Writing Prospectus has been issued by the Commission.

(b) (i) At the time of filing the Registration Statement, (ii) at the time of the most recent amendment thereto for the purposes of complying with Section 10(a)(3) of the Securities Act (whether such amendment was by post-effective amendment, incorporated report filed pursuant to Section 13 or 15(d) of the Exchange Act or form of prospectus), and (iii) at the time the Company or any person acting on its behalf (within the meaning, for this clause only, of Rule 163(c)) made any offer relating to any series of the Securities in reliance on the exemption of Rule 163, the Company was a “well-known seasoned issuer” as defined in Rule 405, including not having been an “ineligible issuer” as defined in Rule 405.

(c) The Registration Statement is an “automatic shelf registration statement” as defined in Rule 405, that initially became effective within three years of the date hereof.

(d) The Company has not received from the Commission any notice pursuant to Rule 401(g) objecting to the use of the automatic shelf registration statement form. If at any time during the Prospectus Delivery Period the Company receives from the Commission a notice pursuant to Rule 401(g)(2) or otherwise ceases to be eligible to use the automatic shelf registration statement form, the Company will (i) promptly notify the Representatives, (ii) promptly file a new registration statement or post-effective amendment on the proper form relating to the Securities, in a form satisfactory to the Representatives, (iii) use its best efforts to cause such registration statement or post-effective amendment to be declared effective as soon as practicable, and (iv) promptly notify the Representatives of such effectiveness. The Company will take all other action necessary or appropriate to permit the public offering and sale of the Securities to continue as contemplated in the registration statement that was the subject of the Rule

401(g)(2) notice or for which the Company has otherwise become ineligible. References herein to the Registration Statement shall include such new registration statement or post-effective amendment, as the case may be.

(e) The Company agrees to pay the required Commission filing fees relating to the Securities within the time required by Rule 456(b)(1) without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r).

(f) (i) At the respective times the Registration Statement and any post-effective amendment thereto became or becomes effective prior to the Closing Date, neither the Registration Statement nor such amendment included or will include an untrue statement of a material fact or omitted or will omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, (ii) the Registration Statement and the Prospectus comply and, as amended or supplemented, if applicable, as of the date such amendment becomes effective or such supplement is filed with the Commission, as the case may be, will comply in all material respects with the Securities Act and the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act"), (iii) the Prospectus does not contain and, as amended or supplemented, if applicable, as of the date such amendment becomes effective or such supplement is filed with the Commission, as the case may be, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except that the representations and warranties set forth in this paragraph (f) do not apply to statements or omissions in the Registration Statement or the Prospectus based upon information relating to any Underwriter furnished to the Company in writing by such Underwriter expressly for use therein, it being understood and agreed that the only such information furnished by or on behalf of any Underwriter consists of the information described as such in Section 8 hereof and (iv) the documents incorporated by reference in the Prospectus pursuant to Item 12 of Form S-3 under the Securities Act, at the time they were or hereafter are filed with the Commission prior to the Closing Date, complied and will comply in all material respects with the requirements of the Exchange Act, and, when read together and with the other information in the Prospectus, as of the date of the Prospectus and at all times subsequent thereto up to the Closing Date, did not and will not contain an untrue statement of material fact or did not and will not omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(g) The term "Disclosure Package" as to a series of the Securities shall mean (i) the Base Prospectus, including the preliminary prospectus supplement dated July 14, 2011, as amended or supplemented at the Time of Sale (as defined below), and (ii) the applicable Issuer Free Writing Prospectuses, if any, identified on Schedule II hereto. As of the Time of Sale, each Disclosure Package did not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The preceding sentence does not apply to statements in or omissions from any Disclosure Package based upon and in conformity with written information furnished to the Company by any Underwriter through the Representatives specifically for use therein, it

being understood and agreed that the only such information furnished by or on behalf of any Underwriter consists of the information described as such in Section 8 hereof. As used in this paragraph and elsewhere in this Agreement "Time of Sale" shall mean 5:31 p.m. on July 14, 2011.

(h) Each Issuer Free Writing Prospectus does not include any information that conflicts with the information contained in the Registration Statement, including any document incorporated by reference therein that has not been superseded or modified. The foregoing sentence does not apply to statements in or omissions from any Issuer Free Writing Prospectus based upon and in conformity with written information furnished to the Company by any Underwriter through the Representatives specifically for use therein, it being understood and agreed that the only such information furnished by or on behalf of any Underwriter consists of the information described as such in Section 8 hereof.

(i) The Company has not distributed and will not distribute, prior to the later of the Closing Date and the completion of the Underwriters' distribution of the Securities, any offering materials in connection with the offering and sale of any series of the Securities other than a preliminary prospectus, the Prospectus, and any Issuer Free Writing Prospectus reviewed and consented to by the Representatives and included in Schedule II hereto.

(j) The Company and each of its subsidiaries that is a "Significant Subsidiary" within the meaning of such term as defined in Rule 1-02 of Regulation S-X of the Commission (the "Significant Subsidiaries") is validly existing as a corporation (or, in the case of each of Capital One Bank (USA), National Association and Capital One, National Association, as a national banking association organized under the laws of the United States) in good standing under the laws of its jurisdiction of incorporation and has in all material respects the corporate power and authority to operate its business as it is currently being conducted and to own, lease and operate its properties, and each is duly qualified and is in good standing as a foreign corporation authorized to do business in each jurisdiction in which the nature of its business or its ownership or leasing of property requires such qualification, except where the failure to be so qualified would not have a material adverse effect on the Company and its subsidiaries, taken as a whole.

(k) All of the outstanding shares of capital stock of, or other ownership interests in, each of the Company's Significant Subsidiaries have been duly authorized and validly issued and are fully paid and non-assessable, and are owned by the Company, free and clear of any security interest, claim, lien, encumbrance or adverse interest of any nature.

(l) The Securities have been duly authorized and, when executed and authenticated in accordance with the provisions of the Senior Indenture and delivered to the Underwriters against payment therefor as provided by this Agreement, will be entitled to the benefits of the Senior Indenture, and will be valid and binding obligations of the Company, enforceable in accordance with their terms except as limited by (i) bankruptcy, insolvency or similar laws affecting creditors' rights generally and (ii) equitable principles of general applicability.

(m) This Agreement has been duly authorized, executed and delivered by the Company and is a valid and binding agreement of the Company enforceable in accordance with its terms (except as limited by (i) bankruptcy, insolvency or similar laws affecting creditors' rights generally and (ii) equitable principles of general applicability and as rights to indemnity and contribution hereunder may be limited by applicable law).

(n) The Senior Indenture has been duly qualified under the Trust Indenture Act and has been duly authorized, executed and delivered by the Company and is a valid and binding agreement of the Company, enforceable in accordance with its terms except as may be limited by (i) bankruptcy, insolvency or similar laws affecting creditors' rights generally and (ii) equitable principles of general applicability.

(o) The Securities conform as to legal matters in all material respects to the applicable descriptions thereof contained in the Prospectus.

(p) Neither the Company nor any of its Significant Subsidiaries is in violation of its respective charter or by-laws or in default in any material respect in the performance of any obligation, agreement or condition contained in any bond, debenture, note or other evidence of indebtedness material to the Company and its subsidiaries, taken as a whole, or in any other agreement, indenture or instrument material to the conduct of the business of the Company and its subsidiaries, taken as a whole, to which the Company or any of its Significant Subsidiaries is a party or by which it or any of its Significant Subsidiaries or their respective property is bound.

(q) The execution, delivery and performance of this Agreement, the Senior Indenture and the Securities and compliance by the Company with all the provisions hereof and thereof and the consummation by the Company of the transactions contemplated hereby and thereby will not require any consent, approval, authorization or other order of any court, regulatory body, administrative agency or other governmental body (except as such may be required under the securities or Blue Sky laws of the various states) and will not conflict with or constitute a breach of any of the terms or provisions of, or a default under, the charter or by-laws of the Company or any of its Significant Subsidiaries or any material indenture, agreement, or other instrument to which it or any of its Significant Subsidiaries is a party or by which it or any of its Significant Subsidiaries or their respective property is bound, or violate or conflict with any laws, administrative regulations or rulings or court decrees applicable to the Company, any of its Significant Subsidiaries or their respective property.

(r) Except as otherwise set forth in each Disclosure Package, there are no material legal or governmental proceedings pending to which the Company or any of its subsidiaries is a party or of which any of their respective property is the subject, and, to the best of the Company's knowledge, no such proceedings are threatened or contemplated. No contract or document of a character required to be described in the Registration Statement or the Prospectus or to be filed as an exhibit to the Registration Statement is not so described or filed as required.

(s) The Company and each of its Significant Subsidiaries are in compliance in all material respects with all laws administered by and regulations of the U.S. Department of Treasury, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and any other federal or state bank regulatory authority with jurisdiction over the Company or any of its subsidiaries (the "Bank Regulatory Authorities"), other than where such failures to comply would not have a material adverse effect on the Company and its subsidiaries, taken as a whole. Except in each case as set forth in each Disclosure Package and the Prospectus, neither the Company nor any of its Significant Subsidiaries is a party to any written agreement or memorandum of understanding with, or a party to any commitment letter or similar undertaking to, or is subject to any order or directive by, or is a recipient of any extraordinary supervisory letter from, or has adopted any board resolutions at the request of, any Bank Regulatory Authority which restricts materially the conduct of its business, or requires any material change in its policies or practices relating to capital, credit or management, nor have any of them been advised by any Bank Regulatory Authority that it is contemplating issuing or requesting (or is considering the appropriateness of issuing or requesting) any such order, decree, agreement, memorandum of understanding, extraordinary supervisory letter, commitment letter or similar submission, or any such board resolutions.

(t) The Company and each of its subsidiaries has such permits, licenses, franchises and authorizations of governmental or regulatory authorities ("permits"), as are necessary to own, lease and operate its respective properties that are material to the Company and its subsidiaries, taken as a whole, or to the conduct of the business of the Company and its subsidiaries, taken as a whole; the Company and each of its subsidiaries has fulfilled and performed all of its material obligations with respect to such permits and no event has occurred which allows, or after notice or lapse of time would allow, revocation or termination thereof or results in any other material impairment of the rights of the holder of any such permit; and, except as described in each Disclosure Package and the Prospectus, such permits contain no restrictions that are materially burdensome to the Company and its subsidiaries, taken as a whole.

(u) Ernst & Young LLP are independent public accountants with respect to the Company as required by the Securities Act.

(v) To the knowledge of the Company, Ernst & Young LLP, who have reviewed certain financial statements of ING Bank, fsb, a federal stock savings bank ("ING Direct") and its subsidiaries, are independent public accountants with respect to ING Direct and its subsidiaries within the applicable rules and regulations adopted by the Commission and the Public Company Accounting Oversight Board (United States).

(w) The consolidated financial statements, together with related schedules and notes forming part of the Registration Statement, each Disclosure Package and the Prospectus (and any amendment or supplement thereto), present fairly in all material respects the consolidated financial position, results of operations and cash flows of the Company and its consolidated subsidiaries on the basis stated in the Registration Statement at the respective dates or for the respective periods to which they apply; such

statements and related schedules and notes have been prepared in accordance with generally accepted accounting principles consistently applied throughout the periods involved, except as disclosed therein; and the other financial and statistical information and data set forth in the Registration Statement, each Disclosure Package and the Prospectus (and any amendment or supplement thereto) is, in all material respects, accurately presented and prepared on a basis consistent with such consolidated financial statements and the books and records of the Company.

(x) The preliminary unaudited pro forma condensed combined financial information of the Company and ING Direct and the related notes thereto included or incorporated by reference in the Registration Statement, each Disclosure Package and the Prospectus (and any amendment or supplement thereto) have been prepared in accordance with the Commission's rules and guidelines with respect to pro forma financial statements and have been properly presented on the bases described therein, and the assumptions used in the preparation thereof are reasonable, the adjustments used therein are appropriate to give effect to the transactions referred to therein and the pro forma information reflects the proper application of those adjustments to the historical financial statement amounts in the pro forma financial statements.

(y) To the knowledge of the Company, the consolidated financial statements of ING Direct, together with related schedules and notes of ING Direct, included or incorporated by reference in the Registration Statement, each Disclosure Package and the Prospectus (and any amendment or supplement thereto), present fairly in all material respects the consolidated financial position, results of operations and cash flows of ING Direct and its consolidated subsidiaries on the basis stated in such documents as of their respective dates or for the respective periods to which they apply; to the knowledge of the Company, such statements and related schedules and notes have been prepared in accordance with generally accepted accounting principles consistently applied throughout the periods involved, except as disclosed therein; and to the knowledge of the Company, the other financial and statistical information and data of ING Direct set forth in the Registration Statement, each Disclosure Package and the Prospectus (and any amendment or supplement thereto) is, in all material respects, accurately presented and prepared on a basis consistent with such consolidated financial statements and the books and records of ING Direct.

(z) That certain Purchase and Sale Agreement by and among ING Groep N.V., ING Bank N.V., ING Direct N.V., ING Direct Bancorp and the Company dated as of June 16, 2011 (the "Purchase and Sale Agreement") has been duly authorized, executed and delivered by the Company and is a valid and binding agreement of the Company enforceable in accordance with its terms; the Company is not in default under, nor has the Company materially breached or violated, the Purchase and Sale Agreement in any manner; to the knowledge of the Company, no other party to the Purchase and Sale Agreement is in default thereunder and no other party to such agreement has materially breached or violated such agreement in any manner.

(aa) The Company is not, and will not be after application of the net proceeds from the sale of the Securities required to register under the provisions of the Investment

Company Act of 1940, as amended (the "Investment Company Act"), and is not required to take any other action with respect to or under the Investment Company Act for the offer and sale of the Securities as contemplated hereunder.

(bb) The Company maintains (i) effective internal control over financial reporting as defined under Rule 13a-15(f) of the Exchange Act, and (ii) a system of internal accounting controls sufficient to provide reasonable assurance that (A) transactions are executed in accordance with management's general or specific authorizations; (B) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain asset accountability; (C) access to assets is permitted only in accordance with management's general or specific authorization; and (D) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(cc) Except as disclosed in the Prospectus and each Disclosure Package, or in any document incorporated by reference therein, since the end of the Company's most recent audited fiscal year, there has been (i) no material weakness in the Company's internal control over financial reporting (whether or not remediated) and (ii) no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

(dd) Neither the Company nor any of its subsidiaries, nor, to the knowledge of the Company, any director, officer, agent, employee or affiliate of the Company or any of its subsidiaries is aware of or has taken any action, directly or indirectly, including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" (including any officer or employee of a government or government-owned or controlled entity or of a public international organization, or any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or party official or candidate for political office) to influence official action or secure an improper advantage; and the Company, its subsidiaries and, to the knowledge of the Company, its affiliates have conducted their businesses in compliance in all material respects with applicable anti-corruption laws and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(ee) Neither the Company nor any of its subsidiaries, nor, to the knowledge of the Company, any director, officer, agent, employee or affiliate of the Company or any of its subsidiaries is currently the subject of any sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC"); and the Company will not directly or indirectly use the proceeds of the offering of the Securities hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of or with any person or entity or in any country or territory that, at the time of such financing, is the subject of any sanctions administered by OFAC.

(ff) The operations of the Company and its subsidiaries are in material compliance with applicable financial recordkeeping and reporting requirements, including those of the Currency and Foreign Transactions Reporting Act of 1970, as amended, Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), the applicable anti-money laundering statutes of all jurisdictions in which the Company and its subsidiaries conduct business, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency having jurisdiction over the Company and its subsidiaries (collectively, the "Money Laundering Laws") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the best knowledge of the Company, threatened, which could reasonably be expected to have a material adverse effect on the Company and its subsidiaries, taken as a whole.

(gg) The Company has not taken, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of any price of the Securities.

7. Representations and Warranties of the Underwriters. Each Underwriter hereby severally represents and agrees that (other than the Final Term Sheets) such Underwriter has not included and shall not include any "issuer information" (as defined in Rule 433 under the Securities Act) in any "free writing prospectus" (as defined in Rule 405 under the Securities Act) used or referred to by such Underwriter without the prior consent of the Company; provided that (i) no such consent shall be required with respect to any such issuer information contained in any document filed by the Company with the Commission prior to the use of such free writing prospectus and (ii) "issuer information," as used in this Section 7, shall not be deemed to include information prepared by or on behalf of such Underwriter on the basis of or derived from issuer information.

8. Indemnification. (a) The Company agrees to indemnify and hold harmless each Underwriter, each person, if any, who controls any Underwriter within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, each agent of any Underwriter and each affiliate of any Underwriter within the meaning of Rule 405 under the Securities Act, from and against any and all losses, claims, damages, liabilities and judgments arising out of or based upon any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, the Prospectus, any Disclosure Package or any Issuer Free Writing Prospectus (each as amended or supplemented if the Company shall have furnished any amendments or supplements thereto) or any preliminary prospectus, or arising out of or based upon any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such losses, claims, damages, liabilities or judgments are caused by any such untrue statement or

omission or alleged untrue statement or omission based upon information relating to any Underwriter furnished in writing to the Company by or on behalf of such Underwriter through the Representatives expressly for use therein, it being understood and agreed that the only such information furnished by or on behalf of any Underwriter consists of the information described as such in this Section 8.

(b) In case any action shall be brought against any indemnified party based upon any preliminary prospectus, the Registration Statement, the Prospectus or any Disclosure Package or any amendment or supplement thereto and with respect to which indemnity may be sought against the Company, such indemnified party shall promptly notify the Company in writing and the Company shall assume the defense thereof, including the employment of counsel reasonably satisfactory to such indemnified party and payment of all fees and expenses. Any indemnified party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such indemnified party unless (i) the employment of such counsel shall have been specifically authorized in writing by the Company, (ii) the Company shall have failed to assume the defense and employ counsel or (iii) the named parties to any such action (including any impleaded parties) include both such indemnified party and the Company and such indemnified party shall have been advised by such counsel that there may be one or more legal defenses available to it which are different from or additional to those available to the Company (in which case the Company shall not have the right to assume the defense of such action on behalf of such indemnified party, it being understood, however, that the Company shall not, in connection with any one such action or separate but substantially similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys (in addition to any local counsel) for all such indemnified parties, which firm shall be designated in writing by the Representatives, and that all such reasonable fees and expenses shall be reimbursed as they are incurred). The Company shall not be liable for any settlement of any such action effected without its written consent but if settled with the written consent of the Company, the Company agrees to indemnify and hold harmless any indemnified party from and against any loss or liability by reason of such settlement. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened proceeding in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party, unless such settlement includes (i) an unconditional release of such indemnified party from all liability on claims that are the subject matter of such proceeding and (ii) does not include any statement as to, or an admission of, fault, culpability or failure to act by or on behalf of any indemnified party.

(c) Each Underwriter agrees, severally and not jointly, to indemnify and hold harmless the Company, each of its directors and each of its officers who signs the Registration Statement and each person controlling the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, to the same extent as the foregoing indemnity from the Company to each Underwriter but only to the extent of losses, claims, damages, liabilities and judgments arising out of or based upon

information relating to such Underwriter furnished in writing by or on behalf of such Underwriter expressly for use in the Registration Statement, the Base Prospectus, any Disclosure Package or the Prospectus. The Representatives confirm that the Underwriters' names on the cover page of the preliminary prospectus supplement and the Prospectus and the Underwriters' names in the table in the first paragraph and the statements set forth in the third, sixth and seventh paragraphs under the heading "Underwriting" in the preliminary prospectus supplement and the Prospectus were furnished in writing to the Company by or on behalf of the Underwriters expressly for use therein. In case any action shall be brought against the Company, any of its directors, any such officer or any person controlling the Company based on the Registration Statement, the Base Prospectus, any preliminary prospectus or the Prospectus and in respect of which indemnity may be sought against any Underwriter, the Underwriter shall have the rights and duties given to the Company (except that if the Company shall have assumed the defense thereof, such Underwriter shall not be required to do so, but may employ separate counsel therein and participate in the defense thereof but the fees and expenses of such counsel shall be at the expense of such Underwriter), and the Company, its directors, any such officers and any person controlling the Company shall have the rights and duties given to the Underwriter, by Section 8(b) hereof.

(d) If the indemnification provided for in paragraphs (a), (b) and (c) of this Section 8 is unavailable to an indemnified party in respect of any losses, claims, damages, liabilities or judgments referred to therein, then each indemnifying party, in lieu of indemnifying such indemnified party, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages, liabilities and judgments (i) in such proportion as is appropriate to reflect the relative benefits received by the indemnifying party on the one hand and the indemnified party on the other hand from the offering of the Securities or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the indemnifying party on the one hand and the indemnified party on the other hand in connection with the statements or omissions which resulted in such losses, claims, damages, liabilities or judgments, as well as any other relevant equitable considerations. The relative benefits received by the Company and the Underwriters shall be deemed to be in the same respective proportion as the total net proceeds from the offering (before deducting expenses) received by the Company, and the total underwriting discounts and commissions received by the Underwriters, bear to the total prices to the public of the Securities, in each case as set forth in the table on the cover page of the Prospectus. The relative fault of the Company and the Underwriters shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the Company or the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 8(d) were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable

considerations referred to in the immediately preceding paragraph. The amount paid or payable by an indemnified party as a result of the losses, claims, damages, liabilities or judgments referred to in the immediately preceding paragraph shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 8, no Underwriter shall be required to contribute any amount in excess of the amount by which the total prices at which the Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' respective obligations to contribute pursuant to this Section 8(d) are several in proportion to the respective amount of Securities purchased by each of the Underwriters hereunder and not joint.

9. Conditions of Underwriters' Obligations. The several obligations of the Underwriters to purchase the Securities under this Agreement are subject to the satisfaction of each of the following conditions:

(a) All the representations and warranties of the Company contained in this Agreement shall be true and correct on the Closing Date with the same force and effect as if made on and as of the Closing Date.

(b) The Prospectus shall have been filed with the Commission in the manner and within the time period required by Rule 424(b) under the Securities Act, and at the Closing Date no stop order suspending the effectiveness of the Registration Statement shall have been issued and no proceedings for that purpose shall have been commenced or shall be pending before or, to the best knowledge of the Company, contemplated by the Commission.

(c) The Final Term Sheets, and any other material required to be filed by the Company pursuant to Rule 433(d) under the Securities Act, shall have been filed with the Commission within the applicable time periods prescribed for such filings under Rule 433.

(d) Subsequent to the execution and delivery of this Agreement and prior to the Closing Date, there shall not have been any downgrading, nor shall any notice have been given of any intended or potential downgrading or of any review for a possible change that does not indicate the direction of the possible change, in the rating accorded any of the Company's securities by any "nationally recognized statistical rating organization", as such term is defined for purposes of Rule 436(g)(2) under the Securities Act.

(e) (i) Since the date of the latest balance sheet included in the Registration Statement and the Prospectus, there shall not have been any material adverse change, or

any development involving a prospective material adverse change, in the condition, financial or otherwise, or in the earnings, affairs or business prospects, whether or not arising in the ordinary course of business, of the Company and its subsidiaries taken as a whole, except as set forth or contemplated in the Prospectus, (ii) since the date of the latest balance sheet included in the Registration Statement and the Prospectus there shall not have been any material adverse change, or any development involving a prospective material adverse change, in the capital stock or in the long-term debt of the Company from that set forth or contemplated in the Registration Statement and Prospectus, (iii) the Company and its subsidiaries shall have no liability or obligation, direct or contingent, which is material to the Company and its subsidiaries, taken as a whole, other than those reflected in the Registration Statement and the Prospectus and (iv) on the Closing Date the Underwriters shall have received a certificate dated the Closing Date, signed by the Chief Financial Officer and the Treasurer of the Company, confirming the matters set forth in paragraphs (a), (b), (c), (d) and (e) (i) – (iii) of this Section 9.

(f) (i) Since the date of the latest balance sheet included in the Registration Statement and the Prospectus, there shall not have been any material adverse change, or any development involving a prospective material adverse change, in the condition, financial or otherwise, or in the earnings, affairs or business prospects, whether or not arising in the ordinary course of business, of ING Direct and its subsidiaries taken as a whole, except as set forth or contemplated in the Prospectus, (ii) since the date of the latest balance sheet included in the Registration Statement and the Prospectus there shall not have been any material adverse change, or any development involving a prospective material adverse change, in the capital stock or in the long-term debt of ING Direct from that set forth or contemplated in the Registration Statement and Prospectus and (iii) ING Direct and its subsidiaries shall have no liability or obligation, direct or contingent, which is material to ING Direct and its subsidiaries, taken as a whole, other than those reflected in the Registration Statement and the Prospectus.

(g) The Underwriters shall have received on the Closing Date an opinion (reasonably satisfactory to the Representatives and counsel for the Underwriters), dated the Closing Date, of a Chief Counsel, Deputy General Counsel or General Counsel of the Company or such other person as the Representatives and the Company may agree. The opinion of such counsel shall be rendered to the Underwriters at the request of the Company and shall so state therein.

(h) The Underwriters shall have received on the Closing Date an opinion (reasonably satisfactory to the Representatives and counsel for the Underwriters), dated the Closing Date, of Gibson, Dunn & Crutcher LLP, special counsel to the Company.

(i) The Underwriters shall have received on the Closing Date an opinion, dated the Closing Date, of Morrison & Foerster LLP, counsel for the Underwriters, covering such matters as the Representative may request.

(j) The Underwriters shall have received letters on and as of the date hereof and on and as of the Closing Date, in form and substance satisfactory to the Representatives, from Ernst & Young LLP, independent public accountants, with respect to the financial statements and certain financial information of the Company contained in the Registration Statement, any preliminary prospectus and the Prospectus.

(k) The Underwriters shall have received letters on and as of the date hereof and on and as of the Closing Date, in form and substance satisfactory to the Representatives, from Ernst & Young LLP, independent public accountants, with respect to the financial statements and certain financial information of ING Direct contained in the Registration Statement, any preliminary prospectus and the Prospectus.

(l) The Company shall not have failed at or prior to the Closing Date to perform or comply with any of the agreements herein contained and required to be performed or complied with by the Company at or prior to the Closing Date.

10. Effective Date of Agreement and Termination. This Agreement shall become effective upon the execution of this Agreement.

This Agreement may be terminated at any time prior to the Closing Date by the Representatives by written notice to the Company if any of the following has occurred: (i) since the respective dates as of which information is given in the Registration Statement and the Prospectus and since the Time of Sale, any material adverse change or development involving a prospective material adverse change (including, without limitation, the enactment, publication, decree or other promulgation of any federal or state statute, regulation, rule or order of any court or other governmental authority) in the condition, financial or otherwise, of the Company and its subsidiaries taken as a whole or the earnings, affairs, or business prospects of the Company and its subsidiaries taken as a whole, whether or not arising in the ordinary course of business, which would, in the judgment of the Representatives, make it impracticable to market the Securities on the terms and in the manner contemplated in the Prospectus, (ii) any outbreak or escalation of hostilities or other national or international calamity or crisis (including, without limitation, an act of terrorism) or change in economic conditions or in the financial markets of the United States or elsewhere that, in the judgment of the Representatives, is material and adverse and would, in the judgment of the Representatives, make it impracticable to market the Securities on the terms and in the manner contemplated in the Prospectus, (iii) the suspension or material limitation of trading in securities on the New York Stock Exchange, the American Stock Exchange or The NASDAQ Stock Market, limitation on prices on any such exchange, (iv) a material disruption in securities settlement that makes it impracticable to deliver the Securities in the manner contemplated by the Prospectus, or (v) the taking of any action by any federal, state or local government or agency in respect of its monetary or fiscal affairs which in the opinion of the Representatives has a material adverse effect on the financial markets in the United States.

If on the Closing Date any one or more of the Underwriters shall fail or refuse to purchase and pay for any of the Securities which it or they have agreed to purchase hereunder on such date and the aggregate principal amount of the series of Securities which such defaulting Underwriter or Underwriters, as the case may be, agreed but failed or refused to purchase is not more than one-tenth of the total principal amount of

Securities of that series to be purchased on such date by all Underwriters, each non-defaulting Underwriter shall be obligated severally, in the proportion which the principal amount of Securities of that series set forth opposite its name in Schedule I bears to the total principal amount of Securities of that series which all the non-defaulting Underwriters, as the case may be, have agreed to purchase, or in such other proportion as the Representatives may specify, to purchase the Securities which such defaulting Underwriter or Underwriters, as the case may be, agreed but failed or refused to purchase on such date; *provided* that in no event shall the principal amount of Securities of any series which any Underwriter has agreed to purchase pursuant to Section 2 hereof be increased pursuant to this Section 10 by an amount in excess of one-ninth of such principal amount of Securities of that series without the written consent of such Underwriter. If on the Closing Date any Underwriter or Underwriters shall fail or refuse to purchase Securities of any series and the aggregate principal amount of Securities of that series with respect to which such default occurs is more than one-tenth of the aggregate principal amount of Securities of that series to be purchased on such date by all Underwriters and arrangements satisfactory to the Representatives and the Company for purchase of such Securities are not made within 48 hours after such default, this Agreement will terminate without liability on the part of any non-defaulting Underwriter and the Company. In any such case which does not result in termination of this Agreement, either the Representatives or the Company shall have the right to postpone the Closing Date, but in no event for longer than seven days, in order that the required changes, if any, in the Registration Statement and the Prospectus or any other documents or arrangements may be effected. Any action taken under this paragraph shall not relieve any defaulting Underwriter from liability in respect of any default of any such Underwriter under this Agreement.

11. No Agency or Fiduciary Duty. The Company acknowledges and agrees that: (i) the purchase and sale of the Securities pursuant to this Agreement, including the determination of the public offering prices of the Securities and any related discounts and commissions, is an arm's length commercial transaction between the Company, on the one hand, and the several Underwriters, on the other hand, and the Company is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated by this Agreement; (ii) in connection with each transaction contemplated hereby, each Underwriter is and has been acting solely as a principal and is not the agent or fiduciary of the Company or its affiliates, stockholders, creditors or employees or any other party; (iii) no Underwriter has assumed an advisory, agency or fiduciary responsibility in favor of the Company with respect to any of the transactions contemplated hereby (irrespective of whether such Underwriter has advised or is currently advising the Company on other matters) and no Underwriter has any obligation to the Company with respect to the offering contemplated hereby except the obligations expressly set forth in this Agreement; (iv) the several Underwriters and their respective affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company and the several Underwriters have no obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (v) the Underwriters have not provided any legal accounting, regulatory or tax advice with respect to the offering contemplated hereby and the Company has consulted its own legal, accounting, regulatory and tax advisors to the extent it deemed appropriate.

This Agreement supersedes all prior agreements and understandings (whether written or oral) between the Company and the several Underwriters, or any of them, with respect to the subject matter hereof. The Company hereby waives and releases, to the fullest extent permitted by law, any claims that the Company may have against the several Underwriters with respect to any breach or alleged breach of agency or fiduciary duty.

12. USA Patriot Act. In accordance with the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), the Underwriters are required to obtain, verify and record information that identifies their respective clients, including the Company, which information may include the name and address of their respective clients, as well as other information that will allow the Underwriters to properly identify their respective clients.

13. Miscellaneous. Notices given pursuant to any provision of this Agreement shall be addressed as follows: (a) if to the Company, to Capital One Financial Corporation, 1680 Capital One Drive, McLean, Virginia 22102, Attention: Senior Director of Capital Markets, and (b) if to any Underwriter, to the Representatives c/o Barclays Capital Inc., 745 Seventh Avenue, New York, New York 10019, Attention: Syndicate Registration (Fax: 646-834-8133), with a copy, in the case of any notice pursuant to Section 8 hereof, to the Director of Litigation, Office of the General Counsel, Barclays Capital Inc., 745 Seventh Avenue, New York, New York 10019, Morgan Stanley & Co. LLC, 1585 Broadway, New York, New York 10036, Attention: Investment Banking Division, with a copy to the Legal Department and Citigroup Global Markets Inc., 388 Greenwich Street, New York, New York 10013, Facsimile: (212) 816-7912 attention of General Counsel, or in any case to such other address as the person to be notified may have requested in writing.

14. Representations and Indemnities to Survive. The respective indemnities, contribution agreements, representations, warranties and other statements of the Company, its officers and directors and of the several Underwriters set forth in or made pursuant to this Agreement shall remain operative and in full force and effect, and will survive delivery of and payment for the Securities, regardless of (i) any investigation, or statement as to the results thereof, made by or on behalf of any Underwriter or by or on behalf of the Company, the officers or directors of the Company or any controlling person of the Company, (ii) acceptance of the Securities and payment for them hereunder and (iii) termination of this Agreement.

15. Reimbursement of Underwriters' Expenses. If this Agreement shall be terminated by the Underwriters because of any failure or refusal on the part of the Company to comply with the terms or to satisfy any of the conditions of this Agreement, the Company agrees to reimburse the several Underwriters for all out-of-pocket expenses (including the fees and disbursements of counsel) reasonably incurred by them.

16. Successors. Except as otherwise provided, this Agreement has been and is made solely for the benefit of and shall be binding upon the Company, the Underwriters, any director or officer of the Company referred to herein, any controlling persons referred

to herein, any agent referred to herein, any affiliate referred to herein and their respective successors and assigns, all as and to the extent provided in this Agreement, and no other person shall acquire or have any right under or by virtue of this Agreement. The term “successors and assigns” shall not include a purchaser of any of the Securities from any of the several Underwriters merely because of such purchase.

17. Applicable Law. This Agreement shall be governed and construed in accordance with the laws of the State of New York without reference to choice of law principles thereof.

18. Counterparts. This Agreement may be signed in various counterparts which together shall constitute one and the same instrument.

Please confirm that the foregoing correctly sets forth the agreement between the Company and the several Underwriters.

Very truly yours,

CAPITAL ONE FINANCIAL CORPORATION

By: /s/ Stephen Linenhan
Name: Stephen Linehan
Title: Treasurer

Accepted:

BARCLAYS CAPITAL INC.
MORGAN STANLEY & CO. LLC
CITIGROUP GLOBAL MARKETS INC.

Acting on behalf of themselves and the several Underwriters named in Schedule I hereto

By: BARCLAYS CAPITAL INC.

By: /s/ Travis Barnes
Name: Travis Barnes
Title: Managing Director

By: MORGAN STANLEY & CO. LLC

By: /s/ Yurij Slyz
Name: Yurij Slyz
Title: Executive Director

By: CITIGROUP GLOBAL MARKETS INC.

By: /s/ Chandru M. Harjani
Name: Chandru M. Harjani
Title: Director

SCHEDULE I

Underwriters	Principal Amount of 2.125 Rate Securities to be Purchased	Principal Amount of Floating Rate Securities to be Purchased	Principal Amount of 3.150 Rate Securities to be Purchased	Principal Amount of 4.750 Rate Securities to be Purchased
Barclays Capital Inc.	$127,500,000	$ 42,500,000	$127,500,000	$ 212,500,000
Citigroup Global Markets Inc.	$127,500,000	$ 42,500,000	$127,500,000	$ 212,500,000
Morgan Stanley & Co. LLC	$127,500,000	$ 42,500,000	$127,500,000	$ 212,500,000
Credit Suisse Securities (USA) LLC	$ 82,500,000	$ 27,500,000	$ 82,500,000	$ 137,500,000
Goldman, Sachs & Co.	$ 82,500,000	$ 27,500,000	$ 82,500,000	$ 137,500,000
RBS Securities Inc.	$ 82,500,000	$ 27,500,000	$ 82,500,000	$ 137,500,000
Wells Fargo Securities, LLC	$ 82,500,000	$ 27,500,000	$ 82,500,000	$ 137,500,000
Muriel Siebert & Co., Inc.	$ 7,500,000	$ 2,500,000	$ 7,500,000	$ 12,500,000
Samuel A. Ramirez & Company, Inc.	$ 7,500,000	$ 2,500,000	$ 7,500,000	$ 12,500,000
Sandler O’Neill & Partners, L.P.	$ 15,000,000	$ 5,000,000	$ 15,000,000	$ 25,000,000
The Williams Capital Group, L.P.	$ 7,500,000	$ 2,500,000	$ 7,500,000	$ 12,500,000
Total	$750,000,000	$250,000,000	$750,000,000	$1,250,000,000

SCHEDULE II

Final Term Sheets

The recorded electronic road show made available to investors, as posted on www.netroadshow.com on July 14, 2011.

Exhibit 4.3

FORM OF FLOATING RATE SENIOR NOTE DUE 2014

THIS IS A SECURITY IN GLOBAL FORM WITHIN THE MEANING OF THE SENIOR INDENTURE REFERRED TO HEREINAFTER.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (THE "DEPOSITARY") TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF THE DEPOSITARY OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE SENIOR INDENTURE REFERRED TO ON THE REVERSE HEREOF.

THIS SECURITY IS NOT A SAVINGS ACCOUNT, DEPOSIT OR OTHER OBLIGATION OF A BANK AND IS NOT INSURED BY THE FDIC OR ANY OTHER GOVERNMENTAL AGENCY OR INSTRUMENTALITY.

CUSIP No. 14040H AW5
ISIN No. US14040HAW51
No. [__] Principal Amount $[_____]

CAPITAL ONE FINANCIAL CORPORATION

FLOATING RATE SENIOR NOTES DUE 2014

Capital One Financial Corporation, a Delaware corporation (the "Company"), for value received, hereby promises to pay to Cede & Co. or registered assigns the principal sum of [_____] United States Dollars, at the Company's office or agency for said purposes, on July 15, 2014 (the "Stated Maturity").

Interest Payment Dates: January 15, April 15, July 15 and October 15

Regular Record Dates: January 1, April 1, July 1 and October 1

Reference is made to the further provisions set forth on the reverse hereof, including the definitions of certain capitalized terms. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Security shall not be valid or obligatory until the certificate of authentication hereon shall have been duly signed by the Trustee acting under the Senior Indenture.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

Dated:

CAPITAL ONE FINANCIAL CORPORATION

By: _____
Name:
Title:

Attest By: _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Securities issued under the within-mentioned Senior Indenture.

Dated:

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee

By: _____
Authorized Signatory

REVERSE OF SECURITY

Capital One Financial Corporation

Floating Rate Senior Notes Due 2014

This Security is one of a duly authorized issue of debt securities of the Company, of the series hereinafter specified, all issued or to be issued under a Senior Indenture, dated as of November 1, 1996 (the "Senior Indenture"), and duly executed and delivered by the Company to The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A., as successor to Harris Trust and Savings Bank, as trustee (hereinafter, the "Trustee"). Reference to the Senior Indenture and the Officers' Certificate thereunder establishing the terms of this Security is hereby made for a description of the respective rights and duties thereunder of the Trustee, the Company and the Holders of the Securities. This Security is one of a series designated as the "Floating Rate Senior Notes Due 2014" of the Company (hereinafter called the "Notes"), issued under the Senior Indenture. Each Holder by accepting a Note, agrees to be bound by all terms and provisions of the Senior Indenture, as amended from time to time, applicable to the Notes.

Neither the Senior Indenture nor the Notes limit or otherwise restrict the amount of indebtedness which may be incurred or other securities which may be issued by the Company. The Notes issued under the Senior Indenture are direct, unsecured obligations of the Company and will mature on July 15, 2014. The Notes rank on parity with all other unsecured, unsubordinated indebtedness of the Company.

The Company promises to pay interest on the principal amount of this Security at an interest rate per annum (the "Interest Rate") from July 19, 2011 (the "Issue Date") to, but excluding, October 15, 2011 (such period, the "Initial Interest Period") at an initial rate (the "Initial Interest Rate") determined by the Calculation Agent equal to Three-Month LIBOR on the second London Banking Day preceding the Issue Date plus 1.15% per annum, and thereafter at an Interest Rate that will be reset as described below to a rate per annum equal to Three-Month LIBOR plus 1.15% per annum.

The Company will pay interest quarterly in arrears on January 15, April 15, July 15 and October 15 of each year (each, an "Interest Payment Date"), commencing on October 15, 2011. Interest on this Security will accrue from the Issue Date or from the most recent Interest Payment Date, as the case may be, to which interest on the Notes has been paid or duly provided for, until payment of said principal sum has been made or duly provided for. The Company will pay interest to the Person in whose name this Security is registered at the close of business on January 1, April 1, July 1 or October 1, as the case may be, next preceding the applicable Interest Payment Date, except that the Company will pay the interest payable at the Stated Maturity of this Security to the Person or Persons to whom principal is payable. The Company will pay interest in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. The Company will make payments in respect of Notes in global form (including principal and interest) to the Holder thereof or a nominee of the Holder, by wire transfer of immediately available funds as of the close of business on the date such payments are due.

The Interest Rate on the Notes will be reset quarterly (each such quarter, an "Interest Reset Period". The first day of each Interest Reset Period is referred to as an "Interest Reset Date". The Interest Reset Dates will be January 15, April 15, July 15 and October 15 of each year; provided that the Interest Rate in effect from July 19, 2011 to, but excluding, the first Interest Reset Date will be the Initial Interest Rate. If any Interest Reset Date falls on a day that is not a Business Day, the Interest Reset Date will be postponed to the next day that is a Business Day.

The Calculation Agent for the Notes is The Bank of New York Mellon Trust Company, N.A. (the "Calculation Agent"). Upon the request of the Holder of any Note, the Calculation Agent will provide such Holder the Interest Rate then in effect and, if determined, the Interest Rate that will become effective on the next Interest Reset Date.

The Calculation Agent will determine the Initial Interest Rate for the Notes on the second London Banking Day preceding the issue date and the Interest Rate for each succeeding Interest Reset Period by reference to Three-Month LIBOR on the second London Banking Day preceding the applicable Interest Reset Date (each, an "Interest Determination Date").

"London Banking Day" means any day on which dealings in deposits in U.S. dollars are transacted in the London interbank market.

The Interest Rate for the Notes will be based on the London interbank offered rate ("Three-Month LIBOR") determined by the Calculation Agent as follows:

(i) As of an Interest Determination Date, Three-Month LIBOR will be equal to the offered rate for deposits in U.S. dollars having an index maturity of three months, in amounts of at least $1,000,000, as such rate appears on "Reuters Page LIBOR01" at approximately 11:00 a.m., London time, on such Interest Determination Date. If on any Interest Determination Date, such rate does not appear on the "Reuters Page LIBOR01" as of 11:00 a.m., London time, or if the "Reuters Page LIBOR01" is not available on such date, the Calculation Agent will obtain such rate from Bloomberg L.P.'s page "BBAM."

(ii) If no rate appears on "Reuters Page LIBOR01" or Bloomberg L.P. page "BBAM", then the Calculation Agent will request the principal London offices of each of four major reference banks in the London interbank market, as selected by the Calculation Agent after consultation with the Company, to provide the Calculation Agent with its offered quotation for deposits in U.S. dollars for a period of three months, commencing on the related Interest Reset Date, to prime banks in the London interbank market at approximately 11:00 a.m., London time, on that Interest Determination Date and in a principal amount that is representative of a single transaction in U.S. dollars in that market at that time. If at least two quotations are provided, Three-Month LIBOR determined on that Interest Determination Date will be the arithmetic mean of those quotations. If fewer than two quotations are provided, Three-Month LIBOR will be determined for the related Interest Reset Date as the arithmetic mean of the rates quoted at approximately 11:00 a.m., New York time, on that Interest Reset Date, by three major banks in

New York, New York, as selected by the Calculation Agent after consultation with the Company, for loans in U.S. dollars to leading European banks, for a period of three months, commencing on the related Interest Reset Date, and in a principal amount that is representative of a single transaction in U.S. dollars in that market at that time. If the banks so selected by the Calculation Agent are not quoting as set forth above, Three-Month LIBOR for that Interest Determination Date will remain equal to the Three-Month LIBOR used to determine the Interest Rate for the immediately preceding Interest Reset Period, or, if there was no preceding Interest Reset Period, the rate of interest payable will be the Initial Interest Rate.

Accrued interest on this Security will be calculated by multiplying the principal amount of this Security by an accrued interest factor (the "Accrued Interest Factor"). The Accrued Interest Factor will be computed by adding the Interest Factors calculated for each day in the period for which interest is being paid. The interest factor ("Interest Factor") for each day will be computed by dividing the Interest Rate applicable to that day by 360. The Interest Rate in effect on any Interest Reset Date will be the applicable rate as reset on that date. The Interest Rate applicable to any other day is the Interest Rate from the immediately preceding Interest Reset Date, or if none, the Initial Interest Rate. All percentages used in or resulting from any calculation of the rate of interest on this Security will be rounded, if necessary, to the nearest one hundred-thousandth of a percentage point (with .000005% rounded up to .00001%), and all U.S. dollar amounts used in or resulting from these calculations will be rounded to the nearest cent (with one-half cent rounded upward).

If the Company defaults in the payment of interest due on any Interest Payment Date after taking into account any applicable grace period, such defaulted interest shall be paid as set forth in the Senior Indenture.

If the Closing (as defined in the Purchase and Sale Agreement, dated as of June 16, 2011, by and among ING Groep N.V., ING Bank N.V., ING Direct N.V., ING Direct Bancorp and the Company (the "Purchase and Sale Agreement")) (the "Closing") does not occur on or prior to June 30, 2012, or if the Purchase and Sale Agreement is terminated at any time prior to June 30, 2012, the Company shall redeem this Security at a redemption price equal to 101% of the aggregate outstanding principal amount of this Security, plus accrued and unpaid interest from the Issue Date, or the most recent Interest Payment Date to which interest has been paid or provided for, as the case may be, to but excluding the Special Mandatory Redemption Date.

The "Special Mandatory Redemption Date" shall be the earlier to occur of: (1) July 16, 2012, if the Closing has not been completed on or prior to June 30, 2012 or (2) the 30th day (or if such day is not a Business Day, the first Business Day thereafter) following the termination of the Purchase and Sale Agreement.

The Notes are not entitled to any sinking fund.

The Notes are subject to defeasance pursuant to Section 402 of the Senior Indenture.

The Notes are not convertible into common stock of the Company.

In case an Event of Default shall have occurred and is continuing with respect to the Notes, the principal hereof may be declared, and upon such declaration shall become, due and

payable, in the manner, with the effect and subject to the conditions provided in the Senior Indenture. The Senior Indenture provides that in certain circumstances such declaration and its consequences may be waived by the Holders of not less than a majority in aggregate principal amount of the Notes then Outstanding. However, any such consent or waiver by the Holder shall not affect any subsequent default or impair any right consequent thereon.

The Senior Indenture permits the Company and the Trustee, without the consent of the Holders of the Notes for certain situations and with the consent of not less than two-thirds of the Holders in aggregate principal amount of the Outstanding Notes of each series affected by such supplemental indenture in other situations, to execute supplemental indentures adding to, modifying, or changing various provisions of, the Senior Indenture; provided that no such supplemental indenture, without the consent of the Holder of each Outstanding Note affected thereby, shall (i) change the Stated Maturity of the principal of or any installment of interest on the Notes; (ii) reduce the principal amount thereof or the rate of interest thereon, or adversely affect the right of repayment of any Holder; (iii) change the Place of Payment or Currency in which the principal of or interest on the Notes is payable, or impair the right to institute suit for the enforcement of any payment on or after the Stated Maturity thereof; (iv) reduce the percentage in principal amount of the Outstanding Notes, the consent of whose Holders is required for any such supplemental indenture, or the consent of whose Holders is required for any waiver (of compliance with certain provisions of the Senior Indenture or certain defaults thereunder and their consequences) provided for in the Senior Indenture, or reduce the requirements of Section 1504 for quorum or voting; or (v) modify any of the provisions of Sections 902, 513 or 1008 of the Senior Indenture, except to increase any such percentage or provide that certain other provisions of the Senior Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Note affected thereby.

The Company may omit in any particular instance to comply with any term, provision or condition set forth in Section 1005, 1006 or 1007 of the Senior Indenture, if before the time it would have to comply, the Holders of at least a majority in principal amount of the Outstanding Notes, by act of such Holders, either shall waive such compliance in such instance or generally shall have waived compliance with such term, provision or condition, but no such waiver shall extend to or affect such term, provision or condition except to the extent so expressly waived, and, until such waiver shall become effective, the obligations of the Company and the duties of the Trustee in respect of any such term, provision or condition shall remain in full force and effect.

No reference herein to the Senior Indenture and no provision of this Security or of the Senior Indenture shall alter or impair the obligations of the Company, which are absolute and unconditional, to pay the principal of or interest on this Security at the respective times and at the rate herein prescribed.

The Notes are issuable in registered form without coupons in minimum denominations of $2,000 and in integral multiples of $1,000. A Holder may exchange the Notes for a like aggregate principal amount of Notes of other authorized denominations in the manner and subject to the limitations provided in the Senior Indenture.

Upon due presentment for registration of transfer of the Notes at the office or agency for said purpose of the Company, a new Note or Notes of authorized denominations, for a like aggregate principal amount, will be issued to the transferee as provided in the Senior Indenture. No service charge shall be made for any such transfer, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto.

Prior to due presentation of this Security for registration of transfer, the Company, the Trustee, and any agent of the Company or the Trustee, may deem and treat the Holder hereof as the owner of this Security (whether or not any payment with respect to this Security shall be overdue), for the purpose of receiving payment of principal of and (subject to the provisions of the Senior Indenture) interest hereon and for all other purposes whatsoever, whether or not any payment with respect to this Security shall be overdue, and neither the Company, nor the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

No recourse shall be had for the payment of the principal of or interest on this Security, for any claim based hereon, or otherwise in respect hereof, or based on or in respect of the Senior Indenture or any indenture supplemental thereto, or because of the creation of any indebtedness represented thereby, against any incorporator, shareholder, officer or director, as such, past, present or future, of the Company or of any successor corporation, either directly or through the Company or any successor corporation, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released.

THIS SECURITY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

All terms used in this Security (and not otherwise defined in this Security) that are defined in the Senior Indenture shall have the meanings assigned to them in the Senior Indenture.

Exhibit 4.4

FORM OF 2.125% SENIOR NOTE DUE 2014

THIS IS A SECURITY IN GLOBAL FORM WITHIN THE MEANING OF THE SENIOR INDENTURE REFERRED TO HEREINAFTER.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (THE "DEPOSITARY") TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF THE DEPOSITARY OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE SENIOR INDENTURE REFERRED TO ON THE REVERSE HEREOF.

THIS SECURITY IS NOT A SAVINGS ACCOUNT, DEPOSIT OR OTHER OBLIGATION OF A BANK AND IS NOT INSURED BY THE FDIC OR ANY OTHER GOVERNMENTAL AGENCY OR INSTRUMENTALITY.

CUSIP No. 14040H AV7
ISIN No. US14040HAV78
No. [__] Principal Amount $[_____]

CAPITAL ONE FINANCIAL CORPORATION

2.125% SENIOR NOTES DUE 2014

Capital One Financial Corporation, a Delaware corporation (the "Company"), for value received, hereby promises to pay to Cede & Co. or registered assigns the principal sum of [_____] United States Dollars, at the Company's office or agency for said purposes, on July 15, 2014 (the "Stated Maturity").

Interest Payment Dates: January 15 and July 15

Regular Record Dates: January 1 and July 1

Reference is made to the further provisions set forth on the reverse hereof, including the definitions of certain capitalized terms. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Security shall not be valid or obligatory until the certificate of authentication hereon shall have been duly signed by the Trustee acting under the Senior Indenture.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

Dated:

CAPITAL ONE FINANCIAL CORPORATION

By: _____
Name:
Title:

Attest By: _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Securities issued under the within-mentioned Senior Indenture.

Dated:

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee

By: _____

Authorized Signatory

REVERSE OF SECURITY

Capital One Financial Corporation

2.125% Senior Notes Due 2014

This Security is one of a duly authorized issue of debt securities of the Company, of the series hereinafter specified, all issued or to be issued under a Senior Indenture, dated as of November 1, 1996 (the "Senior Indenture"), and duly executed and delivered by the Company to The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A., as successor to Harris Trust and Savings Bank, as trustee (hereinafter, the "Trustee"). Reference to the Senior Indenture and the Officers' Certificate thereunder establishing the terms of this Security is hereby made for a description of the respective rights and duties thereunder of the Trustee, the Company and the Holders of the Securities. This Security is one of a series designated as the "2.125% Senior Notes Due 2014" of the Company (hereinafter called the "Notes"), issued under the Senior Indenture. Each Holder by accepting a Note, agrees to be bound by all terms and provisions of the Senior Indenture, as amended from time to time, applicable to the Notes.

Neither the Senior Indenture nor the Notes limit or otherwise restrict the amount of indebtedness which may be incurred or other securities which may be issued by the Company. The Notes issued under the Senior Indenture are direct, unsecured obligations of the Company and will mature on July 15, 2014. The Notes rank on parity with all other unsecured, unsubordinated indebtedness of the Company.

The Company promises to pay interest on the principal amount of this Security at the rate of 2.125% per annum. The Company will pay interest semi-annually in arrears on January 15 and July 15 of each year (each, an "Interest Payment Date"), commencing on January 15, 2012. Interest on this Security will accrue from July 19, 2011 or from the most recent January 15 or July 15, as the case may be, to which interest on the Notes has been paid or duly provided for, until payment of said principal sum has been made or duly provided for. Interest on the Notes will be computed on the basis of a 360-day year of twelve 30-day months. The Company will pay interest to the Person in whose name this Security is registered at the close of business on January 1 or July 1, as the case may be, next preceding the applicable Interest Payment Date, except that the Company will pay the interest payable at the Stated Maturity of this Security to the Person or Persons to whom principal is payable. The Company will pay interest in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. The Company will make payments in respect of Notes in global form (including principal and interest) to the Holder thereof or a nominee of the Holder, by wire transfer of immediately available funds as of the close of business on the date such payments are due.

If the Company defaults in the payment of interest due on any Interest Payment Date after taking into account any applicable grace period, such defaulted interest shall be paid as set forth in the Senior Indenture.

If the Closing (as defined in the Purchase and Sale Agreement, dated as of June 16, 2011, by and among ING Groep N.V., ING Bank N.V., ING Direct N.V., ING Direct Bancorp and the Company (the "Purchase and Sale Agreement")) (the "Closing") does not occur on or prior to June 30, 2012, or if the Purchase and Sale Agreement is terminated at any time prior to June 30, 2012, the Company shall redeem this Security at a redemption price equal to 101% of the aggregate outstanding principal amount of this Security, plus accrued and unpaid interest from the Issue Date, or the most recent Interest Payment Date to which interest has been paid or provided for, as the case may be, to but excluding the Special Mandatory Redemption Date.

The "Special Mandatory Redemption Date" shall be the earlier to occur of: (1) July 16, 2012, if the Closing has not been completed on or prior to June 30, 2012 or (2) the 30th day (or if such day is not a Business Day, the first Business Day thereafter) following the termination of the Purchase and Sale Agreement.

The Notes are not entitled to any sinking fund.

The Notes are subject to defeasance pursuant to Section 402 of the Senior Indenture.

The Notes are not convertible into common stock of the Company.

In case an Event of Default shall have occurred and is continuing with respect to the Notes, the principal hereof may be declared, and upon such declaration shall become, due and payable, in the manner, with the effect and subject to the conditions provided in the Senior Indenture. The Senior Indenture provides that in certain circumstances such declaration and its consequences may be waived by the Holders of not less than a majority in aggregate principal amount of the Notes then Outstanding. However, any such consent or waiver by the Holder shall not affect any subsequent default or impair any right consequent thereon.

The Senior Indenture permits the Company and the Trustee, without the consent of the Holders of the Notes for certain situations and with the consent of not less than two-thirds of the Holders in aggregate principal amount of the Outstanding Notes of each series affected by such supplemental indenture in other situations, to execute supplemental indentures adding to, modifying, or changing various provisions of, the Senior Indenture; provided that no such supplemental indenture, without the consent of the Holder of each Outstanding Note affected thereby, shall (i) change the Stated Maturity of the principal of or any installment of interest on the Notes; (ii) reduce the principal amount thereof or the rate of interest thereon, or adversely affect the right of repayment of any Holder; (iii) change the Place of Payment or Currency in which the principal of or interest on the Notes is payable, or impair the right to institute suit for the enforcement of any payment on or after the Stated Maturity thereof; (iv) reduce the percentage in principal amount of the Outstanding Notes, the consent of whose Holders is required for any such supplemental indenture, or the consent of whose Holders is required for any waiver (of compliance with certain provisions of the Senior Indenture or certain defaults thereunder and their consequences) provided for in the Senior Indenture, or reduce the requirements of Section 1504 for quorum or voting; or (v) modify any of the provisions of Sections 902, 513 or 1008 of the Senior Indenture, except to increase any such percentage or provide that certain other provisions of the Senior Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Note affected thereby.

The Company may omit in any particular instance to comply with any term, provision or condition set forth in Section 1005, 1006 or 1007 of the Senior Indenture, if before the time it would have to comply, the Holders of at least a majority in principal amount of the Outstanding Notes, by act of such Holders, either shall waive such compliance in such instance or generally shall have waived compliance with such term, provision or condition, but no such waiver shall extend to or affect such term, provision or condition except to the extent so expressly waived, and, until such waiver shall become effective, the obligations of the Company and the duties of the Trustee in respect of any such term, provision or condition shall remain in full force and effect.

No reference herein to the Senior Indenture and no provision of this Security or of the Senior Indenture shall alter or impair the obligations of the Company, which are absolute and unconditional, to pay the principal of or interest on this Security at the respective times and at the rate herein prescribed.

The Notes are issuable in registered form without coupons in minimum denominations of $2,000 and in integral multiples of $1,000. A Holder may exchange the Notes for a like aggregate principal amount of Notes of other authorized denominations in the manner and subject to the limitations provided in the Senior Indenture.

Upon due presentment for registration of transfer of the Notes at the office or agency for said purpose of the Company, a new Note or Notes of authorized denominations, for a like aggregate principal amount, will be issued to the transferee as provided in the Senior Indenture. No service charge shall be made for any such transfer, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto.

Prior to due presentation of this Security for registration of transfer, the Company, the Trustee, and any agent of the Company or the Trustee, may deem and treat the Holder hereof as the owner of this Security (whether or not any payment with respect to this Security shall be overdue), for the purpose of receiving payment of principal of and (subject to the provisions of the Senior Indenture) interest hereon and for all other purposes whatsoever, whether or not any payment with respect to this Security shall be overdue, and neither the Company, nor the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

No recourse shall be had for the payment of the principal of or interest on this Security, for any claim based hereon, or otherwise in respect hereof, or based on or in respect of the Senior Indenture or any indenture supplemental thereto, or because of the creation of any indebtedness represented thereby, against any incorporator, shareholder, officer or director, as such, past, present or future, of the Company or of any successor corporation, either directly or through the Company or any successor corporation, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released.

THIS SECURITY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

All terms used in this Security (and not otherwise defined in this Security) that are defined in the Senior Indenture shall have the meanings assigned to them in the Senior Indenture.

Exhibit 4.5

FORM OF 3.150% SENIOR NOTE DUE 2016

THIS IS A SECURITY IN GLOBAL FORM WITHIN THE MEANING OF THE SENIOR INDENTURE REFERRED TO HEREINAFTER.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (THE "DEPOSITARY") TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF THE DEPOSITARY OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE SENIOR INDENTURE REFERRED TO ON THE REVERSE HEREOF.

THIS SECURITY IS NOT A SAVINGS ACCOUNT, DEPOSIT OR OTHER OBLIGATION OF A BANK AND IS NOT INSURED BY THE FDIC OR ANY OTHER GOVERNMENTAL AGENCY OR INSTRUMENTALITY.

CUSIP No. 14040H AX3
ISIN No. US14040HAX35
No. [____] Principal Amount $[_____]

CAPITAL ONE FINANCIAL CORPORATION

3.150% SENIOR NOTES DUE 2016

Capital One Financial Corporation, a Delaware corporation (the "Company"), for value received, hereby promises to pay to Cede & Co. or registered assigns the principal sum of [_____] United States Dollars, at the Company's office or agency for said purposes, on July 15, 2016 (the "Stated Maturity").

Interest Payment Dates: January 15 and July 15

Regular Record Dates: January 1 and July 1

Reference is made to the further provisions set forth on the reverse hereof, including the definitions of certain capitalized terms. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Security shall not be valid or obligatory until the certificate of authentication hereon shall have been duly signed by the Trustee acting under the Senior Indenture.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

Dated:

CAPITAL ONE FINANCIAL CORPORATION

By: _____
Name:
Title:

Attest By: _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Securities issued under the within-mentioned Senior Indenture.

Dated:

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee

By: _____

Authorized Signatory

REVERSE OF SECURITY

Capital One Financial Corporation

3.150% Senior Notes Due 2016

This Security is one of a duly authorized issue of debt securities of the Company, of the series hereinafter specified, all issued or to be issued under a Senior Indenture, dated as of November 1, 1996 (the "Senior Indenture"), and duly executed and delivered by the Company to The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A., as successor to Harris Trust and Savings Bank, as trustee (hereinafter, the "Trustee"). Reference to the Senior Indenture and the Officers' Certificate thereunder establishing the terms of this Security is hereby made for a description of the respective rights and duties thereunder of the Trustee, the Company and the Holders of the Securities. This Security is one of a series designated as the "3.150% Senior Notes Due 2016" of the Company (hereinafter called the "Notes"), issued under the Senior Indenture. Each Holder by accepting a Note, agrees to be bound by all terms and provisions of the Senior Indenture, as amended from time to time, applicable to the Notes.

Neither the Senior Indenture nor the Notes limit or otherwise restrict the amount of indebtedness which may be incurred or other securities which may be issued by the Company. The Notes issued under the Senior Indenture are direct, unsecured obligations of the Company and will mature on July 15, 2016. The Notes rank on parity with all other unsecured, unsubordinated indebtedness of the Company.

The Company promises to pay interest on the principal amount of this Security at the rate of 3.150% per annum. The Company will pay interest semi-annually in arrears on January 15 and July 15 of each year (each, an "Interest Payment Date"), commencing on January 15, 2012. Interest on this Security will accrue from July 19, 2011 or from the most recent January 15 or July 15, as the case may be, to which interest on the Notes has been paid or duly provided for, until payment of said principal sum has been made or duly provided for. Interest on the Notes will be computed on the basis of a 360-day year of twelve 30-day months. The Company will pay interest to the Person in whose name this Security is registered at the close of business on January 1 or July 1, as the case may be, next preceding the applicable Interest Payment Date, except that the Company will pay the interest payable at the Stated Maturity of this Security to the Person or Persons to whom principal is payable. The Company will pay interest in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. The Company will make payments in respect of Notes in global form (including principal and interest) to the Holder thereof or a nominee of the Holder, by wire transfer of immediately available funds as of the close of business on the date such payments are due.

If the Company defaults in the payment of interest due on any Interest Payment Date after taking into account any applicable grace period, such defaulted interest shall be paid as set forth in the Senior Indenture.

If the Closing (as defined in the Purchase and Sale Agreement, dated as of June 16, 2011, by and among ING Groep N.V., ING Bank N.V., ING Direct N.V., ING Direct Bancorp and the Company (the "Purchase and Sale Agreement")) (the "Closing") does not occur on or prior to June 30, 2012, or if the Purchase and Sale Agreement is terminated at any time prior to June 30, 2012, the Company shall redeem this Security at a redemption price equal to 101% of the aggregate outstanding principal amount of this Security, plus accrued and unpaid interest from the Issue Date, or the most recent Interest Payment Date to which interest has been paid or provided for, as the case may be, to but excluding the Special Mandatory Redemption Date.

The "Special Mandatory Redemption Date" shall be the earlier to occur of: (1) July 16, 2012, if the Closing has not been completed on or prior to June 30, 2012 or (2) the 30th day (or if such day is not a Business Day, the first Business Day thereafter) following the termination of the Purchase and Sale Agreement.

The Notes are not entitled to any sinking fund.

The Notes are subject to defeasance pursuant to Section 402 of the Senior Indenture.

The Notes are not convertible into common stock of the Company.

In case an Event of Default shall have occurred and is continuing with respect to the Notes, the principal hereof may be declared, and upon such declaration shall become, due and payable, in the manner, with the effect and subject to the conditions provided in the Senior Indenture. The Senior Indenture provides that in certain circumstances such declaration and its consequences may be waived by the Holders of not less than a majority in aggregate principal amount of the Notes then Outstanding. However, any such consent or waiver by the Holder shall not affect any subsequent default or impair any right consequent thereon.

The Senior Indenture permits the Company and the Trustee, without the consent of the Holders of the Notes for certain situations and with the consent of not less than two-thirds of the Holders in aggregate principal amount of the Outstanding Notes of each series affected by such supplemental indenture in other situations, to execute supplemental indentures adding to, modifying, or changing various provisions of, the Senior Indenture; provided that no such supplemental indenture, without the consent of the Holder of each Outstanding Note affected thereby, shall (i) change the Stated Maturity of the principal of or any installment of interest on the Notes; (ii) reduce the principal amount thereof or the rate of interest thereon, or adversely affect the right of repayment of any Holder; (iii) change the Place of Payment or Currency in which the principal of or interest on the Notes is payable, or impair the right to institute suit for the enforcement of any payment on or after the Stated Maturity thereof; (iv) reduce the percentage in principal amount of the Outstanding Notes, the consent of whose Holders is required for any such supplemental indenture, or the consent of whose Holders is required for any waiver (of compliance with certain provisions of the Senior Indenture or certain defaults thereunder and their consequences) provided for in the Senior Indenture, or reduce the requirements of Section 1504 for quorum or voting; or (v) modify any of the provisions of Sections 902, 513 or 1008 of the Senior Indenture, except to increase any such percentage or provide that certain other provisions of the Senior Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Note affected thereby.

The Company may omit in any particular instance to comply with any term, provision or condition set forth in Section 1005, 1006 or 1007 of the Senior Indenture, if before the time it would have to comply, the Holders of at least a majority in principal amount of the Outstanding Notes, by act of such Holders, either shall waive such compliance in such instance or generally shall have waived compliance with such term, provision or condition, but no such waiver shall extend to or affect such term, provision or condition except to the extent so expressly waived, and, until such waiver shall become effective, the obligations of the Company and the duties of the Trustee in respect of any such term, provision or condition shall remain in full force and effect.

No reference herein to the Senior Indenture and no provision of this Security or of the Senior Indenture shall alter or impair the obligations of the Company, which are absolute and unconditional, to pay the principal of or interest on this Security at the respective times and at the rate herein prescribed.

The Notes are issuable in registered form without coupons in minimum denominations of $2,000 and in integral multiples of $1,000. A Holder may exchange the Notes for a like aggregate principal amount of Notes of other authorized denominations in the manner and subject to the limitations provided in the Senior Indenture.

Upon due presentment for registration of transfer of the Notes at the office or agency for said purpose of the Company, a new Note or Notes of authorized denominations, for a like aggregate principal amount, will be issued to the transferee as provided in the Senior Indenture. No service charge shall be made for any such transfer, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto.

Prior to due presentation of this Security for registration of transfer, the Company, the Trustee, and any agent of the Company or the Trustee, may deem and treat the Holder hereof as the owner of this Security (whether or not any payment with respect to this Security shall be overdue), for the purpose of receiving payment of principal of and (subject to the provisions of the Senior Indenture) interest hereon and for all other purposes whatsoever, whether or not any payment with respect to this Security shall be overdue, and neither the Company, nor the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

No recourse shall be had for the payment of the principal of or interest on this Security, for any claim based hereon, or otherwise in respect hereof, or based on or in respect of the Senior Indenture or any indenture supplemental thereto, or because of the creation of any indebtedness represented thereby, against any incorporator, shareholder, officer or director, as such, past, present or future, of the Company or of any successor corporation, either directly or through the Company or any successor corporation, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released.

THIS SECURITY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

All terms used in this Security (and not otherwise defined in this Security) that are defined in the Senior Indenture shall have the meanings assigned to them in the Senior Indenture.

Exhibit 4.6

FORM OF 4.750% SENIOR NOTE DUE 2021

THIS IS A SECURITY IN GLOBAL FORM WITHIN THE MEANING OF THE SENIOR INDENTURE REFERRED TO HEREINAFTER.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (THE "DEPOSITARY") TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF THE DEPOSITARY OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE SENIOR INDENTURE REFERRED TO ON THE REVERSE HEREOF.

THIS SECURITY IS NOT A SAVINGS ACCOUNT, DEPOSIT OR OTHER OBLIGATION OF A BANK AND IS NOT INSURED BY THE FDIC OR ANY OTHER GOVERNMENTAL AGENCY OR INSTRUMENTALITY.

CUSIP No. 14040H AY1
ISIN No. US14040HAY18
No. [__] Principal Amount $[_____]

CAPITAL ONE FINANCIAL CORPORATION

4.750% SENIOR NOTES DUE 2021

Capital One Financial Corporation, a Delaware corporation (the "Company"), for value received, hereby promises to pay to Cede & Co. or registered assigns the principal sum of [_____] United States Dollars, at the Company's office or agency for said purposes, on July 15, 2021 (the "Stated Maturity").

Interest Payment Dates: January 15 and July 15

Regular Record Dates: January 1 and July 1

Reference is made to the further provisions set forth on the reverse hereof, including the definitions of certain capitalized terms. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Security shall not be valid or obligatory until the certificate of authentication hereon shall have been duly signed by the Trustee acting under the Senior Indenture.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

Dated:

CAPITAL ONE FINANCIAL CORPORATION

By: _____
Name:
Title:

Attest By: _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Securities issued under the within-mentioned Senior Indenture.

Dated:

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee

By: _____

Authorized Signatory

REVERSE OF SECURITY

Capital One Financial Corporation

4.750% Senior Notes Due 2021

This Security is one of a duly authorized issue of debt securities of the Company, of the series hereinafter specified, all issued or to be issued under a Senior Indenture, dated as of November 1, 1996 (the "Senior Indenture"), and duly executed and delivered by the Company to The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A., as successor to Harris Trust and Savings Bank, as trustee (hereinafter, the "Trustee"). Reference to the Senior Indenture and the Officers' Certificate thereunder establishing the terms of this Security is hereby made for a description of the respective rights and duties thereunder of the Trustee, the Company and the Holders of the Securities. This Security is one of a series designated as the "4.750% Senior Notes Due 2021" of the Company (hereinafter called the "Notes"), issued under the Senior Indenture. Each Holder by accepting a Note, agrees to be bound by all terms and provisions of the Senior Indenture, as amended from time to time, applicable to the Notes.

Neither the Senior Indenture nor the Notes limit or otherwise restrict the amount of indebtedness which may be incurred or other securities which may be issued by the Company. The Notes issued under the Senior Indenture are direct, unsecured obligations of the Company and will mature on July 15, 2021. The Notes rank on parity with all other unsecured, unsubordinated indebtedness of the Company.

The Company promises to pay interest on the principal amount of this Security at the rate of 4.750% per annum. The Company will pay interest semi-annually in arrears on January 15 and July 15 of each year (each, an "Interest Payment Date"), commencing on January 15, 2012. Interest on this Security will accrue from July 19, 2011 or from the most recent January 15 or July 15, as the case may be, to which interest on the Notes has been paid or duly provided for, until payment of said principal sum has been made or duly provided for. Interest on the Notes will be computed on the basis of a 360-day year of twelve 30-day months. The Company will pay interest to the Person in whose name this Security is registered at the close of business on January 1 or July 1, as the case may be, next preceding the applicable Interest Payment Date, except that the Company will pay the interest payable at the Stated Maturity of this Security to the Person or Persons to whom principal is payable. The Company will pay interest in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. The Company will make payments in respect of Notes in global form (including principal and interest) to the Holder thereof or a nominee of the Holder, by wire transfer of immediately available funds as of the close of business on the date such payments are due.

If the Company defaults in the payment of interest due on any Interest Payment Date after taking into account any applicable grace period, such defaulted interest shall be paid as set forth in the Senior Indenture.

If the Closing (as defined in the Purchase and Sale Agreement, dated as of June 16, 2011, by and among ING Groep N.V., ING Bank N.V., ING Direct N.V., ING Direct Bancorp and the Company (the "Purchase and Sale Agreement")) (the "Closing") does not occur on or prior to June 30, 2012, or if the Purchase and Sale Agreement is terminated at any time prior to June 30, 2012, the Company shall redeem this Security at a redemption price equal to 101% of the aggregate outstanding principal amount of this Security, plus accrued and unpaid interest from the Issue Date, or the most recent Interest Payment Date to which interest has been paid or provided for, as the case may be, to but excluding the Special Mandatory Redemption Date.

The "Special Mandatory Redemption Date" shall be the earlier to occur of: (1) July 16, 2012, if the Closing has not been completed on or prior to June 30, 2012 or (2) the 30th day (or if such day is not a Business Day, the first Business Day thereafter) following the termination of the Purchase and Sale Agreement.

The Notes are not entitled to any sinking fund.

The Notes are subject to defeasance pursuant to Section 402 of the Senior Indenture.

The Notes are not convertible into common stock of the Company.

In case an Event of Default shall have occurred and is continuing with respect to the Notes, the principal hereof may be declared, and upon such declaration shall become, due and payable, in the manner, with the effect and subject to the conditions provided in the Senior Indenture. The Senior Indenture provides that in certain circumstances such declaration and its consequences may be waived by the Holders of not less than a majority in aggregate principal amount of the Notes then Outstanding. However, any such consent or waiver by the Holder shall not affect any subsequent default or impair any right consequent thereon.

The Senior Indenture permits the Company and the Trustee, without the consent of the Holders of the Notes for certain situations and with the consent of not less than two-thirds of the Holders in aggregate principal amount of the Outstanding Notes of each series affected by such supplemental indenture in other situations, to execute supplemental indentures adding to, modifying, or changing various provisions of, the Senior Indenture; provided that no such supplemental indenture, without the consent of the Holder of each Outstanding Note affected thereby, shall (i) change the Stated Maturity of the principal of or any installment of interest on the Notes; (ii) reduce the principal amount thereof or the rate of interest thereon, or adversely affect the right of repayment of any Holder; (iii) change the Place of Payment or Currency in which the principal of or interest on the Notes is payable, or impair the right to institute suit for the enforcement of any payment on or after the Stated Maturity thereof; (iv) reduce the percentage in principal amount of the Outstanding Notes, the consent of whose Holders is required for any such supplemental indenture, or the consent of whose Holders is required for any waiver (of compliance with certain provisions of the Senior Indenture or certain defaults thereunder and their consequences) provided for in the Senior Indenture, or reduce the requirements of Section 1504 for quorum or voting; or (v) modify any of the provisions of Sections 902, 513 or 1008 of the Senior Indenture, except to increase any such percentage or provide that certain other provisions of the Senior Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Note affected thereby.

The Company may omit in any particular instance to comply with any term, provision or condition set forth in Section 1005, 1006 or 1007 of the Senior Indenture, if before the time it would have to comply, the Holders of at least a majority in principal amount of the Outstanding Notes, by act of such Holders, either shall waive such compliance in such instance or generally shall have waived compliance with such term, provision or condition, but no such waiver shall extend to or affect such term, provision or condition except to the extent so expressly waived, and, until such waiver shall become effective, the obligations of the Company and the duties of the Trustee in respect of any such term, provision or condition shall remain in full force and effect.

No reference herein to the Senior Indenture and no provision of this Security or of the Senior Indenture shall alter or impair the obligations of the Company, which are absolute and unconditional, to pay the principal of or interest on this Security at the respective times and at the rate herein prescribed.

The Notes are issuable in registered form without coupons in minimum denominations of $2,000 and in integral multiples of $1,000. A Holder may exchange the Notes for a like aggregate principal amount of Notes of other authorized denominations in the manner and subject to the limitations provided in the Senior Indenture.

Upon due presentment for registration of transfer of the Notes at the office or agency for said purpose of the Company, a new Note or Notes of authorized denominations, for a like aggregate principal amount, will be issued to the transferee as provided in the Senior Indenture. No service charge shall be made for any such transfer, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto.

Prior to due presentation of this Security for registration of transfer, the Company, the Trustee, and any agent of the Company or the Trustee, may deem and treat the Holder hereof as the owner of this Security (whether or not any payment with respect to this Security shall be overdue), for the purpose of receiving payment of principal of and (subject to the provisions of the Senior Indenture) interest hereon and for all other purposes whatsoever, whether or not any payment with respect to this Security shall be overdue, and neither the Company, nor the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

No recourse shall be had for the payment of the principal of or interest on this Security, for any claim based hereon, or otherwise in respect hereof, or based on or in respect of the Senior Indenture or any indenture supplemental thereto, or because of the creation of any indebtedness represented thereby, against any incorporator, shareholder, officer or director, as such, past, present or future, of the Company or of any successor corporation, either directly or through the Company or any successor corporation, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released.

THIS SECURITY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

All terms used in this Security (and not otherwise defined in this Security) that are defined in the Senior Indenture shall have the meanings assigned to them in the Senior Indenture.

Exhibit 5.1

July 19, 2011

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

Re: Capital One Financial Corporation
Public Offering of Common Stock and Notes

Ladies and Gentlemen:

We have acted as counsel to Capital One Financial Corporation, a Delaware corporation (the "Company") in connection with: (i) the preparation and filing with the Securities and Exchange Commission (the "Commission") of a Registration Statement on Form S-3, file no. 333-159085 (the "Registration Statement"), under the Securities Act of 1933, as amended (the "Securities Act"); (ii) the prospectus included therein; (iii) the prospectus supplement, dated July 14, 2011, filed with the Commission on July 14, 2011 pursuant to Rule 424(b) of the Securities Act ("the Equity Prospectus Supplement"); (iv) the prospectus supplement, dated July 14, 2011, filed with the Commission on July 15, 2011 pursuant to Rule 424(b) of the Securities Act (the "Debt Prospectus Supplement"); (v) the entry into by the Company of the letter agreements (the "Forward Sale Agreements"), dated July 14, 2011, with each of Barclays Capital Inc. and Morgan Stanley & Co. LLC pursuant to which the Company may issue up to an aggregate of 40,000,000 shares of common stock, par value $0.01, of the Company (the "Forward Settlement Shares"); and (vi) the offering by the Company pursuant to the Debt Prospectus Supplement of $250,000,000 aggregate principal amount of the Company's Senior Floating Rate Notes due 2014 (the "Floating Notes"), $750,000,000 aggregate principal amount of the Company's 2.125% Senior Notes due 2014 (the "2.125% Notes"), $750,000,000 aggregate principal amount of the Company's 3.150% Senior Notes due 2016 (the "3.150% Notes") and $1,250,000,000 aggregate principal amount of the Company's 4.750% Senior Notes due 2021 (together with the Floating Notes, the 2.125% Notes and the 3.150% Notes, the "Notes").

The Notes have been issued pursuant to the Indenture dated as of November 1, 1996 between the Company and The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A. (as successor to Harris Trust and Savings Bank), as trustee.

In arriving at the opinions expressed below, we have examined originals, or copies certified or otherwise identified to our satisfaction as being true and complete copies of the originals, of the Indenture, the Notes, the Officer's Certificate dated July 19, 2011 setting forth the terms of the Notes, the Forward Sale Agreements and such other documents, corporate records, certificates of officers of the Company and of public officials and other instruments as we have deemed necessary or advisable to enable us to render these opinions. In our

examination, we have assumed, without independent investigation, the genuineness of all signatures, the legal capacity and competency of all natural persons, the authenticity of all documents submitted to us as originals and the conformity to original documents of all documents submitted to us as copies. As to any facts material to these opinions, we have relied to the extent we deemed appropriate and without independent investigation upon statements and representations of officers and other representatives of the Company and others.

Based upon the foregoing, and subject to the assumptions, exceptions, qualifications and limitations set forth herein, we are of the opinion that:

1. when the Forward Settlement Shares have been delivered in accordance with the Forward Sale Agreements for the consideration provided for therein, the Forward Settlement Shares will be validly issued, fully paid and non-assessable; and

2. the Notes are legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms.

The opinions expressed above are subject to the following additional exceptions, qualifications, limitations and assumptions:

A. We render no opinion herein as to matters involving the laws of any jurisdiction other than the State of New York and the United States of America and to the extent relevant for our opinions herein**,** the Delaware General Corporation Law and New York Business Corporation Law. This opinion is limited to the effect of the current state of the laws of the State of New York and the United States of America and the Delaware General Corporation Law and New York Business Corporation Law and the facts as they currently exist. We assume no obligation to revise or supplement this opinion in the event of future changes in such laws or the interpretations thereof or such facts.

B. The opinions above are subject to (i) the effect of any bankruptcy, insolvency, reorganization, moratorium, arrangement or similar laws affecting the rights and remedies of creditors' generally, including without limitation the effect of statutory or other laws regarding fraudulent transfers or preferential transfers, and (ii) general principles of equity, including without limitation concepts of materiality, reasonableness, good faith and fair dealing and the possible unavailability of specific performance, injunctive relief or other equitable remedies regardless of whether enforceability is considered in a proceeding in equity or at law.

C. We express no opinion regarding the effectiveness of (i) any waiver of stay, extension or usury laws or of unknown future rights, (ii) provisions relating to indemnification, exculpation or contribution, to the extent such provisions may be held unenforceable as contrary to public policy or federal or state securities laws**,** (iii) any purported fraudulent transfer "savings" clause (iv) any provision waiving the right to object to venue in any court; or (v) any agreement to submit to the jurisdiction of any Federal court; (vi) any waiver of the right to jury trial.

We consent to the filing of this opinion as an exhibit to the Registration Statement, and we further consent to the use of our name under the caption “Validity of the Securities” in the Registration Statement, under the caption “Validity of the Common Stock” in the Equity Prospectus Supplement and under the caption “Validity of the Notes” in the Debt Prospectus Supplement. In giving these consents, we do not thereby admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission promulgated thereunder.

Very truly yours,

/s/ Gibson, Dunn & Crutcher LLP

Barclays Bank PLC
5 The North Colonnade
Canary Wharf, London E14 4BB
Facsimile: +44(20)77736461
Telephone: +44 (20) 777 36810

c/o Barclays Capital Inc.
as Agent for Barclays Bank PLC
745 Seventh Ave
New York, NY 10019

DATE: July 14, 2011

TO: Capital One Financial Corporation
ATTENTION: Simon Fairclough
TELEPHONE:
FACSIMILE:

FROM: Barclays Capital Inc., acting as Agent for Barclays Bank PLC
TELEPHONE: +1 212 412 4000
SUBJECT: Share Forward Transaction

The purpose of this letter agreement (this "**Confirmation**") is to confirm the terms and conditions of the share forward transaction entered into between Barclays Bank PLC ("**Dealer**"), through its agent Barclays Capital Inc. (the "Agent"), and Capital One Financial Corporation ("**Counterparty**") on the Trade Date specified below (the "**Transaction**"). This Confirmation constitutes a "Confirmation" as referred to in the Master Agreement specified below. **Barclays Bank PLC is not a member of the Securities Investor Protection Corporation ("SIPC"). Barclays is regulated by the Financial Services Authority.**

The definitions and provisions contained in the 2002 ISDA Equity Derivatives Definitions (the "**Equity Definitions**"), as published by the International Swaps and Derivatives Association, Inc., are incorporated into this Confirmation. In the event of any inconsistency between the Equity Definitions and this Confirmation, this Confirmation shall govern. For purposes of the Equity Definitions, this Transaction shall be deemed to be a Share Forward Transaction.

Each party is hereby advised, and each such party acknowledges, that the other party has engaged in, or refrained from engaging in, substantial financial transactions and has taken other material actions in reliance upon the parties' entry into the Transaction to which this Confirmation relates on the terms and conditions set forth below.

1. This Confirmation evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall supplement, form a part of, and be subject to, an agreement in the form of the ISDA 1992 Master Agreement (Multicurrency – Cross Border) (the "**Agreement**") as if Dealer and Counterparty had executed an agreement in such form (without any Schedule but with such other elections set forth in this Confirmation) on the Trade Date. In the event of any inconsistency between provisions of the Agreement and this Confirmation, this Confirmation will prevail for the purpose of the Transaction. The parties hereby agree that no Transaction other than the Transaction to which this Confirmation relates shall be governed by the Agreement.

2. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms:

Trade Date:	July 14, 2011
Effective Date:	July 19, 2011
Buyer:	Dealer
Seller:	Counterparty
Shares:	The common stock of Counterparty Ticker Symbol: (“COF”)
Number of Shares:	20,000,000 On each Valuation Date, the Number of Shares shall be reduced by the number of Settlement Shares to which such Valuation Date relates.
Exchange:	NYSE
Related Exchange:	All Exchanges
Forward Price:	On the Effective Date, the Initial Forward Price, and on any other day, the Forward Price as of the immediately preceding calendar day multiplied by the sum of (i) 1 *and* (ii) the Daily Accrual Rate for such day; *provided* that on each Forward Price Reduction Date, the Forward Price in effect on such date shall be the Forward Price otherwise in effect on such date minus the Forward Price Reduction Amount for such Forward Price Reduction Date.
Initial Forward Price:	USD 48.50 per Share
Daily Accrual Rate:	For any day, (i)(A) FED-FUNDS for such day minus (B) Spread divided by (ii) 365. For avoidance of doubt, Daily Accrual Rate may be a negative number.
Spread	75 basis points.
Forward Price Reduction Dates:	August 5, 2011, November 14, 2011, and February 3, 2012
Forward Price Reduction Amount:	With respect to each Forward Price Reduction Date, USD 0.05.
Maturity Date:	February 15, 2012
Variable Obligation:	Not Applicable.
Prepayment:	Not Applicable.
Calculation Agent:	Dealer.

Valuation:

Valuation Time:	Scheduled Closing Time; *provided* that if the principal trading session is extended, the Calculation Agent shall determine the Valuation Time in its reasonable discretion.
Valuation Date:	The last Exchange Business Day of the Valuation Period.
Valuation Period:	With respect to each Settlement Notice Date for which Counterparty has validly elected Cash Settlement or Net Share Settlement, the period from, and including, the first Scheduled Trading Day following such Settlement Notice Date to, and including the

Exchange Business Day on which Dealer has completed the unwind of its hedge position related to the portion of the Number of Shares subject to such Settlement Notice Date (which unwind shall be conducted in a commercially reasonable manner).

Notwithstanding anything to the contrary in the Equity Definitions, if any Scheduled Trading Day during a Valuation Period is a Disrupted Day and Cash Settlement has been elected, the Calculation Agent shall determine whether (i) such Disrupted Day is a Disrupted Day in full, in which case the 10b-18 VWAP for such Disrupted Day shall not be included in the calculation of the Cash Settlement Amount, or (ii) such Disrupted Day is a Disrupted Day only in part, in which case the 10b-18 VWAP for such Disrupted Day shall be determined by the Calculation Agent based on Rule 10b-18 eligible transactions in the Shares on such Disrupted Day effected before the relevant Market Disruption Event occurred and/or after the relevant Market Disruption Event ended, and the weightings of the 10b-18 VWAP Price for each Exchange Business Day during the Valuation Period shall be adjusted in a commercially reasonable manner by the Calculation Agent for purposes of determining the Cash Settlement Amount in order to preserve the fair value of the Transaction to the parties, with such adjustments based on, among other factors, the duration of any Market Disruption Event and the volume, historical trading patterns and price of the Shares. In either case, the Calculation Agent shall notify Issuer in writing of (x) the circumstances giving rise to such Disrupted Day and (y) any such adjustment as soon as reasonably practicable after the occurrence of such Disrupted Day.

Market Disruption Event: Section 6.3(a) of the Equity Definitions shall be amended by deleting the words “at any time during the one hour period that ends at the relevant Valuation Time, Latest Exercise Time, Knock-in Valuation Time or Knock-out Valuation Time, as the case may be” and replacing them with the words “at any time during the regular trading session on the Exchange, without regard to after hours or any other trading outside of the regular trading session hours”, by amending and restating clause (a)(iii) thereof in its entirety to read as follows: “(iii) an Early Closure that the Calculation Agent determines is material” and by adding the words “, or (iv) a Regulatory Disruption after clause (a)(iii) as restated above.

Section 6.3(d) of the Equity Definitions is hereby amended by deleting the remainder of the provision following the term “Scheduled Closing Time” in the fourth line thereof.

Regulatory Disruption: A “Regulatory Disruption” shall occur if Dealer determines in its reasonable discretion based on advice of counsel with respect to a given Scheduled Trading Day during the Valuation Period that it is appropriate in light of legal, regulatory or self-regulatory requirements or related policies or procedures for Dealer to refrain from all or any part of the market activity in which it would otherwise engage in connection with this Transaction on such day. Dealer shall notify Counterparty upon the occurrence of a Regulatory Disruption and shall subsequently notify Counterparty on the day Dealer believes that the circumstances giving rise to such Regulatory Disruption have changed. Dealer shall make its determination of a Regulatory Disruption in a manner consistent with the determinations made with respect to other issuers under similar facts and circumstances.

Disrupted Day:	The definition of "Disrupted Day" in Section 6.4 of the Equity Definitions shall be amended by adding the following sentence after the first sentence: "A Scheduled Trading Day on which a Related Exchange fails to open during its regular trading session will not be a Disrupted Day if the Calculation Agent determines that such failure will not have a material impact on Dealer's ability to unwind any hedging transactions related to the Transaction".

Settlement Terms:

Settlement Currency:	USD
Settlement Shares:	(a) With respect to any Settlement Notice Date other than the Maturity Date, the number of Shares designated as such by Counterparty in the relevant Settlement Notice or designated pursuant to the "Acceleration Events" provisions below, as applicable; *provided* that the Settlement Shares so designated shall not exceed the Number of Shares at that time; *provided further* that if a Settlement Notice Date has been specified for a number of Shares equal to the Number of Shares on or prior to the Maturity Date and the Settlement Date with respect to such Settlement Notice Date has not occurred prior to the Maturity Date, the number of Settlement Shares on the Maturity Date shall be zero; and (b) With respect to the Settlement Notice Date on the Maturity Date, a number of Shares equal to the Number of Shares at that time.
Settlement Notice Date:	(a) Maturity Date and (b) any Scheduled Trading Day following the Effective Date and up to, but excluding, the Scheduled Settlement Date that is either: (i) designated by Counterparty as a Settlement Notice Date by a written notice (a "**Settlement Notice**") delivered to Dealer no less than one Scheduled Trading Day prior to such Settlement Notice Date which shall also contain the applicable Settlement Shares and the election of Cash Settlement or Net Share Settlement with respect to such Settlement Shares, if applicable; or (ii) designated by Dealer as a Settlement Notice Date pursuant to the "Acceleration Events" provisions below; *provided* that the Maturity Date will be a Settlement Notice Date if on such date the Number of Shares is greater than zero; *provided further* that if any Settlement Notice Date specified above is not an Exchange Business Day, the Settlement Notice Date shall instead be the next Exchange Business Day.
Settlement Date:	Three Scheduled Trading Days immediately following (i) the Valuation Date if Cash Settlement or Net Share Settlement is applicable or (ii) the Settlement Notice Date if Physical Settlement is applicable.
Settlement Method Election:	Applicable and means that Counterparty may elect Physical Settlement, Cash Settlement, or Net Share Settlement as set forth in a Settlement Notice; *provided* that Physical Settlement shall apply (i) if no Settlement Method is validly selected, (ii) unless at the time of the

	election Counterparty represents and warrants that Counterparty is making an election in good faith and not as part of a plan or scheme to evade compliance with the federal securities laws and provides the representation contained in paragraph 5(h) below made as of the date of the election, or (iii) to any Settlement Date designated by Dealer under "Termination Settlement" below, unless Dealer elects to permit Cash Settlement or Net Share Settlement.
Electing Party:	Counterparty
Settlement Method Election Date:	Each Settlement Notice Date with respect to the applicable Settlement Shares.
Default Settlement Method:	Physical Settlement
Representation and Agreement:	Notwithstanding Section 9.11 of the Equity Definitions, the parties acknowledge that (i) any Shares delivered by Dealer to Counterparty (including in connection with Net Share Settlement) will be subject to compliance with applicable law and restrictions and limitations arising from Counterparty's status under applicable securities laws, and (ii) any Shares delivered to Dealer (whether in connection with Physical Settlement or Net Share Settlement) will be subject to restrictions and limitations under applicable securities laws, as described in paragraph 3 below.
Physical Settlement Terms:	
Physical Settlement:	If Physical Settlement is applicable, on the Settlement Date, Counterparty shall deliver to Dealer a number of Shares equal to the Settlement Shares for such Settlement Date, and Dealer shall pay to Counterparty, by wire transfer of immediately available funds to an account designated by Counterparty, an amount equal to the Physical Settlement Amount for such Settlement Date.
Physical Settlement Amount:	For any Settlement Date for which Physical Settlement is applicable, an amount equal to the product of (a) the Forward Price in effect on the relevant Settlement Notice Date *multiplied by* (b) the Settlement Shares for such Settlement Date.
Cash Settlement Terms:	
Cash Settlement:	On any Settlement Date in respect of which Cash Settlement applies, if the Cash Settlement Amount is (i) a positive number, Dealer will pay the Cash Settlement Amount to Counterparty, or (ii) a negative number, Counterparty will pay the absolute value of the Cash Settlement Amount to Dealer.

Cash Settlement Amount:	For any Settlement Date in respect of which Cash Settlement applies, an amount determined by the Calculation Agent equal to the difference between (1) the product of (i)(A) the average Forward Price during the applicable Valuation Period, minus USD 0.02, minus (B) the average of the 10b-18 VWAP prices per Share on each Exchange Business Day during such Valuation Period, and (ii) the number of Settlement Shares for such Settlement Date, and (2) the product of (i) the Forward Price Reduction Amount for any Forward Price Reduction Date that occurs during such Valuation Period, and (iii) the number of Settlement Shares with respect to which Dealer has not unwound its hedge as of such Forward Price Reduction Date.
10b-18 VWAP:	For any Exchange Business Day during the Valuation Period which is not a Disrupted Day, the volume-weighted average price at which the Shares trade as reported in the composite transactions for the Exchange on such Exchange Business Day, excluding (i) trades that do not settle regular way, (ii) opening (regular way) reported trades on the Exchange on such Exchange Business Day, (iii) trades that occur in the last ten minutes before the scheduled close of trading on the Exchange on such Exchange Business Day and ten minutes before the scheduled close of the primary trading session in the market where the trade is effected, and (iv) trades on such Exchange Business Day that do not satisfy the requirements of Rule 10b-18(b)(3), as quoted on Bloomberg Page "COF <Equity> AQR SEC" (or any successor thereto), or if such price is not so reported on such Exchange Business Day for any reason or the reported price is manifestly erroneous, such price shall be as reasonably determined by the Calculation Agent.
Net Share Settlement Terms:	
Net Share Settlement:	On any Settlement Date in respect of which Net Share Settlement applies, if the number of Net Share Settlement Shares is a (i) negative number, Dealer shall deliver a number of Shares to Counterparty equal to the absolute value of the Net Share Settlement Shares, or (ii) positive number, Counterparty shall deliver to Dealer the Net Share Settlement Shares; *provided* that if Dealer determines in its sole judgment that it would be required to deliver Net Share Settlement Shares to Counterparty, Dealer may elect to deliver a portion of such Net Share Settlement Shares on one or more dates prior to the applicable Settlement Date.
Net Share Settlement Shares:	For any Settlement Date in respect of which Net Share Settlement applies, a number of Shares equal to (a) the number of Settlement Shares for such Settlement Date, *minus* (b) the number of Shares Dealer actually purchases during the Valuation Period (with such purchases to be made in a commercially reasonable manner) for a total purchase price equal to the difference between (1) the product of (i) the average Forward Price during the applicable Valuation Period, *minus* USD 0.02 *and* (ii) the number of Settlement Shares for such Settlement Date, *and* (2) the product of (i) the Forward Price Reduction Amount for any Forward Price Reduction Date that occurs during such Valuation Period *and* (ii) the number of Shares with respect to which Dealer has not unwound its hedge as of such Forward Price Reduction Date.

Net Share Settlement Provisions:	If the Transaction is to be Net Share Settled, the provisions of Sections 9.8, 9.9, 9.10, 9.11 and 9.12 of the Equity Definitions will be applicable, except that all references in such provisions to "Physically Settled" shall be read as references to "Net Share Settled". "Net Share Settled" in relation to a Transaction means that Net Share Settled is applicable to the Transaction.

Adjustments:

Method of Adjustment:	Calculation Agent Adjustment; *provided* that the Equity Definitions shall be amended by replacing the words "diluting or concentrative" in Sections 11.2(a), 11.2(c) (in two instances) and 11.2(e)(vii) with the word "material" and by adding the words "or the Transaction" after the words "theoretical value of the relevant Shares" in Section 11.2(a), 11.2(c) and 11.2(e)(vii); *provided, further* that adjustments may be made to account for changes in volatility, stock loan rate and liquidity relative to the relevant Shares; *provided further* that the events described in clauses (B), (C) and (D) of Section 11.2(e)(ii) of the Equity Definitions shall be deemed not to give rise to a Potential Adjustment Event and the words "an Extraordinary Dividend" in Section 11.2(e)(iii) of the Equity Definitions are hereby deleted and replaced by "[Reserved]".

Extraordinary Events:

New Shares:	Section 12.1(i) of the Equity Definitions is hereby amended by deleting the text in clause (i) in its entirety and replacing it with the phrase "publicly quoted, traded or listed on any of the New York Stock Exchange, the American Stock Exchange, the NASDAQ Global Select Market or the NASDAQ Global Market (or their respective successors)".
Share-for-Share:	The definition of "Share-for-Share" set forth in Section 12.1(f) of the Equity Definitions is hereby amended by the deletion of parenthetical in clause (i) thereof.

Consequences of Merger Events:

Share-for-Share:	As set forth under "Acceleration Events" below.
Share-for-Other:	As set forth under "Acceleration Events" below.
Share-for-Combined:	As set forth under "Acceleration Events" below.
Certain Tender Offers:	The Definition of "Merger Event" in Section 12.1(b) of the Equity Definitions shall be deemed to include any Tender Offer that results in any entity or person purchasing, or otherwise obtaining or having the right to obtain, by conversion or other means, more than 49.9% of the outstanding Shares of Counterparty, as determined by the Calculation Agent.

Consequences of Tender Offers:

Tender Offer:	Applicable; *provided* that Section 12.1(d) of the Equity Definitions is hereby amended by adding ", or of the outstanding Shares," before "of the Issuer" in the fourth line thereof. Section 12.1(e) and 12.1(l) (ii) of the Equity Definitions are hereby amended by adding "or Shares, as applicable," after "voting shares".
Share-for-Share:	Modified Calculation Agent Adjustment, unless such Tender Offer constitutes a "Merger Event" as set forth above, in which case Consequences of Merger Events shall apply.
Share-for-Other:	Modified Calculation Agent Adjustment, unless such Tender Offer constitutes a "Merger Event" as set forth above, in which case Consequences of Merger Events shall apply.
Share-for-Combined:	Modified Calculation Agent Adjustment, unless such Tender Offer constitutes a "Merger Event" as set forth above, in which case Consequences of Merger Events shall apply.
Modified Calculation Agent Adjustment:	For greater certainty, the definition of "Modified Calculation Agent Adjustment" in Sections 12.2(e) and 12.3(d) of the Equity Definitions shall be amended by deleting "expected dividends," therefrom and adding the following italicized language after the stipulated parenthetical provision (after taking into account such deletion): "(including adjustments to account for changes in volatility, stock loan rate or liquidity relevant to the Shares or to this Transaction) *from the Exchange Business Day immediately preceding the Announcement Date or the Determination Date, as applicable, to the first Exchange Business Day immediately following the Merger Date (Section 12.2) or Tender Offer Date (Section 12.3)*."
Announcement Date:	The definition of "Announcement Date" in Section 12.1 of the Equity Definitions shall be amended by (i) replacing the word "leads to the" in the third and the fifth lines thereof with the words ", if completed, would lead to a", (ii) replacing the words "voting shares" in the fifth line thereof with the word "Shares", or (iii) inserting the words "by any entity" after the word "announcement" in the second and the fourth lines thereof.
Announcement Event:	The occurrence of the Announcement Date of a Merger Event or Tender Offer or potential Merger Event or potential Tender Offer.
Composition of Combined Consideration:	Not Applicable; *provided* that, notwithstanding Sections 12.5(b) and 12.1(f) of the Equity Definitions, to the extent that the composition of the consideration for the relevant Shares pursuant to a Tender Offer or Merger Event could be elected by an actual holder of the Shares, the Calculation Agent will, in its sole discretion, determine such composition.
Consequences of Announcement Event:	As set forth under "Acceleration Events" below in the case of an Announcement Event with respect to a Merger Event and as set forth under "Consequences of Tender Offers" above in the case of an Announcement Event with respect to a Tender Offer.

Nationalization, Insolvency or Delisting:	Cancellation and Payment (Calculation Agent Determination); *provided* that, in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it will also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, the NASDAQ Global Select Market or the NASDAQ Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any such exchange or quotation system, such exchange or quotation system shall thereafter be deemed to be the Exchange.
Additional Disruption Events:	
Change in Law:	Applicable; *provided* that (i) Section 12.9(a)(ii) of the Equity Definitions is hereby amended by replacing the phrase "the interpretation" in the third line thereof with the phrase "or public announcement of the formal or informal interpretation", (ii) Dealer shall not exercise its rights under Section 12.9(b)(i) of the Equity Definitions with respect to a Change in Law referred to in clause (Y) of Section 12.9(a)(ii) of the Equity Definitions except to the extent it is exercising its right to terminate transactions as a result of a "Change in Law" event with respect to other similarly situated customers, and (iii) Dealer shall not exercise its rights under Section 12.9(b)(i) of the Equity Definitions or under Paragraph 6(b) hereof with respect to a Change in Law without giving Counterparty prior written notice of the same and a reasonable opportunity to cause a transfer and assignment of Dealer's rights and obligations in respect of this Transaction to another dealer for which the relevant circumstances do not exist, and Dealer agrees to consummate such a transfer and assignment at Counterparty's request, provided that any such transfer and assignment shall be at the fair market value of this Transaction and shall be contingent upon the payment by Counterparty to Dealer of a transfer fee equal to the product of 25 basis points (0.25%), the then current Forward Price and the then current Number of Shares. The parties agree that, for the avoidance of doubt, for purposes of Section 12.9(a)(ii) of the Equity Definitions, "any applicable law or regulation" shall include the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, any rules and regulations promulgated thereunder and any similar law or regulation (collectively, the "**Wall Street Act**"), and the consequences specified in Section 12.9(b)(i) of the Equity Definitions shall apply to any Change in Law arising from any such act, rule or regulation. The parties hereby agree that any additional capital charges or other regulatory capital requirements imposed in connection with the Wall Street Act, if applicable to this Transaction, may constitute "a materially increased cost in performing its obligations under such Transaction" for purposes of Section 12.9(a)(ii)(Y) of the Equity Definitions.
Failure to Deliver:	Not Applicable
Insolvency Filing:	Applicable. Section 12.9(b)(i) of the Equity Definitions is hereby amended by adding the following sentence at the end: "If neither party elects to

	terminate the Transaction, the Calculation Agent may adjust the terms of the Transaction upon the occurrence of such an event pursuant to Modified Calculation Agent Adjustment (as if such event were a Tender Offer).”
Hedging Disruption:	Not Applicable
Increased Cost of Hedging:	Not Applicable
Loss of Stock Borrow:	As set forth under “Acceleration Events - Stock Borrow Event” below.
Borrow Cost:	The cost to borrow the relevant Shares that would be incurred by a third party market participant borrowing such Shares, as determined by the Calculation Agent on the relevant date of determination. Such costs shall include (a) the spread below FED-FUNDS that would be earned on collateral posted in connection with such borrowed Shares, net of any costs or fees, and (b) any stock loan borrow fee that would be payable for such Shares, expressed as fixed rate per annum.
Increased Cost of Stock Borrow:	Applicable; *provided* that (a) Section 12.9(a)(viii) of the Equity Definitions shall be amended by deleting “rate to borrow Shares” and replacing it with “Borrow Cost” and (b) Section 12.9(b)(v) of the Equity Definitions shall be amended by (i) adding the word “or” immediately before the phrase “(B)”, (ii) deleting subsection (C) in its entirety, (iii) replacing “either party” in the penultimate sentence with “the Hedging Party”, and (iv) replacing the word “rate” in clauses (X) and (Y) of the final sentence therein with the words “Borrow Cost”.
Initial Stock Loan Rate:	25 basis points.
FED-FUNDS:	“**FED FUNDS**” means, for any day, the rate set forth for such day opposite the caption “Federal funds”, as such rate is displayed on the page “FedsOpen <Index> <GO>“ on the BLOOMBERG Professional Service, or any successor page; *provided* that if no rate appears for any day on such page, the rate for the immediately preceding day for which a rate does so appear shall be used for such day.
Hedging Party:	Dealer or an affiliate of Dealer that is involved in the hedging of this Transaction for all applicable Additional Disruption Events.
Determining Party:	Dealer for all applicable Additional Disruption Events.
Acknowledgments:	
Non-Reliance:	Applicable
Agreements and Acknowledgments Regarding Hedging Activities:	Applicable
Additional Acknowledgments:	Applicable
Additional Events of Default:	In addition to the Events of Default set forth in the Agreement, it shall be an Event of Default with respect to which Counterparty is the Defaulting Party if any representation made at the time the Underwriting Agreement dated as of the date hereof among Counterparty, Dealer and the representative(s) of the underwriter(s) (the “**Underwriting Agreement**”) is entered into or repeated on the Closing Date (as defined in the Underwriting Agreement) by

Counterparty in the Underwriting Agreement (or any certificate delivered thereunder) proves to have been incorrect or misleading in any material respect when the Underwriting Agreement is entered into or repeated on the Closing Date, as applicable.

3. **Conditions to Effectiveness and Securities Law Matters**

(a) The obligations of Dealer hereunder shall be subject to the conditions precedent that:

(i) Counterparty have performed all of the obligations required to be performed by it under the Underwriting Agreement on or prior to the Effective Date.

(ii) The conditions set forth in Section 10 of the Underwriting Agreement shall have been satisfied or waived by the representatives of the underwriters thereunder.

(iii) All of the representations and warranties of Counterparty hereunder and under the Agreement shall be true and correct on the Effective Date.

(iv) Counterparty shall have performed all of the obligations required to be performed by it hereunder and under the Agreement on or prior to the Effective Date.

(b) Interpretive Letter. The parties intend for this Confirmation to constitute a "Contract" as described in the letter dated October 6, 2003 submitted by Robert W. Reeder and Leslie N. Silverman to Paula Dubberly of the staff of the Securities and Exchange Commission (the "**Staff**") to which the Staff responded in an interpretive letter dated October 9, 2003 (the "**Interpretive Letter**").

(c) Counterparty has been informed that Dealer will hedge its exposure to the Transaction by selling (or causing its affiliates to sell), pursuant to a Registration Statement (as defined below), Shares borrowed from Counterparty or third parties or other Shares, and that the Shares (up to the Number of Shares) delivered by Counterparty to Dealer pursuant to the Transaction may be used by Dealer to settle such sales or close out open Share borrowings created in the course of Dealer's hedging activities related to its exposure under the Transaction without further registration under the Securities Act of 1933, as amended (the "**Securities Act**"). Accordingly, Counterparty agrees that, subject to paragraph 3(g) below, the Shares that it delivers to Dealer on or prior to any Settlement Date will not bear a restrictive legend and that such Shares will be deposited in, and the delivery thereof, shall be effected through the facilities of, the Clearance System.

(d) If delivery of the Underwritten Securities (as such term is defined in the Underwriting Agreement) shall not have occurred by the Closing Date (as such term is defined in the Underwriting Agreement), the parties shall have no further obligations in connection with the Transaction, other than in respect of breaches of representations or covenants on or prior to such date. If at any time, for any reason, the prospectus contemplated by the Underwriting Agreement ceases to satisfy the requirements of the Underwriting Agreement prior to the completion by Dealer, its affiliates or the other underwriters of the sale of a number of Shares equal to the Number of Shares, Dealer may reduce the Number of Shares hereunder such that the Number of Shares is equal to the number of Shares sold pursuant to the Underwriting Agreement prior to such time, and in such event, the Calculation Agent shall make any other commercially reasonable adjustments to the terms of the Transaction as appropriate to preserve the fair value of the Transaction to the parties after giving effect to such reduction.

(e) Counterparty agrees not to take any action to reduce or decrease the number of authorized and unissued Shares below the Number of Shares plus the total number of Shares deliverable upon settlement (whether by net share settlement or otherwise) of any other transaction or agreement to which it is a party.

(f) **Registration**.

(i) A registration statement ("**Registration Statement**"), which shall be a shelf registration statement filed pursuant to Rule 415 under the Securities Act and a prospectus thereunder (the "**Prospectus**"), covering the public sale of the Number of Shares hereunder shall have been filed with, and become effective pursuant to the rules of, the Securities and Exchange Commission no later than one Exchange Business Day prior to the Trade Date, and such Registration Statement shall continue to be in effect and such Prospectus shall be legally usable at all times to and including the Effective Date.

(ii) As of the Trade Date, the Underwriting Agreement shall have been entered into with Dealer in connection with the public resale by Dealer of the Shares comprising Dealer's hedge.

(iii) If Dealer or its affiliate reasonably determines at any time that it will be unable to complete the public sale of Shares pursuant to this paragraph 3(f) in compliance with all applicable securities laws and regulations in an amount equal to the Number of Shares in a timely manner for any reason whatsoever (including, without limitation, the unavailability of an effective Registration Statement or legally sufficient Prospectus required for such sales), Dealer or its affiliate shall have the right to reduce the Number of Shares to an amount elected by it in its sole, good faith discretion that is equal to the number of Shares that Dealer or its affiliate has publicly sold as a hedge of the Transaction prior to such time under the Registration Statement, and the Calculation Agent shall make such adjustments to the Transaction as are appropriate to account for such lesser Number of Shares so selected by Dealer or its affiliate.

(g) **Private Placement Procedures**.

(i) If Counterparty is unable to comply with the provisions of paragraph 3(g) above because of a change in law, or Dealer otherwise determines that in its reasonable opinion any Shares or Termination Delivery Units to be delivered to Dealer by Counterparty hereunder may not be freely returned by Dealer to securities lenders as described under paragraph 3(g) above, then delivery of any such Shares or Termination Delivery Units (the "**Private Securities**") shall be effected pursuant to this provision, unless waived by Dealer.

(ii) If Counterparty delivers the Private Securities pursuant to this provision (a "**Private Placement Settlement**"), then delivery of Private Securities by Counterparty shall be effected pursuant to the private placement procedures set forth in Annex A; *provided* that Counterparty shall not effect a Private Placement Settlement if, on the date of any anticipated delivery as set forth hereunder, it has taken, or caused to be taken, any action that would make unavailable either the exemption pursuant to Section 4(2) of the Securities Act for the sale by Counterparty to Dealer (or any affiliate designated by Dealer) of the Private Securities or the exemption pursuant to Section 4(1) or Section 4(3) of the Securities Act for resales of the Private Securities by Dealer (or any such affiliate of Dealer), in which case such delivery shall be delayed until, in the opinion of Dealer, such exemptions are available.

4. **Mutual Representations, Warranties and Agreements**.

Each of Dealer and Counterparty represents and warrants to, and agrees with, the other party that:

(a) **Commodity Exchange Act**. It is an "eligible contract participant" within the meaning of Section 1a(12) of the U.S. Commodity Exchange Act, as amended (the "**CEA**"). The Transaction has been subject to individual negotiation by the parties. The Transaction has not been executed or traded on a "trading facility" as defined in Section 1a(33) of the CEA;

(b) **Securities Act**. It is a "qualified institutional buyer" as defined in Rule 144A under the Securities Act, or an "accredited investor" as defined in Section 2(a)(15)(ii) of the Securities Act.

(c) **ERISA**. The assets used in the Transaction (1) are not assets of any "plan" (as such term is defined in Section 4975 of the U.S. Internal Revenue Code (the "**Code**")) subject to Section 4975 of the Code or any "employee benefit plan" (as such term is defined in Section 3(3) of the U.S. Employee

Retirement Income Security Act of 1974, as amended ("**ERISA**")) subject to Title I of ERISA, and (2) do not constitute "plan assets" within the meaning of Department of Labor Regulation 2510.3-101, 29 CFR Section 2510-3-101.

5. **Additional Representations, Warranties and Agreements of Counterparty**

In addition to the representations, warranties and agreements set forth in the Agreement and elsewhere in this Confirmation, Counterparty further represents, warrants and agrees that:

(a) Shares of Counterparty potentially issuable upon settlement of the Transaction (the "**Forward Shares**") have been reserved for issuance by all required corporate action of Counterparty. The Forward Shares have been duly authorized and, when delivered as contemplated by the terms of the Transaction following the settlement of the Transaction, will be validly issued, fully-paid and non-assessable, and the issuance of the Forward Shares will not be subject to any pre-emptive or similar rights;

(b) Counterparty shall promptly provide written notice to Dealer upon obtaining knowledge of the occurrence of any event that would constitute an Event of Default, a Potential Event of Default, a Potential Adjustment Event, a Merger Event or any other Extraordinary Event; provided, however, that should Counterparty be in possession of material non-public information regarding Counterparty, Counterparty shall not communicate such information to Dealer;

(c) (A) Counterparty is acting for its own account, and it has made its own independent decisions to enter into the Transaction and as to whether the Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary, (B) Counterparty is not relying on any communication (written or oral) of Dealer or any of its affiliates as investment advice or as a recommendation to enter into the Transaction (it being understood that information and explanations related to the terms and conditions of the Transaction shall not be considered investment advice or a recommendation to enter into the Transaction) and (C) no communication (written or oral) received from Dealer or any of its affiliates shall be deemed to be an assurance or guarantee as to the expected results of the Transaction;

(d) Counterparty is entering into the Transaction, solely for the purposes stated in the board resolution authorizing the Transaction and in its public disclosure, and there is no internal policy, whether written or oral, of Counterparty that would prohibit Counterparty from entering into any aspect of the Transaction, including, but not limited to, the issuance of Shares to be made pursuant hereto;

(e) Counterparty has not and will not directly or indirectly violate any applicable law (including, without limitation, the Securities Act and the Securities Exchange Act of 1934, as amended (the "**Exchange Act**")) in connection with the Transaction;

(f) Counterparty is not as of the Trade Date and as of the date on which Counterparty delivers any Termination Delivery Units, and shall not be after giving effect to the transactions contemplated hereby, "insolvent" (as such term is defined in Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the "**Bankruptcy Code**"));

(g) As of the date thereof and as of the Trade Date, the Prospectus does not contain any misstatement of a material fact or omit any material fact required to be stated therein or necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading;

(h) As of the Trade Date, Counterparty is not in possession of any material non-public information concerning the business, operations or prospects of the Issuer.

(i) Counterparty is not, and, after giving effect to the transactions contemplated hereby will not be required to register as, an "investment company" as such term is defined in the Investment Company Act of 1940, as amended.

(j) Counterparty understands, agrees and acknowledges that no obligations of Dealer to it hereunder shall be entitled to the benefit of deposit insurance and that such obligations shall not be guaranteed by any affiliate of Dealer or any governmental agency.

(k) Any Shares, when issued and delivered in accordance with the terms of the Transaction, will be duly authorized and validly issued, fully paid and nonassessable, and the issuance thereof will not be subject to any preemptive or similar rights.

(l) Without limiting the generality of Section 13.1 of the Equity Definitions, Counterparty acknowledges that Dealer is not making any representations or warranties with respect to the treatment of the Transaction under any accounting standards including ASC Topic 260, Earnings Per Share, ASC Topic 815, Derivatives and Hedging, ASC Topic 480, Distinguishing Liabilities from Equity and ASC 815-40, Derivatives and Hedging – Contracts in Entity's Own Equity (or any successor issue statements) or under FASB's Liabilities & Equity Project;

(m) Counterparty is not entering into the Transaction for the purpose of (i) creating actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for the Shares) or (ii) raising or depressing or otherwise manipulating the price of the Shares (or any security convertible into or exchangeable for the Shares) or otherwise in violation of the Exchange Act;

(n) Counterparty has not entered into any obligation that would contractually limit it from effecting Physical Settlement, Cash Settlement, Net Share Settlement or any other obligation under this Transaction and it agrees not to enter into any such obligation during the term of this Transaction.

(o) As of the date hereof, Counterparty is eligible to conduct a primary offering of Shares on Form S-3, the offering contemplated by the Underwriting Agreement complies with Rule 415 under the Securities Act, and the Shares are "actively traded" as defined in Rule 101(c)(1) of Regulation M ("**Regulation M**") promulgated under the Exchange Act.

(p) If Counterparty purchases any Shares pursuant to the Transaction, such purchase(s) will comply with all laws and regulations applicable to such purchases.

(q) Counterparty will keep available, free from preemptive rights, out of its authorized but unissued Shares, solely for the purpose of issuance upon settlement of the Transaction as herein provided the full number of Forward Shares as shall then be issuable upon Physical Settlement of the Transaction. All Forward Shares so issuable upon Physical Settlement or Net Share Settlement of the Transaction shall, upon such issuance, be accepted for listing on the Exchange.

6. **Other Provisions**

(a) **Method of Delivery**. Whenever delivery of funds or other assets is required hereunder by or to Counterparty, such delivery shall be effected through Agent. In addition, all notices, demands and communications of any kind relating to the Transaction between Dealer and Counterparty shall be transmitted exclusively through Agent.

(b) **Acceleration Events**.

Each of the following shall constitute an "Acceleration Event":

(i) **Specified Event**. The occurrence of any event or condition specified in "General Terms" above as to which it is specified that "Acceleration Events" shall apply.

(ii) **Stock Borrow Event**. If in Dealer's reasonable judgment, (a) Dealer is not able hedge its exposure under this Transaction because insufficient Shares are made available for borrowing by securities lenders or (b) Dealer would incur a cost to borrow (or to maintain a borrow of) sufficient Shares to hedge its exposure under this Transaction that is equal to or greater than 200 basis points per annum per any Share (each of (a) and (b), a "**Stock Borrow Event**"), then Dealer shall be entitled to designate any Scheduled Trading Day prior to the date the Number of Shares is first reduced to zero to be a Settlement Date, by providing Counterparty at least two Scheduled Trading Days' notice prior to the relevant Settlement Date, and to designate the number of Settlement Shares for the relevant Settlement Date, which shall not exceed the number of Shares to which the relevant Stock Borrow Event relates.

(iii) **Dividends**. If on any day after the Trade Date, Counterparty declares a distribution, issue or dividend to existing holders of the Shares of (a) any cash dividends in excess of USD 0.05 per Share or with an ex-dividend date occurring earlier than August 5, 2011, November 14, 2011, and February 3, 2012, or (b) share capital or other securities of another issuer acquired or owned (directly or indirectly) by Counterparty as a result of a spin-off or similar transaction or (c) any other type of securities (other than Shares), rights or warrants or other assets, in any case for payment (cash or other consideration) at less than the prevailing market price, as determined by Dealer, then Dealer shall be entitled to designate any Scheduled Trading Day prior to the date the Number of Shares is first reduced to zero to be a Settlement Date, by providing Counterparty at least three Scheduled Trading Days' notice prior to the relevant Settlement Date, and to designate the number of Settlement Shares for the relevant Settlement Date.

(iv) **Announcement of Merger Event**. If an Announcement Event (as defined above) occurs, then Counterparty shall notify Dealer of such occurrence within one Scheduled Trading Day after such occurrence and Dealer shall be entitled to designate any Scheduled Trading Day prior to the date the Number of Shares is first reduced to zero to be a Settlement Date, by providing Counterparty at least twenty Scheduled Trading Days' notice prior to the relevant Settlement Date, and to designate the number of Settlement Shares for the relevant Settlement Date.

(v) **ISDA Termination**. In lieu of (a) designating an Early Termination Date as the result of an Event of Default or Termination Event, (b) terminating this Transaction and determining a Cancellation Amount as the result of an Additional Disruption Event, or (c) terminating this Transaction and determining an amount payable in connection with an Extraordinary Event to which Cancellation and Payment would otherwise be applicable, the party that is not an Affected Party (in the case of a Termination Event) or the party that is the Non-defaulting Party (in the case of an Event of Default) or the Dealer (in all other cases under this Paragraph 6(b)(v)) shall be entitled to designate any Scheduled Trading Day prior to the date the Number of Shares is first reduced to zero to be a Settlement Date with respect to the Number of Shares as the Settlement Shares.

(vi) **Termination Settlement**. Notwithstanding anything to the contrary herein, in the Agreement or in the Equity Definitions, upon the occurrence of any Acceleration Event, Dealer shall have the right to designate by providing notice to Counterparty, any Scheduled Trading Day that is at least thirty Scheduled Trading Days from the date of such notice to be the Settlement Date; *provided* that (i) in the case of any Acceleration Event resulting from a dividend or distribution or a Merger Event or Tender Offer where the ex-dividend date of such dividend or distribution or the effectiveness of such Merger Event or Tender Offer, as applicable, would occur prior to such Settlement Date or (ii) for any other Acceleration Event specified in paragraph 6(b)(i) or 6(b)(ii) above, if such Acceleration Event shall have occurred and be continuing, then in each case Dealer may designate a Settlement Date less than thirty Scheduled Trading Days from the date of such notice. On the Settlement Date relating to such designation, Physical Settlement shall apply to the relevant Settlement Shares unless the Dealer otherwise agrees. Under no circumstances will the settlement amount upon early termination or an Acceleration Event include an adjustment for the effects of an Extraordinary Dividend or a change in expected dividends.

(c) **Company Purchases**.

(i) During any Valuation Period, neither Counterparty nor any "affiliate" or "affiliated purchaser" (each as defined in Rule 10b-18 ("**Rule 10b-18**") under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**")) shall directly or indirectly (including, without limitation, by means of any cash-settled or other derivative instrument) purchase, offer to purchase, place any bid or limit order that would effect a purchase of, or commence any tender offer relating to, any Shares (or an equivalent interest, including a unit of beneficial interest in a trust or limited partnership or a depository share) or any security convertible into or exchangeable or exercisable for Shares, except through Dealer.

(ii) Counterparty agrees not to repurchase any Shares if, immediately following such repurchase, the Number of Shares would be equal to or greater than 8.0% of the number of then-outstanding Shares.

(d) **Merger Announcement**. Counterparty agrees that it (A) will not during any Valuation Period make, or permit to be made, any public announcement (as defined in Rule 165(f) under the Securities Act) of any Merger Transaction or potential Merger Transaction unless such public announcement is made prior to the opening or after the close of the regular trading session on the Exchange for the Shares; (B) shall promptly (but in any event prior to the next opening of the regular trading session on the Exchange) notify Dealer following any such announcement that such announcement has been made; and (C) shall promptly (but in any event prior to the next opening of the regular trading session on the Exchange) provide Dealer with written notice specifying (i) Counterparty's average daily Rule 10b-18 Purchases (as defined in Rule 10b-18) during the three full calendar months immediately preceding the announcement date that were not effected through Dealer or its affiliates and (ii) the number of Shares purchased pursuant to the proviso in Rule 10b-18(b)(4) under the Exchange Act for the three full calendar months preceding the announcement date. Such written notice shall be deemed to be a certification by Counterparty to Dealer that such information is true and correct. In addition, Counterparty shall promptly notify Dealer of the earlier to occur of the completion of such transaction and the completion of the vote by target shareholders. "**Merger Transaction**" means any merger, acquisition or similar transaction involving a recapitalization as contemplated by Rule 10b-18(a)(13)(iv) under the Exchange Act.

(e) **Rule 10b5-1**. It is the intent of the parties that this Transaction comply with the requirements of Rule 10b5-1(c)(1)(i)(B) of the Exchange Act ("**Rule 10b5-1**"), and the parties agree that this Confirmation shall be interpreted to comply with the requirements of Rule 10b5-1(c), and Counterparty shall take no action that results in this Transaction not so complying with such requirements. Without limiting the generality of the preceding sentence, Counterparty acknowledges and agrees that (A) Counterparty does not have, and shall not attempt to exercise, any influence over how, when or whether Dealer effects any purchases in connection with this Transaction, (B) during any Valuation Period, Counterparty shall not, and shall not authorize any of its officers or employees to, communicate, directly or indirectly, any information regarding Counterparty or the Shares to employees of Dealer or its affiliates who are directly involved with the hedging of and trading with respect to this Transaction, (C) Counterparty is entering into this Transaction in good faith and not as part of a plan or scheme to evade compliance with federal securities laws including, without limitation, Rule 10b-5 and (D) Counterparty will not alter or deviate from this Confirmation or enter into or alter a corresponding hedging transaction with respect to the Shares. Counterparty also acknowledges and agrees that any amendment, modification, waiver or termination of this Confirmation must be effected in accordance with the requirements for the amendment or termination of a "plan" as defined in Rule 10b5-1(c). Without limiting the generality of the foregoing, any such amendment, modification, waiver or termination shall be made in good faith and not as part of a plan or scheme to evade the prohibitions of Rule 10b-5 and no such amendment, modification or waiver shall be made at any time at which Counterparty is aware of any material non-public information regarding Counterparty or the Shares.

(f) **Rule 10b-18**. Counterparty shall, at least one day prior to the first day of any Valuation Period, notify Dealer of the total number of Shares purchased in Rule 10b-18 purchases of blocks pursuant to the once-a-week block exception contained in Rule 10b-18(b)(4) by or for Counterparty or any of its affiliated purchasers during each of the four calendar weeks preceding the first day of any Valuation Period and during the calendar week in which the first day of any Valuation Period occurs ("**Rule 10b-18 purchase**", "**blocks**" and "**affiliated purchaser**" each being used as defined in Rule 10b-18). Neither Counterparty nor any of its affiliates shall take or refrain from taking any action (including, without limitation, any direct purchases by Counterparty or any of its affiliates, or any purchases by a party to a derivative transaction with Counterparty or any of its affiliates), either under this Confirmation, under an agreement with another party or otherwise, that might cause any purchases of Shares by Dealer or any of its affiliates in connection with any Cash Settlement or Net Share Settlement of this Transaction not to meet the requirements of the safe harbor provided by Rule 10b-18 if such purchases were made by Counterparty.

(g) **Regulation M**. In connection with this Confirmation and the Transaction, Counterparty agrees that if Counterparty elects Cash Settlement or Net Share Settlement, it shall not engage in any "distribution" (as defined in Regulation M) during the period starting on the first day of the relevant Valuation Period and ending on the Scheduled Trading Day following the last day of such Valuation Period.

(h) **Transfer or Assignment**. Neither party may transfer or assign any of its rights or obligations under the Transaction without the prior written consent of the other party; *provided* that the Dealer may, subject to applicable law, freely transfer and assign all of its rights and obligations under the Transaction without the consent of Counterparty to any affiliate of the Dealer, so long as the obligations of such transferee or assignee under the Transaction are guaranteed by Barclays Bank PLC, it being agreed that Counterparty shall not, as a result of such transfer and assignment to an affiliate of Dealer, be required under the Agreement or this Confirmation to (i) pay to the transferee or assignee an amount greater than the amount that it would have been required to pay to Dealer in the absence of such transfer or assignment or (ii) receive from the transferee or assignee an amount less than the amount that Counterparty would have received from Dealer in the absence of such transfer or assignment, in each case based on the circumstances in effect on the date of such transfer. If Counterparty, in good faith and in its commercially reasonable judgment, has determined that Counterparty has bona fide concerns with the creditworthiness of Dealer or Dealer's ability to perform its obligations hereunder (in each case, a "**Credit Event**"), then (i) Counterparty shall have the right to request in writing that Dealer transfer and assign all of its rights and obligations under this Transaction to a third party designated by Counterparty in such written request and (ii) Dealer, to the extent that such Credit Event is continuing, shall use commercially reasonable efforts to effect such transfer and assignment at the fair market value of this Transaction, provided that such transfer and assignment is contingent upon the payment by Counterparty to Dealer of a transfer fee equal to the *greater* of:

(A) an amount equal to the product of 4 basis points (0.04%), the then current Forward Price, and the then current Number of Shares; and

(B) an amount equal to the product of 25 basis points (0.25%), the then current Forward Price, the then current Number of Shares, and the quotient of (I) the number of days from and including the date of such transfer and assignment to but excluding the Maturity Date, divided by (II) the number of days from and including the Effective Date to but excluding the Maturity Date.

Notwithstanding any other provision in this Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities to or from Counterparty, Dealer may designate any of its affiliates to purchase, sell, receive or deliver such Shares or other securities and otherwise to perform Dealer's obligations in respect of the Transaction and any such designee may assume such obligations. Dealer shall be discharged of its obligations to Counterparty to the extent of any such performance.

(i) **Alternative Calculations and Counterparty Payment on Early Termination and on Certain Extraordinary Events**. If Dealer owes Counterparty or if Counterparty owes Dealer any amount in

connection with the Transaction (i) pursuant to Sections 12.2, 12.3, 12.6, 12.7 or 12.9 of the Equity Definitions or (ii) pursuant to Section 6(d)(ii) of the Agreement (a "**Payment Obligation**"), Counterparty shall have the right, in its sole discretion, to satisfy or to require Dealer to satisfy, as the case may be, any such Payment Obligation by delivery of Termination Delivery Units (as defined below) by giving irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, no later than noon New York time on the Early Termination Date or other date the Transaction is cancelled or terminated, as applicable, where such notice shall include a representation and warranty from Counterparty that it is not, as of the date of the telephonic notice and the date of such written notice, aware of any material non-public information concerning itself or the Shares ("**Notice of Counterparty Termination Delivery**"); *provided* that if Counterparty does not elect to require Dealer to satisfy its Payment Obligation by delivery of Termination Delivery Units, Dealer shall have the right (without regard to the exceptions set forth in clauses (i) and (ii) above), in its sole discretion, to elect to satisfy its Payment Obligation by delivery of Termination Delivery Units, notwithstanding Counterparty's failure to elect or election to the contrary, unless such delivery by Dealer would otherwise be prohibited by applicable law or regulation; and *provided further* that Counterparty shall not have the right to so elect (but, for the avoidance of doubt, Dealer shall have the right to so elect, unless such delivery by Dealer would otherwise be prohibited by applicable law or regulation) in the event of (i) an Insolvency, a Nationalization or a Merger Event, in each case, in which the consideration or proceeds to be paid to holders of Shares consists solely of cash or (ii) an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party, which Event of Default or Termination Event resulted from an event or events within Counterparty's control**.** Within a commercially reasonable period of time following receipt of a Notice of Counterparty Termination Delivery, Dealer shall deliver to Counterparty or Counterparty shall deliver to Dealer, as the case may be, a number of Termination Delivery Units having a fair market value (net of any brokerage and underwriting commissions and fees, including any customary private placement fees) equal to the amount of such Payment Obligation (such number of Termination Delivery Units to be delivered to be determined by the Calculation Agent as the number of whole Termination Delivery Units that could be sold over a commercially reasonable period of time to generate proceeds equal to the cash equivalent of such payment obligation). If the provisions set forth in this paragraph are applicable, the provisions of Sections 9.8, 9.9, 9.10, 9.11 (modified as described above) and 9.12 of the Equity Definitions shall be applicable, except that all references to "Shares" shall be read as references to "Termination Delivery Units." "**Termination Delivery Units**" means in the case of a Termination Event, Event of Default or Delisting, one Share or, in the case of Nationalization, Insolvency, Tender Offer or Merger Event, a unit consisting of the number or amount of each type of property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Nationalization, Insolvency, Tender Offer or Merger Event; *provided* that if such Nationalization, Insolvency, Tender Offer or Merger Event involves a choice of consideration to be received by holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.

(j) **Maximum Share Delivery**. Notwithstanding any other provision of this Confirmation, in no event will Counterparty be required to deliver more than 1.5 times the Number of Shares to Dealer (as adjusted by the Calculation Agent for any stock splits, stock dividends or similar events).

(k) **Limit on Beneficial Ownership**. Notwithstanding any other provisions hereof, no delivery hereunder (including pursuant to paragraph 6(j) above) shall be made, to the extent (but only to the extent) that, the receipt of any Shares upon such delivery would result in the existence of an Excess Ownership Position. Any purported delivery hereunder shall be void and have no effect to the extent (but only to the extent) that such delivery would result in the existence of an Excess Ownership Position. If any delivery owed to Dealer hereunder is not made, in whole or in part, as a result of this provision, Counterparty's obligation to make such delivery shall not be extinguished and Counterparty shall make such delivery as promptly as practicable after, but in no event later than one Scheduled Trading Day after, Dealer gives notice to Counterparty that, such exercise or delivery would not result in the existence of an Excess Ownership Position. "**Excess Ownership Position**" means a condition where either (1) the Equity Percentage exceeds 4.8% or (2) Dealer or any person whose ownership position would be aggregated with that of Dealer (Dealer or any such person, a "**Dealer Person**") under any state or federal bank holding company or banking laws, or other federal, state or local regulations or regulatory orders applicable to ownership of Shares ("**Applicable Laws**"), owns, beneficially

owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership in excess of a number of Shares equal to (x) the number of Shares that would give rise to reporting or registration obligations or other requirements (including obtaining prior approval by a state or federal regulator) of a Dealer Person under Applicable Laws and with respect to which such requirements have not been met or the relevant approval has not been received minus (y) 1.0% of the number of Shares outstanding on the date of determination. The "**Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates subject to aggregation with Dealer, for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act, and all persons who may form a "group" (within the meaning of Rule 13d-5(b)(1) under the Exchange Act) with Dealer, beneficially own (within the meaning of Section 13 of the Exchange Act) on such day and (B) the denominator of which is the number of Shares outstanding on such day.

(l) **Role of Agent**. Each of Dealer and Counterparty acknowledges to and agrees with the other party hereto and to and with the Agent that (i) the Agent is acting as agent for Dealer under the Transaction pursuant to instructions from such party, (ii) the Agent is not a principal or party to the Transaction, and may transfer its rights and obligations with respect to the Transaction, (iii) the Agent shall have no responsibility, obligation or liability, by way of issuance, guaranty, endorsement or otherwise in any manner with respect to the performance of either party under the Transaction, (iv) Dealer and the Agent have not given, and Counterparty is not relying (for purposes of making any investment decision or otherwise) upon, any statements, opinions or representations (whether written or oral) of Dealer or the Agent, other than the representations expressly set forth in this Confirmation or the Agreement, and (v) each party agrees to proceed solely against the other party, and not the Agent, to collect or recover any money or securities owed to it in connection with the Transaction. Each party hereto acknowledges and agrees that the Agent is an intended third party beneficiary hereunder. Counterparty acknowledges that the Agent is an affiliate of Dealer.

(m) **Regulatory Provisions**. The time of dealing for the Transaction will be confirmed by Dealer upon written request by Counterparty. The Agent will furnish to Counterparty upon written request a statement as to the source and amount of any remuneration received or to be received by the Agent in connection with the Transaction.

(n) **Other Forward**. Dealer acknowledges that Counterparty has entered into a forward transaction for its Shares on the date hereof (the "**Other Forward**") with an affiliate of Morgan Stanley & Co. Incorporated (such affiliate, the "**Other Dealer**"). Dealer and Counterparty agree that, in order to facilitate compliance with the provisions of Rule 10b-18, if Counterparty or the Other Dealer designates a Settlement Notice Date or a Settlement Notice Date occurs on the Maturity Date with respect to the Other Forward and the Valuation Period for the Other Forward coincides for any period of time with the Valuation Period for this Transaction (the "**Overlap Valuation Period**"), Counterparty shall notify Dealer of such instance prior to the commencement of such Overlap Valuation Period and Dealer shall only be permitted to purchase Shares with respect to the unwind of its hedge related to this Transaction on every other Scheduled Trading Day during such Overlap Valuation Period, commencing on the second day of such Overlap Valuation Period.

(o) [Reserved].

(p) **No Collateral**. Notwithstanding any provision of the Agreement, or any other agreement between the parties, to the contrary, the obligations of Counterparty hereunder are not secured by any collateral.

(q) **Netting and Setoff**. Obligations under the Transaction shall not be netted, recouped or set off (including pursuant to Section 6 of the Agreement) against any other obligations of the parties, whether arising under the Agreement, this Confirmation, under any other agreement between the parties hereto, by operation of law or otherwise, and no other obligations of the parties shall be netted, recouped or set off (including pursuant to Section 6 of the Agreement) against obligations under the Transaction, whether arising under the Agreement, this Confirmation, under any other agreement between the parties hereto, by operation of law or otherwise, and each party hereby waives any such right of setoff, netting or recoupment provided that both parties agree that subparagraph (ii) of Section 2(c) of the Agreement shall apply to the Transaction.

(r) **Status of Claims in Bankruptcy**. Dealer acknowledges and agrees that this Confirmation is not intended to convey to it rights with respect to the Transaction that are senior to the claims of common stockholders in any U.S. bankruptcy proceedings of Counterparty; provided that nothing herein shall limit or shall be deemed to limit Dealer's right to pursue remedies in the event of a breach by Counterparty of its obligations and agreements with respect to the Transaction; and provided further that nothing herein shall limit or shall be deemed to limit Dealer's rights in respect of any transactions other than the Transaction.

(s) **Securities Contract; Swap Agreement**. The parties hereto agree and acknowledge that Dealer is a "financial institution," "swap participant" and "financial participant" within the meaning of Sections 101(22), 101(53C) and 101(22A) of the Bankruptcy Code. The parties hereto further agree and acknowledge (A) that this Confirmation is (i) a "securities contract," as such term is defined in Section 741(7) of the Bankruptcy Code, with respect to which each payment and delivery hereunder or in connection herewith is a "termination value," "payment amount" or "other transfer obligation" within the meaning of Section 362 of the Bankruptcy Code and a "settlement payment" or a "transfer" within the meaning of Section 546 of the Bankruptcy Code, and (ii) a "swap agreement," as such term is defined in Section 101(53B) of the Bankruptcy Code, with respect to which each payment and delivery hereunder or in connection herewith is a "termination value," a "payment amount" or "other transfer obligation" within the meaning of Section 362 of the Bankruptcy Code and a "transfer" within the meaning of Section 546 of the Bankruptcy Code, and (B) that Dealer is entitled to the protections afforded by, among other sections, Section 362(b)(6), 362(b)(17), 362(b)(27), 362(o), 546(e), 546(g), 546(j), 548(d)(2), 555, 560 and 561 of the Bankruptcy Code.

(t) **Payments on Early Termination**. Dealer and Counterparty agree that for this Transaction, for the purposes of Section 6(e) of the Agreement, the Second Method and Loss will apply.

(u) **Governing Law**. The law of the State of New York (without reference to choice of law doctrine).

(v) **WAIVER OF JURY TRIAL**. **EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING RELATING TO THE TRANSACTION. EACH PARTY (I) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF SUCH A SUIT, ACTION OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HAVE BEEN INDUCED TO ENTER INTO THE TRANSACTION, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS PROVIDED HEREIN.**

(w) **Payee Tax Representations**. For the purpose of Section 3(f) of this Agreement, Dealer makes the following representations to Counterparty:

(i) Each payment received or to be received by it in connection with this Agreement is effectively connected with its conduct of a trade or business within the United States; and

(ii) It is a "foreign person" (as that term is used in Section 1.6041-4(a)(4) of the United States Treasury Regulations) for United States federal income tax purposes.

(x) **Tax Form**. For the purpose of Sections 4(a)(i) and (ii) of this Agreement, Dealer agrees to deliver to Counterparty a complete and duly executed United States Internal Revenue Service Form W-8ECI (or successor thereto) (i) promptly upon reasonable demand by Counterparty and (ii) promptly upon learning that such form previously provided by Dealer has become obsolete or incorrect.

7. **Account Details:**

8. **Offices:**

The Office of Counterparty for the Transaction is: Inapplicable, Counterparty is not a Multibranch Party.

The Office of Dealer for the Transaction is: Inapplicable, Dealer is not a Multibranch Party.

9. **Notices:**

For purposes of this Confirmation:

(a) Address for notices or communications to Counterparty:

Capital One Financial Corporation
1680 Capital One Drive
McLean, VA 22102
Attention: Simon Fairclough
Telephone No.:
Facsimile No.:

(b) Address for notices or communications to Dealer:

Barclays Capital, Inc.
200 Park Avenue
New York, New York 10166
Attention: General Counsel
Telephone: (+1) 212-412-4000
Facsimile: (+1) 212-412-7519

with a copy to:

Barclays Capital Inc.

745 Seventh Ave.
New York, NY 10019
Attn: Paul Robinson
Telephone: (+1) 212-526-0111
Facsimile: (+1) 917-522-0458

and

Barclays Bank PLC, 5 The North Colonnade
Canary Wharf, London E14 4BB
Facsimile: 44(20) 777 36461
Phone: 44(20) 777 36810

This Confirmation may be executed in several counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

THE SECURITIES REPRESENTED BY THE CONFIRMATION HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933 OR ANY OTHER UNITED STATES FEDERAL OR STATE SECURITIES LAWS; SUCH SECURITIES MAY NOT BE SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF APPROPRIATE REGISTRATION UNDER SUCH SECURITIES LAWS OR EXCEPT IN A TRANSACTION EXEMPT FROM OR NOT SUBJECT TO THE REGISTRATION REQUIREMENTS OF SUCH SECURITIES LAWS.

Counterparty hereby agrees to check this Confirmation and to confirm that the foregoing correctly sets forth the terms of the Transaction by signing in the space provided below and returning to Dealer a facsimile of the fully-executed Confirmation to Dealer at (+1) 917-522-0458. Originals shall be provided for your execution upon your request.

Very truly yours,

BARCLAYS CAPITAL INC.,
acting solely as Agent in connection with this Transaction

By: /s/ Bryan C. Spencer
Name: Bryan C. Spencer
Title: Authorized Signatory

Accepted and confirmed as of the Trade Date:

CAPITAL ONE FINANCIAL CORPORATION

By: /s/ Stephen Linehan
Name: Stephen Linehan
Title: Treasurer

ANNEX A

Private Placement Procedures

(a) Counterparty shall afford Dealer, and any potential buyers of the Private Securities designated by Dealer a reasonable opportunity to conduct a due diligence investigation with respect to Counterparty customary in scope for private offerings of its size (including, without limitation, the availability of senior management to respond to questions regarding the business and financial condition of Counterparty and the right to have made available to them for inspection all financial and other records, pertinent corporate documents and other information reasonably requested by them), and Dealer (or any such potential buyer) shall be satisfied in all material respects with such opportunity and with the resolution of any disclosure issues arising from such due diligence investigation of Counterparty.

(b) Prior to or contemporaneously with the determination of the Private Placement Price (as described below), Counterparty shall enter into an agreement (a "**Private Placement Agreement**") with Dealer (or any affiliate of Dealer designated by Dealer) providing for the purchase and resale by Dealer (or such affiliate) in a private placement (or other transaction exempt from registration under the Securities Act) of the Private Securities, which agreement shall be on commercially reasonable terms and in form and substance reasonably satisfactory to Counterparty and Dealer (or such affiliate) and (without limitation of the foregoing) shall:

(i) contain customary restrictions on Dealer's ability to dispose of the Private Securities other than pursuant to a registration statement or an applicable exemption from the registration requirements of the Securities Act;

(ii) contain indemnification and contribution provisions in connection with the potential liability of Dealer and its affiliates relating to the resale by Dealer (or such affiliate) of the Private Securities;

(iii) provide for the delivery of related certificates and representations, warranties and agreements of Counterparty, including those necessary or advisable to establish and maintain the availability of an exemption from the registration requirements of the Securities Act for Dealer and resales of the Private Securities by Dealer (or such affiliate); and

(iv) provide (i) for the delivery to Dealer (or such affiliate) of customary opinions of counsel (including, without limitation, opinions relating to the due authorization, valid issuance and fully paid and non-assessable nature of the Private Securities and the availability of an exemption from the registration requirements of the Securities Act for Dealer (such opinions being subject to the satisfaction of safe harbor requirements relating to such exemption and the adequacy of the terms of the Private Placement Agreement with respect to such exemption), and (ii) for the delivery to Dealer (or such affiliate) of negative assurance with respect to material misstatements or omissions in filings by Counterparty under the Exchange Act identified by such counsel.

(c) Dealer shall determine the Private Placement Price (or, in the case of alternative termination settlement, any Termination Amount) in its discretion by commercially reasonable means, which may include (without limitation):

(i) basing such price on indicative bids from investors;

(ii) taking into account any factors that are customary in pricing private sales and any and all risks and costs in connection with the resale of the Private Securities by Dealer (or any affiliate of Dealer designated by Dealer), including, without limitation, a reasonable placement fee or spread to be retained by Dealer (or such affiliate); and

(iii) providing for the payment by Counterparty of all fees and expenses in connection with such sale and resale, including all fees and expenses of counsel for Dealer or such affiliate.

(d) Dealer shall notify Counterparty of the number of Private Securities required to be delivered by Counterparty and the Private Placement Price (or, in the case of alternative termination settlement, any Termination Amount) by 6:00 p.m. on the day such price is determined.

(e) Counterparty expressly agrees and acknowledges that the public disclosure of all material information relating to Counterparty is within Counterparty's control and that Counterparty shall promptly so disclose all such material information during the period from the first day of the relevant Valuation Period to and including the Valuation Date.

Counterparty agrees to use its best efforts to make any filings required to be made by it with the SEC, any securities exchange or any other regulatory body with respect to the issuance of the Private Securities.

Morgan Stanley & Co. LLC
1585 Broadway
New York, NY 10036-8293
Facsimile: (212) 537-1572
Telephone: (212) 507-0483

DATE: July 14, 2011

TO: Capital One Financial Corporation
ATTENTION: Simon Fairclough
TELEPHONE:
FACSIMILE:

FROM: Morgan Stanley & Co. LLC
TELEPHONE: (212) 507-0483
SUBJECT: Share Forward Transaction

The purpose of this letter agreement (this "**Confirmation**") is to confirm the terms and conditions of the share forward transaction entered into between Morgan Stanley & Co. LLC ("**Dealer**") and Capital One Financial Corporation ("**Counterparty**") on the Trade Date specified below (the "**Transaction**"). This Confirmation constitutes a "**Confirmation**" as referred to in the Master Agreement specified below.

The definitions and provisions contained in the 2002 ISDA Equity Derivatives Definitions (the "**Equity Definitions**"), as published by the International Swaps and Derivatives Association, Inc., are incorporated into this Confirmation. In the event of any inconsistency between the Equity Definitions and this Confirmation, this Confirmation shall govern. For purposes of the Equity Definitions, this Transaction shall be deemed to be a Share Forward Transaction.

Each party is hereby advised, and each such party acknowledges, that the other party has engaged in, or refrained from engaging in, substantial financial transactions and has taken other material actions in reliance upon the parties' entry into the Transaction to which this Confirmation relates on the terms and conditions set forth below.

1. This Confirmation evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall supplement, form a part of, and be subject to, an agreement in the form of the ISDA 1992 Master Agreement (Multicurrency – Cross Border) (the "**Agreement**") as if Dealer and Counterparty had executed an agreement in such form (without any Schedule but with such other elections set forth in this Confirmation) on the Trade Date. In the event of any inconsistency between provisions of the Agreement and this Confirmation, this Confirmation will prevail for the purpose of the Transaction. The parties hereby agree that no Transaction other than the Transaction to which this Confirmation relates shall be governed by the Agreement.

2. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms:

Trade Date:	July 14, 2011
Effective Date:	July 19, 2011
Buyer:	Dealer

Seller:	Counterparty
Shares:	The common stock of Counterparty Ticker Symbol: (“COF”)
Number of Shares:	20,000,000 On each Valuation Date, the Number of Shares shall be reduced by the number of Settlement Shares to which such Valuation Date relates.
Exchange:	NYSE
Related Exchange:	All Exchanges
Forward Price:	On the Effective Date, the Initial Forward Price, and on any other day, the Forward Price as of the immediately preceding calendar day multiplied by the sum of (i) 1 *and* (ii) the Daily Accrual Rate for such day; *provided* that on each Forward Price Reduction Date, the Forward Price in effect on such date shall be the Forward Price otherwise in effect on such date minus the Forward Price Reduction Amount for such Forward Price Reduction Date.
Initial Forward Price:	USD 48.50 per Share
Daily Accrual Rate:	For any day, (i)(A) FED-FUNDS for such day minus (B) Spread divided by (ii) 365. For avoidance of doubt, Daily Accrual Rate may be a negative number.
Spread	75 basis points.
Forward Price Reduction Dates: Forward Price Reduction Amount:	August 5, 2011, November 14, 2011, and February 3, 2012 With respect to each Forward Price Reduction Date, USD 0.05.
Maturity Date:	February 15, 2012
Variable Obligation:	Not Applicable.
Prepayment:	Not Applicable.
Calculation Agent:	Dealer.

Valuation:

Valuation Time:	Scheduled Closing Time; *provided* that if the principal trading session is extended, the Calculation Agent shall determine the Valuation Time in its reasonable discretion.
Valuation Date:	The last Exchange Business Day of the Valuation Period.
Valuation Period:	With respect to each Settlement Notice Date for which Counterparty has validly elected Cash Settlement or Net Share Settlement, the period from, and including, the first Scheduled Trading Day following such Settlement Notice Date to, and including the Exchange Business Day on which Dealer has completed the unwind of its hedge position related to the portion of the Number of Shares subject to such Settlement Notice Date (which unwind shall be conducted in a commercially reasonable manner). Notwithstanding anything to the contrary in the Equity Definitions, if any Scheduled Trading Day during a Valuation Period is a Disrupted Day and Cash Settlement has been elected, the Calculation Agent

	shall determine whether (i) such Disrupted Day is a Disrupted Day in full, in which case the 10b-18 VWAP for such Disrupted Day shall not be included in the calculation of the Cash Settlement Amount, or (ii) such Disrupted Day is a Disrupted Day only in part, in which case the 10b-18 VWAP for such Disrupted Day shall be determined by the Calculation Agent based on Rule 10b-18 eligible transactions in the Shares on such Disrupted Day effected before the relevant Market Disruption Event occurred and/or after the relevant Market Disruption Event ended, and the weightings of the 10b-18 VWAP Price for each Exchange Business Day during the Valuation Period shall be adjusted in a commercially reasonable manner by the Calculation Agent for purposes of determining the Cash Settlement Amount in order to preserve the fair value of the Transaction to the parties, with such adjustments based on, among other factors, the duration of any Market Disruption Event and the volume, historical trading patterns and price of the Shares. In either case, the Calculation Agent shall notify Issuer in writing of (x) the circumstances giving rise to such Disrupted Day and (y) any such adjustment as soon as reasonably practicable after the occurrence of such Disrupted Day.
Market Disruption Event:	Section 6.3(a) of the Equity Definitions shall be amended by deleting the words “at any time during the one hour period that ends at the relevant Valuation Time, Latest Exercise Time, Knock-in Valuation Time or Knock-out Valuation Time, as the case may be” and replacing them with the words “at any time during the regular trading session on the Exchange, without regard to after hours or any other trading outside of the regular trading session hours”, by amending and restating clause (a)(iii) thereof in its entirety to read as follows: “(iii) an Early Closure that the Calculation Agent determines is material” and by adding the words “, or (iv) a Regulatory Disruption after clause (a)(iii) as restated above. Section 6.3(d) of the Equity Definitions is hereby amended by deleting the remainder of the provision following the term “Scheduled Closing Time” in the fourth line thereof.
Regulatory Disruption:	A “Regulatory Disruption” shall occur if Dealer determines in its reasonable discretion based on advice of counsel with respect to a given Scheduled Trading Day during the Valuation Period that it is appropriate in light of legal, regulatory or self-regulatory requirements or related policies or procedures for Dealer to refrain from all or any part of the market activity in which it would otherwise engage in connection with this Transaction on such day. Dealer shall notify Counterparty upon the occurrence of a Regulatory Disruption and shall subsequently notify Counterparty on the day Dealer believes that the circumstances giving rise to such Regulatory Disruption have changed. Dealer shall make its determination of a Regulatory Disruption in a manner consistent with the determinations made with respect to other issuers under similar facts and circumstances.
Disrupted Day:	The definition of “Disrupted Day” in Section 6.4 of the Equity Definitions shall be amended by adding the following sentence after the first sentence: “A Scheduled Trading Day on which a Related Exchange fails to open during its regular trading session will not be a Disrupted Day if the Calculation Agent determines that such failure will not have a material impact on Dealer’s ability to unwind any hedging transactions related to the Transaction”.

Settlement Terms:

Settlement Currency:	USD
Settlement Shares:	(a) With respect to any Settlement Notice Date other than the Maturity Date, the number of Shares designated as such by Counterparty in the relevant Settlement Notice or designated pursuant to the "Acceleration Events" provisions below, as applicable; *provided* that the Settlement Shares so designated shall not exceed the Number of Shares at that time; *provided further* that if a Settlement Notice Date has been specified for a number of Shares equal to the Number of Shares on or prior to the Maturity Date and the Settlement Date with respect to such Settlement Notice Date has not occurred prior to the Maturity Date, the number of Settlement Shares on the Maturity Date shall be zero; and (b) With respect to the Settlement Notice Date on the Maturity Date, a number of Shares equal to the Number of Shares at that time.
Settlement Notice Date:	(a) Maturity Date and (b) any Scheduled Trading Day following the Effective Date and up to, but excluding, the Scheduled Settlement Date that is either: (i) designated by Counterparty as a Settlement Notice Date by a written notice (a "**Settlement Notice**") delivered to Dealer no less than one Scheduled Trading Day prior to such Settlement Notice Date which shall also contain the applicable Settlement Shares and the election of Cash Settlement or Net Share Settlement with respect to such Settlement Shares, if applicable; or (ii) designated by Dealer as a Settlement Notice Date pursuant to the "Acceleration Events" provisions below; *provided* that the Maturity Date will be a Settlement Notice Date if on such date the Number of Shares is greater than zero; *provided further* that if any Settlement Notice Date specified above is not an Exchange Business Day, the Settlement Notice Date shall instead be the next Exchange Business Day.
Settlement Date:	Three Scheduled Trading Days immediately following (i) the Valuation Date if Cash Settlement or Net Share Settlement is applicable or (ii) the Settlement Notice Date if Physical Settlement is applicable.
Settlement Method Election:	Applicable and means that Counterparty may elect Physical Settlement, Cash Settlement, or Net Share Settlement as set forth in a Settlement Notice; *provided* that Physical Settlement shall apply (i) if no Settlement Method is validly selected, (ii) unless at the time of the election Counterparty represents and warrants that Counterparty is making an election in good faith and not as part of a plan or scheme to evade compliance with the federal securities laws and provides the representation contained in paragraph 5(h) below made as of the date of the election, or (iii) to any Settlement Date designated by Dealer under "Termination Settlement" below, unless Dealer elects to permit Cash Settlement or Net Share Settlement.

Electing Party:	Counterparty
Settlement Method Election Date:	Each Settlement Notice Date with respect to the applicable Settlement Shares.
Default Settlement Method:	Physical Settlement
Representation and Agreement:	Notwithstanding Section 9.11 of the Equity Definitions, the parties acknowledge that (i) any Shares delivered by Dealer to Counterparty (including in connection with Net Share Settlement) will be subject to compliance with applicable law and restrictions and limitations arising from Counterparty's status under applicable securities laws, and (ii) any Shares delivered to Dealer (whether in connection with Physical Settlement or Net Share Settlement) will be subject to restrictions and limitations under applicable securities laws, as described in paragraph 3 below.

Physical Settlement Terms:

Physical Settlement:	If Physical Settlement is applicable, on the Settlement Date, Counterparty shall deliver to Dealer a number of Shares equal to the Settlement Shares for such Settlement Date, and Dealer shall pay to Counterparty, by wire transfer of immediately available funds to an account designated by Counterparty, an amount equal to the Physical Settlement Amount for such Settlement Date.
Physical Settlement Amount:	For any Settlement Date for which Physical Settlement is applicable, an amount equal to the product of (a) the Forward Price in effect on the relevant Settlement Notice Date *multiplied by* (b) the Settlement Shares for such Settlement Date.

Cash Settlement Terms:

Cash Settlement:	On any Settlement Date in respect of which Cash Settlement applies, if the Cash Settlement Amount is (i) a positive number, Dealer will pay the Cash Settlement Amount to Counterparty, or (ii) a negative number, Counterparty will pay the absolute value of the Cash Settlement Amount to Dealer.
Cash Settlement Amount:	For any Settlement Date in respect of which Cash Settlement applies, an amount determined by the Calculation Agent equal to the difference between (1) the product of (i)(A) the average Forward Price during the applicable Valuation Period, *minus* USD 0.02, *minus* (B) the average of the 10b-18 VWAP prices per Share on each Exchange Business Day during such Valuation Period, *and* (ii) the number of Settlement Shares for such Settlement Date, *and* (2) the product of (i) the Forward Price Reduction Amount for any Forward Price Reduction Date that occurs during such Valuation Period, *and* (iii) the number of Settlement Shares with respect to which Dealer has not unwound its hedge as of such Forward Price Reduction Date.

10b-18 VWAP:	For any Exchange Business Day during the Valuation Period which is not a Disrupted Day, the volume-weighted average price at which the Shares trade as reported in the composite transactions for the Exchange on such Exchange Business Day, excluding (i) trades that do not settle regular way, (ii) opening (regular way) reported trades on the Exchange on such Exchange Business Day, (iii) trades that occur in the last ten minutes before the scheduled close of trading on the Exchange on such Exchange Business Day and ten minutes before the scheduled close of the primary trading session in the market where the trade is effected, and (iv) trades on such Exchange Business Day that do not satisfy the requirements of Rule 10b-18(b)(3), as quoted on Bloomberg Page "COF <Equity> AQR SEC" (or any successor thereto), or if such price is not so reported on such Exchange Business Day for any reason or the reported price is manifestly erroneous, such price shall be as reasonably determined by the Calculation Agent.

Net Share Settlement Terms:

Net Share Settlement:	On any Settlement Date in respect of which Net Share Settlement applies, if the number of Net Share Settlement Shares is a (i) negative number, Dealer shall deliver a number of Shares to Counterparty equal to the absolute value of the Net Share Settlement Shares, or (ii) positive number, Counterparty shall deliver to Dealer the Net Share Settlement Shares; *provided* that if Dealer determines in its sole judgment that it would be required to deliver Net Share Settlement Shares to Counterparty, Dealer may elect to deliver a portion of such Net Share Settlement Shares on one or more dates prior to the applicable Settlement Date.
Net Share Settlement Shares:	For any Settlement Date in respect of which Net Share Settlement applies, a number of Shares equal to (a) the number of Settlement Shares for such Settlement Date, *minus* (b) the number of Shares Dealer actually purchases during the Valuation Period (with such purchases to be made in a commercially reasonable manner) for a total purchase price equal to the difference between (1) the product of (i) the average Forward Price during the applicable Valuation Period, *minus* USD 0.02 *and* (ii) the number of Settlement Shares for such Settlement Date, *and* (2) the product of (i) the Forward Price Reduction Amount for any Forward Price Reduction Date that occurs during such Valuation Period *and* (ii) the number of Shares with respect to which Dealer has not unwound its hedge as of such Forward Price Reduction Date.
Net Share Settlement Provisions:	If the Transaction is to be Net Share Settled, the provisions of Sections 9.8, 9.9, 9.10, 9.11 and 9.12 of the Equity Definitions will be applicable, except that all references in such provisions to "Physically Settled" shall be read as references to "Net Share Settled". "Net Share Settled" in relation to a Transaction means that Net Share Settled is applicable to the Transaction.

Adjustments:

Method of Adjustment:	Calculation Agent Adjustment; *provided* that the Equity Definitions shall be amended by replacing the words "diluting or concentrative" in Sections 11.2(a), 11.2(c) (in two instances) and 11.2(e)(vii) with the word "material" and by adding the words "or the Transaction"

after the words "theoretical value of the relevant Shares" in Section 11.2(a), 11.2(c) and 11.2(e)(vii); *provided*, *further* that adjustments may be made to account for changes in volatility, stock loan rate and liquidity relative to the relevant Shares; *provided further* that the events described in clauses (B), (C) and (D) of Section 11.2(e)(ii) of the Equity Definitions shall be deemed not to give rise to a Potential Adjustment Event and the words "an Extraordinary Dividend" in Section 11.2(e)(iii) of the Equity Definitions are hereby deleted and replaced by "[Reserved]".

Extraordinary Events:

New Shares: Section 12.1(i) of the Equity Definitions is hereby amended by deleting the text in clause (i) in its entirety and replacing it with the phrase "publicly quoted, traded or listed on any of the New York Stock Exchange, the American Stock Exchange, the NASDAQ Global Select Market or the NASDAQ Global Market (or their respective successors)".

Share-for-Share: The definition of "Share-for-Share" set forth in Section 12.1(f) of the Equity Definitions is hereby amended by the deletion of parenthetical in clause (i) thereof.

Consequences of Merger Events:

Share-for-Share: As set forth under "Acceleration Events" below.

Share-for-Other: As set forth under "Acceleration Events" below.

Share-for-Combined: As set forth under "Acceleration Events" below.

Certain Tender Offers: The Definition of "Merger Event" in Section 12.1(b) of the Equity Definitions shall be deemed to include any Tender Offer that results in any entity or person purchasing, or otherwise obtaining or having the right to obtain, by conversion or other means, more than 49.9% of the outstanding Shares of Counterparty, as determined by the Calculation Agent.

Consequences of Tender Offers:

Tender Offer: Applicable; *provided* that Section 12.1(d) of the Equity Definitions is hereby amended by adding ", or of the outstanding Shares," before "of the Issuer" in the fourth line thereof. Section 12.1(e) and 12.1(l) (ii) of the Equity Definitions are hereby amended by adding "or Shares, as applicable," after "voting shares".

Share-for-Share: Modified Calculation Agent Adjustment, unless such Tender Offer constitutes a "Merger Event" as set forth above, in which case Consequences of Merger Events shall apply.

Share-for-Other: Modified Calculation Agent Adjustment, unless such Tender Offer constitutes a "Merger Event" as set forth above, in which case Consequences of Merger Events shall apply.

Share-for-Combined: Modified Calculation Agent Adjustment, unless such Tender Offer constitutes a "Merger Event" as set forth above, in which case Consequences of Merger Events shall apply.

Modified Calculation Agent Adjustment:	For greater certainty, the definition of "Modified Calculation Agent Adjustment" in Sections 12.2(e) and 12.3(d) of the Equity Definitions shall be amended by deleting "expected dividends," therefrom and adding the following italicized language after the stipulated parenthetical provision (after taking into account such deletion): "(including adjustments to account for changes in volatility, stock loan rate or liquidity relevant to the Shares or to this Transaction) *from the Exchange Business Day immediately preceding the Announcement Date or the Determination Date, as applicable, to the first Exchange Business Day immediately following the Merger Date (Section 12.2) or Tender Offer Date (Section 12.3)*."
Announcement Date:	The definition of "Announcement Date" in Section 12.1 of the Equity Definitions shall be amended by (i) replacing the word "leads to the" in the third and the fifth lines thereof with the words ", if completed, would lead to a", (ii) replacing the words "voting shares" in the fifth line thereof with the word "Shares", or (iii) inserting the words "by any entity" after the word "announcement" in the second and the fourth lines thereof.
Announcement Event:	The occurrence of the Announcement Date of a Merger Event or Tender Offer or potential Merger Event or potential Tender Offer.
Composition of Combined Consideration:	Not Applicable; *provided* that, notwithstanding Sections 12.5(b) and 12.1(f) of the Equity Definitions, to the extent that the composition of the consideration for the relevant Shares pursuant to a Tender Offer or Merger Event could be elected by an actual holder of the Shares, the Calculation Agent will, in its sole discretion, determine such composition.
Consequences of Announcement Event:	As set forth under "Acceleration Events" below in the case of an Announcement Event with respect to a Merger Event and as set forth under "Consequences of Tender Offers" above in the case of an Announcement Event with respect to a Tender Offer.
Nationalization, Insolvency or Delisting:	Cancellation and Payment (Calculation Agent Determination); *provided* that, in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it will also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, the NASDAQ Global Select Market or the NASDAQ Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any such exchange or quotation system, such exchange or quotation system shall thereafter be deemed to be the Exchange.

Additional Disruption Events:

Change in Law:	Applicable; *provided* that (i) Section 12.9(a)(ii) of the Equity Definitions is hereby amended by replacing the phrase "the interpretation" in the third line thereof with the phrase "or public announcement of the formal or informal interpretation", (ii) Dealer shall not exercise its rights under Section 12.9(b)(i) of the Equity Definitions with respect to a Change in Law referred to in clause (Y) of Section 12.9(a)(ii) of the Equity Definitions except to the extent it is exercising its right to terminate transactions as a result of a "Change in Law" event with respect to other similarly situated customers, and (iii) Dealer shall not exercise its rights under Section 12.9(b)(i) of the Equity Definitions or under Paragraph 6(b) hereof

	with respect to a Change in Law without giving Counterparty prior written notice of the same and a reasonable opportunity to cause a transfer and assignment of Dealer's rights and obligations in respect of this Transaction to another dealer for which the relevant circumstances do not exist, and Dealer agrees to consummate such a transfer and assignment at Counterparty's request, provided that any such transfer and assignment shall be at the fair market value of this Transaction and shall be contingent upon the payment by Counterparty to Dealer of a transfer fee equal to the product of 25 basis points (0.25%), the then current Forward Price and the then current Number of Shares. The parties agree that, for the avoidance of doubt, for purposes of Section 12.9(a)(ii) of the Equity Definitions, "any applicable law or regulation" shall include the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, any rules and regulations promulgated thereunder and any similar law or regulation (collectively, the "**Wall Street Act**"), and the consequences specified in Section 12.9(b)(i) of the Equity Definitions shall apply to any Change in Law arising from any such act, rule or regulation. The parties hereby agree that any additional capital charges or other regulatory capital requirements imposed in connection with the Wall Street Act, if applicable to this Transaction, may constitute "a materially increased cost in performing its obligations under such Transaction" for purposes of Section 12.9(a)(ii)(Y) of the Equity Definitions.
Failure to Deliver:	Not Applicable
Insolvency Filing:	Applicable. Section 12.9(b)(i) of the Equity Definitions is hereby amended by adding the following sentence at the end: "If neither party elects to terminate the Transaction, the Calculation Agent may adjust the terms of the Transaction upon the occurrence of such an event pursuant to Modified Calculation Agent Adjustment (as if such event were a Tender Offer)."
Hedging Disruption:	Not Applicable
Increased Cost of Hedging:	Not Applicable
Loss of Stock Borrow:	As set forth under "Acceleration Events - Stock Borrow Event" below.
Borrow Cost:	The cost to borrow the relevant Shares that would be incurred by a third party market participant borrowing such Shares, as determined by the Calculation Agent on the relevant date of determination. Such costs shall include (a) the spread below FED-FUNDS that would be earned on collateral posted in connection with such borrowed Shares, net of any costs or fees, and (b) any stock loan borrow fee that would be payable for such Shares, expressed as fixed rate per annum.
Increased Cost of Stock Borrow:	Applicable; *provided* that (a) Section 12.9(a)(viii) of the Equity Definitions shall be amended by deleting "rate to borrow Shares" and replacing it with "Borrow Cost" and (b) Section 12.9(b)(v) of the Equity Definitions shall be amended by (i) adding the word "or" immediately before the phrase "(B)", (ii) deleting subsection (C) in its entirety, (iii) replacing "either party" in the penultimate sentence with "the Hedging Party", and (iv) replacing the word "rate" in clauses (X) and (Y) of the final sentence therein with the words "Borrow Cost".

Initial Stock Loan Rate:	25 basis points.
FED-FUNDS:	"**FED FUNDS**" means, for any day, the rate set forth for such day opposite the caption "Federal funds", as such rate is displayed on the page "FedsOpen <Index> <GO>" on the BLOOMBERG Professional Service, or any successor page; *provided* that if no rate appears for any day on such page, the rate for the immediately preceding day for which a rate does so appear shall be used for such day.
Hedging Party:	Dealer or an affiliate of Dealer that is involved in the hedging of this Transaction for all applicable Additional Disruption Events.
Determining Party:	Dealer for all applicable Additional Disruption Events.

Acknowledgments:

Non-Reliance:	Applicable
Agreements and Acknowledgments Regarding Hedging Activities:	Applicable
Additional Acknowledgments:	Applicable
Additional Events of Default:	In addition to the Events of Default set forth in the Agreement, it shall be an Event of Default with respect to which Counterparty is the Defaulting Party if any representation made at the time the Underwriting Agreement dated as of the date hereof among Counterparty, Dealer and the representative(s) of the underwriter(s) (the "**Underwriting Agreement**") is entered into or repeated on the Closing Date (as defined in the Underwriting Agreement) by Counterparty in the Underwriting Agreement (or any certificate delivered thereunder) proves to have been incorrect or misleading in any material respect when the Underwriting Agreement is entered into or repeated on the Closing Date, as applicable.

3. **Conditions to Effectiveness and Securities Law Matters**

(a) The obligations of Dealer hereunder shall be subject to the conditions precedent that:

(i) Counterparty have performed all of the obligations required to be performed by it under the Underwriting Agreement on or prior to the Effective Date.

(ii) The conditions set forth in Section 10 of the Underwriting Agreement shall have been satisfied or waived by the representatives of the underwriters thereunder.

(iii) All of the representations and warranties of Counterparty hereunder and under the Agreement shall be true and correct on the Effective Date.

(iv) Counterparty shall have performed all of the obligations required to be performed by it hereunder and under the Agreement on or prior to the Effective Date.

(b) Interpretive Letter. The parties intend for this Confirmation to constitute a "Contract" as described in the letter dated October 6, 2003 submitted by Robert W. Reeder and Leslie N. Silverman to Paula Dubberly of the staff of the Securities and Exchange Commission (the "**Staff**") to which the Staff responded in an interpretive letter dated October 9, 2003 (the "**Interpretive Letter**").

(c) Counterparty has been informed that Dealer will hedge its exposure to the Transaction by selling (or causing its affiliates to sell), pursuant to a Registration Statement (as defined below), Shares borrowed from Counterparty or third parties or other Shares, and that the Shares (up to the Number of Shares) delivered by Counterparty to Dealer pursuant to the Transaction may be used by Dealer to settle such sales or close out open Share borrowings created in the course of Dealer's hedging activities related to its exposure under the Transaction without further registration under the Securities Act of 1933, as amended (the "**Securities Act**"). Accordingly, Counterparty agrees that, subject to paragraph 3(g) below, the Shares that it delivers to Dealer on or prior to any Settlement Date will not bear a restrictive legend and that such Shares will be deposited in, and the delivery thereof, shall be effected through the facilities of, the Clearance System.

(d) If delivery of the Underwritten Securities (as such term is defined in the Underwriting Agreement) shall not have occurred by the Closing Date (as such term is defined in the Underwriting Agreement), the parties shall have no further obligations in connection with the Transaction, other than in respect of breaches of representations or covenants on or prior to such date. If at any time, for any reason, the prospectus contemplated by the Underwriting Agreement ceases to satisfy the requirements of the Underwriting Agreement prior to the completion by Dealer, its affiliates or the other underwriters of the sale of a number of Shares equal to the Number of Shares, Dealer may reduce the Number of Shares hereunder such that the Number of Shares is equal to the number of Shares sold pursuant to the Underwriting Agreement prior to such time, and in such event, the Calculation Agent shall make any other commercially reasonable adjustments to the terms of the Transaction as appropriate to preserve the fair value of the Transaction to the parties after giving effect to such reduction.

(e) Counterparty agrees not to take any action to reduce or decrease the number of authorized and unissued Shares below the Number of Shares plus the total number of Shares deliverable upon settlement (whether by net share settlement or otherwise) of any other transaction or agreement to which it is a party.

(f) **Registration**.

(i) A registration statement ("**Registration Statement**"), which shall be a shelf registration statement filed pursuant to Rule 415 under the Securities Act and a prospectus thereunder (the "**Prospectus**"), covering the public sale of the Number of Shares hereunder shall have been filed with, and become effective pursuant to the rules of, the Securities and Exchange Commission no later than one Exchange Business Day prior to the Trade Date, and such Registration Statement shall continue to be in effect and such Prospectus shall be legally usable at all times to and including the Effective Date.

(ii) As of the Trade Date, the Underwriting Agreement shall have been entered into with Dealer in connection with the public resale by Dealer of the Shares comprising Dealer's hedge.

(iii) If Dealer or its affiliate reasonably determines at any time that it will be unable to complete the public sale of Shares pursuant to this paragraph 3(f) in compliance with all applicable securities laws and regulations in an amount equal to the Number of Shares in a timely manner for any reason whatsoever (including, without limitation, the unavailability of an effective Registration Statement or legally sufficient Prospectus required for such sales), Dealer or its affiliate shall have the right to reduce the Number of Shares to an amount elected by it in its sole, good faith discretion that is equal to the number of Shares that Dealer or its affiliate has publicly sold as a hedge of the Transaction prior to such time under the Registration Statement, and the Calculation Agent shall make such adjustments to the Transaction as are appropriate to account for such lesser Number of Shares so selected by Dealer or its affiliate.

(g) **Private Placement Procedures**.

(i) If Counterparty is unable to comply with the provisions of paragraph 3(g) above because of a change in law, or Dealer otherwise determines that in its reasonable opinion any Shares or Termination Delivery Units to be delivered to Dealer by Counterparty hereunder may not be freely returned by Dealer to securities lenders as described under paragraph 3(g) above, then delivery of any such Shares or Termination Delivery Units (the "**Private Securities**") shall be effected pursuant to this provision, unless waived by Dealer.

(ii) If Counterparty delivers the Private Securities pursuant to this provision (a "**Private Placement Settlement**"), then delivery of Private Securities by Counterparty shall be effected pursuant to the private placement procedures set forth in Annex A; *provided* that Counterparty shall not effect a Private Placement Settlement if, on the date of any anticipated delivery as set forth hereunder, it has taken, or caused to be taken, any action that would make unavailable either the exemption pursuant to Section 4(2) of the Securities Act for the sale by Counterparty to Dealer (or any affiliate designated by Dealer) of the Private Securities or the exemption pursuant to Section 4(1) or Section 4(3) of the Securities Act for resales of the Private Securities by Dealer (or any such affiliate of Dealer), in which case such delivery shall be delayed until, in the opinion of Dealer, such exemptions are available.

4. **Mutual Representations, Warranties and Agreements.**

Each of Dealer and Counterparty represents and warrants to, and agrees with, the other party that:

(a) **Commodity Exchange Act.** It is an "eligible contract participant" within the meaning of Section 1a(12) of the U.S. Commodity Exchange Act, as amended (the "**CEA**"). The Transaction has been subject to individual negotiation by the parties. The Transaction has not been executed or traded on a "trading facility" as defined in Section 1a(33) of the CEA;

(b) **Securities Act.** It is a "qualified institutional buyer" as defined in Rule 144A under the Securities Act, or an "accredited investor" as defined in Section 2(a)(15)(ii) of the Securities Act.

(c) **ERISA.** The assets used in the Transaction (1) are not assets of any "plan" (as such term is defined in Section 4975 of the U.S. Internal Revenue Code (the "**Code**")) subject to Section 4975 of the Code or any "employee benefit plan" (as such term is defined in Section 3(3) of the U.S. Employee Retirement Income Security Act of 1974, as amended ("**ERISA**")) subject to Title I of ERISA, and (2) do not constitute "plan assets" within the meaning of Department of Labor Regulation 2510.3-101, 29 CFR Section 2510-3-101.

5. **Additional Representations, Warranties and Agreements of Counterparty**

In addition to the representations, warranties and agreements set forth in the Agreement and elsewhere in this Confirmation, Counterparty further represents, warrants and agrees that:

(a) Shares of Counterparty potentially issuable upon settlement of the Transaction (the "**Forward Shares**") have been reserved for issuance by all required corporate action of Counterparty. The Forward Shares have been duly authorized and, when delivered as contemplated by the terms of the Transaction following the settlement of the Transaction, will be validly issued, fully-paid and non-assessable, and the issuance of the Forward Shares will not be subject to any pre-emptive or similar rights;

(b) Counterparty shall promptly provide written notice to Dealer upon obtaining knowledge of the occurrence of any event that would constitute an Event of Default, a Potential Event of Default, a Potential Adjustment Event, a Merger Event or any other Extraordinary Event; provided, however, that should Counterparty be in possession of material non-public information regarding Counterparty, Counterparty shall not communicate such information to Dealer;

(c) (A) Counterparty is acting for its own account, and it has made its own independent decisions to enter into the Transaction and as to whether the Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary, (B) Counterparty is not relying on any communication (written or oral) of Dealer or any of its affiliates as investment advice or as a recommendation to enter into the Transaction (it being understood that information and explanations related to the terms and conditions of the Transaction shall not be considered investment advice or a recommendation to enter into the Transaction) and (C) no communication (written or oral) received from Dealer or any of its affiliates shall be deemed to be an assurance or guarantee as to the expected results of the Transaction;

(d) Counterparty is entering into the Transaction, solely for the purposes stated in the board resolution authorizing the Transaction and in its public disclosure, and there is no internal policy, whether written or oral, of Counterparty that would prohibit Counterparty from entering into any aspect of the Transaction, including, but not limited to, the issuance of Shares to be made pursuant hereto;

(e) Counterparty has not and will not directly or indirectly violate any applicable law (including, without limitation, the Securities Act and the Securities Exchange Act of 1934, as amended (the "**Exchange Act**")) in connection with the Transaction;

(f) Counterparty is not as of the Trade Date and as of the date on which Counterparty delivers any Termination Delivery Units, and shall not be after giving effect to the transactions contemplated hereby, "insolvent" (as such term is defined in Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the "**Bankruptcy Code**"));

(g) As of the date thereof and as of the Trade Date, the Prospectus does not contain any misstatement of a material fact or omit any material fact required to be stated therein or necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading;

(h) As of the Trade Date, Counterparty is not in possession of any material non-public information concerning the business, operations or prospects of the Issuer.

(i) Counterparty is not, and, after giving effect to the transactions contemplated hereby will not be required to register as, an "investment company" as such term is defined in the Investment Company Act of 1940, as amended.

(j) Counterparty understands, agrees and acknowledges that no obligations of Dealer to it hereunder shall be entitled to the benefit of deposit insurance and that such obligations shall not be guaranteed by any affiliate of Dealer or any governmental agency.

(k) Any Shares, when issued and delivered in accordance with the terms of the Transaction, will be duly authorized and validly issued, fully paid and nonassessable, and the issuance thereof will not be subject to any preemptive or similar rights.

(l) Without limiting the generality of Section 13.1 of the Equity Definitions, Counterparty acknowledges that Dealer is not making any representations or warranties with respect to the treatment of the Transaction under any accounting standards including ASC Topic 260, Earnings Per Share, ASC Topic 815, Derivatives and Hedging, ASC Topic 480, Distinguishing Liabilities from Equity and ASC 815-40, Derivatives and Hedging – Contracts in Entity's Own Equity (or any successor issue statements) or under FASB's Liabilities & Equity Project;

(m) Counterparty is not entering into the Transaction for the purpose of (i) creating actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for the Shares) or (ii) raising or depressing or otherwise manipulating the price of the Shares (or any security convertible into or exchangeable for the Shares) or otherwise in violation of the Exchange Act;

(n) Counterparty has not entered into any obligation that would contractually limit it from effecting Physical Settlement, Cash Settlement, Net Share Settlement or any other obligation under this Transaction and it agrees not to enter into any such obligation during the term of this Transaction.

(o) As of the date hereof, Counterparty is eligible to conduct a primary offering of Shares on Form S-3, the offering contemplated by the Underwriting Agreement complies with Rule 415 under the Securities Act, and the Shares are "actively traded" as defined in Rule 101(c)(1) of Regulation M ("**Regulation M**") promulgated under the Exchange Act.

(p) If Counterparty purchases any Shares pursuant to the Transaction, such purchase(s) will comply with all laws and regulations applicable to such purchases.

(q) Counterparty will keep available, free from preemptive rights, out of its authorized but unissued Shares, solely for the purpose of issuance upon settlement of the Transaction as herein provided the full number of Forward Shares as shall then be issuable upon Physical Settlement of the Transaction. All Forward Shares so issuable upon Physical Settlement or Net Share Settlement of the Transaction shall, upon such issuance, be accepted for listing on the Exchange.

6. **Other Provisions**

(a) [Reserved].

(b) **Acceleration Events.**

Each of the following shall constitute an "Acceleration Event":

(i) **Specified Event.** The occurrence of any event or condition specified in "General Terms" above as to which it is specified that "Acceleration Events" shall apply.

(ii) **Stock Borrow Event.** If in Dealer's reasonable judgment, (a) Dealer is not able hedge its exposure under this Transaction because insufficient Shares are made available for borrowing by securities lenders or (b) Dealer would incur a cost to borrow (or to maintain a borrow of) sufficient Shares to hedge its exposure under this Transaction that is equal to or greater than 200 basis points per annum per any Share (each of (a) and (b), a "**Stock Borrow Event**"), then Dealer shall be entitled to designate any Scheduled Trading Day prior to the date the Number of Shares is first reduced to zero to be a Settlement Date, by providing Counterparty at least two Scheduled Trading Days' notice prior to the relevant Settlement Date, and to designate the number of Settlement Shares for the relevant Settlement Date, which shall not exceed the number of Shares to which the relevant Stock Borrow Event relates.

(iii) **Dividends**. If on any day after the Trade Date, Counterparty declares a distribution, issue or dividend to existing holders of the Shares of (a) any cash dividends in excess of USD 0.05 per Share or with an ex-dividend date occurring earlier than August 5, 2011, November 14, 2011, and February 3, 2012, or (b) share capital or other securities of another issuer acquired or owned (directly or indirectly) by Counterparty as a result of a spin-off or similar transaction or (c) any other type of securities (other than Shares), rights or warrants or other assets, in any case for payment (cash or other consideration) at less than the prevailing market price, as determined by Dealer, then Dealer shall be entitled to designate any Scheduled Trading Day prior to the date the Number of Shares is first reduced to zero to be a Settlement Date, by providing Counterparty at least three Scheduled Trading Days' notice prior to the relevant Settlement Date, and to designate the number of Settlement Shares for the relevant Settlement Date.

(iv) **Announcement of Merger Event**. If an Announcement Event (as defined above) occurs, then Counterparty shall notify Dealer of such occurrence within one Scheduled Trading Day after such occurrence and Dealer shall be entitled to designate any Scheduled Trading Day prior to the date the Number of Shares is first reduced to zero to be a Settlement Date, by providing Counterparty at least twenty Scheduled Trading Days' notice prior to the relevant Settlement Date, and to designate the number of Settlement Shares for the relevant Settlement Date.

(v) **ISDA Termination**. In lieu of (a) designating an Early Termination Date as the result of an Event of Default or Termination Event, (b) terminating this Transaction and determining a Cancellation Amount as the result of an Additional Disruption Event, or (c) terminating this Transaction and determining an amount payable in connection with an Extraordinary Event to which Cancellation and Payment would otherwise be applicable, the party that is not an Affected Party (in the case of a Termination Event) or the party that is the Non-defaulting Party (in the case of an Event of Default) or the Dealer (in all other cases under this Paragraph 6(b)(v)) shall be entitled to designate any Scheduled Trading Day prior to the date the Number of Shares is first reduced to zero to be a Settlement Date with respect to the Number of Shares as the Settlement Shares.

(vi) **Termination Settlement**. Notwithstanding anything to the contrary herein, in the Agreement or in the Equity Definitions, upon the occurrence of any Acceleration Event, Dealer shall have the right to designate by providing notice to Counterparty, any Scheduled Trading Day that is at least thirty Scheduled Trading Days from the date of such notice to be the Settlement Date; *provided* that (i) in the case of any Acceleration Event resulting from a dividend or distribution or a Merger Event or Tender Offer where the ex-dividend date of such dividend or distribution or the effectiveness of such Merger Event or Tender Offer, as applicable, would occur prior to such Settlement Date or (ii) for any other Acceleration Event specified in paragraph 6(b)(i) or 6(b)(ii) above, if such Acceleration Event shall have occurred and be continuing, then in each case Dealer may designate a Settlement Date less than thirty Scheduled Trading Days from the date of such notice. On the Settlement Date relating to such designation, Physical Settlement shall apply to the relevant Settlement Shares unless the Dealer otherwise agrees. Under no circumstances will the settlement amount upon early termination or an Acceleration Event include an adjustment for the effects of an Extraordinary Dividend or a change in expected dividends.

(c) **Company Purchases**.

(i) During any Valuation Period, neither Counterparty nor any "affiliate" or "affiliated purchaser" (each as defined in Rule 10b-18 ("**Rule 10b-18**") under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**")) shall directly or indirectly (including, without limitation, by means of any cash-settled or other derivative instrument) purchase, offer to purchase, place any bid or limit order that would effect a purchase of, or commence any tender offer relating to, any Shares (or an equivalent interest, including a unit of beneficial interest in a trust or limited partnership or a depository share) or any security convertible into or exchangeable or exercisable for Shares, except through Dealer.

(ii) Counterparty agrees not to repurchase any Shares if, immediately following such repurchase, the Number of Shares would be equal to or greater than 8.0% of the number of then-outstanding Shares.

(d) **Merger Announcement**. Counterparty agrees that it (A) will not during any Valuation Period make, or permit to be made, any public announcement (as defined in Rule 165(f) under the Securities Act) of any Merger Transaction or potential Merger Transaction unless such public announcement is made prior to the opening or after the close of the regular trading session on the Exchange for the Shares; (B) shall promptly (but in any event prior to the next opening of the regular trading session on the Exchange) notify Dealer following any such announcement that such announcement has been made; and (C) shall promptly (but in any event prior to the next opening of the regular trading session on the Exchange) provide Dealer

with written notice specifying (i) Counterparty's average daily Rule 10b-18 Purchases (as defined in Rule 10b-18) during the three full calendar months immediately preceding the announcement date that were not effected through Dealer or its affiliates and (ii) the number of Shares purchased pursuant to the proviso in Rule 10b-18(b)(4) under the Exchange Act for the three full calendar months preceding the announcement date. Such written notice shall be deemed to be a certification by Counterparty to Dealer that such information is true and correct. In addition, Counterparty shall promptly notify Dealer of the earlier to occur of the completion of such transaction and the completion of the vote by target shareholders. "**Merger Transaction**" means any merger, acquisition or similar transaction involving a recapitalization as contemplated by Rule 10b-18(a) (13) (iv) under the Exchange Act.

(e) **Rule 10b5-1.** It is the intent of the parties that this Transaction comply with the requirements of Rule 10b5-1(c) (1) (i) (B) of the Exchange Act ("**Rule 10b5-1**"), and the parties agree that this Confirmation shall be interpreted to comply with the requirements of Rule 10b5-1(c), and Counterparty shall take no action that results in this Transaction not so complying with such requirements. Without limiting the generality of the preceding sentence, Counterparty acknowledges and agrees that (A) Counterparty does not have, and shall not attempt to exercise, any influence over how, when or whether Dealer effects any purchases in connection with this Transaction, (B) during any Valuation Period, Counterparty shall not, and shall not authorize any of its officers or employees to, communicate, directly or indirectly, any information regarding Counterparty or the Shares to employees of Dealer or its affiliates who are directly involved with the hedging of and trading with respect to this Transaction, (C) Counterparty is entering into this Transaction in good faith and not as part of a plan or scheme to evade compliance with federal securities laws including, without limitation, Rule 10b-5 and (D) Counterparty will not alter or deviate from this Confirmation or enter into or alter a corresponding hedging transaction with respect to the Shares. Counterparty also acknowledges and agrees that any amendment, modification, waiver or termination of this Confirmation must be effected in accordance with the requirements for the amendment or termination of a "plan" as defined in Rule 10b5-1(c). Without limiting the generality of the foregoing, any such amendment, modification, waiver or termination shall be made in good faith and not as part of a plan or scheme to evade the prohibitions of Rule 10b-5 and no such amendment, modification or waiver shall be made at any time at which Counterparty is aware of any material non-public information regarding Counterparty or the Shares.

(f) **Rule 10b-18**. Counterparty shall, at least one day prior to the first day of any Valuation Period, notify Dealer of the total number of Shares purchased in Rule 10b-18 purchases of blocks pursuant to the once-a-week block exception contained in Rule 10b-18(b)(4) by or for Counterparty or any of its affiliated purchasers during each of the four calendar weeks preceding the first day of any Valuation Period and during the calendar week in which the first day of any Valuation Period occurs ("**Rule 10b-18 purchase**", "**blocks**" and "**affiliated purchaser**" each being used as defined in Rule 10b-18). Neither Counterparty nor any of its affiliates shall take or refrain from taking any action (including, without limitation, any direct purchases by Counterparty or any of its affiliates, or any purchases by a party to a derivative transaction with Counterparty or any of its affiliates), either under this Confirmation, under an agreement with another party or otherwise, that might cause any purchases of Shares by Dealer or any of its affiliates in connection with any Cash Settlement or Net Share Settlement of this Transaction not to meet the requirements of the safe harbor provided by Rule 10b-18 if such purchases were made by Counterparty.

(g) **Regulation M**. In connection with this Confirmation and the Transaction, Counterparty agrees that if Counterparty elects Cash Settlement or Net Share Settlement, it shall not engage in any "distribution" (as defined in Regulation M) during the period starting on the first day of the relevant Valuation Period and ending on the Scheduled Trading Day following the last day of such Valuation Period.

(h) **Transfer or Assignment.** Neither party may transfer or assign any of its rights or obligations under the Transaction without the prior written consent of the other party; *provided* that the Dealer may, subject to applicable law, freely transfer and assign all of its rights and obligations under the Transaction without the consent of Counterparty to any affiliate of the Dealer, so long as the obligations of such transferee or assignee under the Transaction are guaranteed by Morgan Stanley, it being agreed that Counterparty shall not, as a result of such transfer and assignment to an affiliate of Dealer, be required under the Agreement or this Confirmation to (i) pay to the transferee or assignee an amount greater than the amount that it would have been required to pay to Dealer in the absence of such transfer or assignment or (ii) receive from the transferee or assignee an amount less than the

amount that Counterparty would have received from Dealer in the absence of such transfer or assignment, in each case based on the circumstances in effect on the date of such transfer. If Counterparty, in good faith and in its commercially reasonable judgment, has determined that Counterparty has bona fide concerns with the creditworthiness of Dealer or Dealer's ability to perform its obligations hereunder (in each case, a "**Credit Event**"), then (i) Counterparty shall have the right to request in writing that Dealer transfer and assign all of its rights and obligations under this Transaction to a third party designated by Counterparty in such written request and (ii) Dealer, to the extent that such Credit Event is continuing, shall use commercially reasonable efforts to effect such transfer and assignment at the fair market value of this Transaction, provided that such transfer and assignment is contingent upon the payment by Counterparty to Dealer of a transfer fee equal to the *greater* of:

(A) an amount equal to the product of 4 basis points (0.04%), the then current Forward Price, and the then current Number of Shares; and

(B) an amount equal to the product of 25 basis points (0.25%), the then current Forward Price, the then current Number of Shares, and the quotient of (I) the number of days from and including the date of such transfer and assignment to but excluding the Maturity Date, divided by (II) the number of days from and including the Effective Date to but excluding the Maturity Date.

Notwithstanding any other provision in this Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities to or from Counterparty, Dealer may designate any of its affiliates to purchase, sell, receive or deliver such Shares or other securities and otherwise to perform Dealer's obligations in respect of the Transaction and any such designee may assume such obligations. Dealer shall be discharged of its obligations to Counterparty to the extent of any such performance.

(i) **Alternative Calculations and Counterparty Payment on Early Termination and on Certain Extraordinary Events.** If Dealer owes Counterparty or if Counterparty owes Dealer any amount in connection with the Transaction (i) pursuant to Sections 12.2, 12.3, 12.6, 12.7 or 12.9 of the Equity Definitions or (ii) pursuant to Section 6(d)(ii) of the Agreement (a "**Payment Obligation**"), Counterparty shall have the right, in its sole discretion, to satisfy or to require Dealer to satisfy, as the case may be, any such Payment Obligation by delivery of Termination Delivery Units (as defined below) by giving irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, no later than noon New York time on the Early Termination Date or other date the Transaction is cancelled or terminated, as applicable, where such notice shall include a representation and warranty from Counterparty that it is not, as of the date of the telephonic notice and the date of such written notice, aware of any material non-public information concerning itself or the Shares ("**Notice of Counterparty Termination Delivery**"); *provided* that if Counterparty does not elect to require Dealer to satisfy its Payment Obligation by delivery of Termination Delivery Units, Dealer shall have the right (without regard to the exceptions set forth in clauses (i) and (ii) above), in its sole discretion, to elect to satisfy its Payment Obligation by delivery of Termination Delivery Units, notwithstanding Counterparty's failure to elect or election to the contrary, unless such delivery by Dealer would otherwise be prohibited by applicable law or regulation; and *provided further* that Counterparty shall not have the right to so elect (but, for the avoidance of doubt, Dealer shall have the right to so elect, unless such delivery by Dealer would otherwise be prohibited by applicable law or regulation) in the event of (i) an Insolvency, a Nationalization or a Merger Event, in each case, in which the consideration or proceeds to be paid to holders of Shares consists solely of cash or (ii) an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party, which Event of Default or Termination Event resulted from an event or events within Counterparty's control**.** Within a commercially reasonable period of time following receipt of a Notice of Counterparty Termination Delivery, Dealer shall deliver to Counterparty or Counterparty shall deliver to Dealer, as the case may be, a number of Termination Delivery Units having a fair market value (net of any brokerage and underwriting commissions and fees, including any customary private placement fees) equal to the amount of such Payment Obligation (such number of Termination Delivery

Units to be delivered to be determined by the Calculation Agent as the number of whole Termination Delivery Units that could be sold over a commercially reasonable period of time to generate proceeds equal to the cash equivalent of such payment obligation). If the provisions set forth in this paragraph are applicable, the provisions of Sections 9.8, 9.9, 9.10, 9.11 (modified as described above) and 9.12 of the Equity Definitions shall be applicable, except that all references to "Shares" shall be read as references to "Termination Delivery Units." "**Termination Delivery Units**" means in the case of a Termination Event, Event of Default or Delisting, one Share or, in the case of Nationalization, Insolvency, Tender Offer or Merger Event, a unit consisting of the number or amount of each type of property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Nationalization, Insolvency, Tender Offer or Merger Event; *provided* that if such Nationalization, Insolvency, Tender Offer or Merger Event involves a choice of consideration to be received by holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.

(j) **Maximum Share Delivery.** Notwithstanding any other provision of this Confirmation, in no event will Counterparty be required to deliver more than 1.5 times the Number of Shares to Dealer (as adjusted by the Calculation Agent for any stock splits, stock dividends or similar events).

(k) **Limit on Beneficial Ownership.** Notwithstanding any other provisions hereof, no delivery hereunder (including pursuant to paragraph 6(j) above) shall be made, to the extent (but only to the extent) that, the receipt of any Shares upon such delivery would result in the existence of an Excess Ownership Position. Any purported delivery hereunder shall be void and have no effect to the extent (but only to the extent) that such delivery would result in the existence of an Excess Ownership Position. If any delivery owed to Dealer hereunder is not made, in whole or in part, as a result of this provision, Counterparty's obligation to make such delivery shall not be extinguished and Counterparty shall make such delivery as promptly as practicable after, but in no event later than one Scheduled Trading Day after, Dealer gives notice to Counterparty that, such exercise or delivery would not result in the existence of an Excess Ownership Position. "**Excess Ownership Position**" means a condition where either (1) the Equity Percentage exceeds 4.5% or (2) Dealer or any person whose ownership position would be aggregated with that of Dealer (Dealer or any such person, a "**Dealer Person**") under any state or federal bank holding company or banking laws, or other federal, state or local regulations or regulatory orders applicable to ownership of Shares ("**Applicable Laws**"), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership in excess of a number of Shares equal to (x) the number of Shares that would give rise to reporting or registration obligations or other requirements (including obtaining prior approval by a state or federal regulator) of a Dealer Person under Applicable Laws and with respect to which such requirements have not been met or the relevant approval has not been received minus (y) 1.0% of the number of Shares outstanding on the date of determination. The "**Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates subject to aggregation with Dealer, for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act, and all persons who may form a "group" (within the meaning of Rule 13d-5(b)(1) under the Exchange Act) with Dealer, beneficially own (within the meaning of Section 13 of the Exchange Act) on such day and (B) the denominator of which is the number of Shares outstanding on such day.

(l) [Reserved].

(m) **Regulatory Provisions.** The time of dealing for the Transaction will be confirmed by Dealer upon written request by Counterparty. The Dealer will furnish to Counterparty upon written request a statement as to the source and amount of any remuneration received or to be received by Dealer in connection with the Transaction.

(n) **Other Forward.** Dealer acknowledges that Counterparty has entered into a forward transaction for its Shares on the date hereof (the "**Other Forward**") with an affiliate of Barclays Bank PLC (such affiliate, the "**Other Dealer**"). Dealer and Counterparty agree that, in order to facilitate compliance with the provisions of Rule 10b-18, if Counterparty or the Other Dealer designates a Settlement Notice Date or a Settlement Notice Date occurs on the Maturity Date with respect to the Other Forward and the Valuation Period for the Other Forward coincides for any period of time with the Valuation Period for this

Transaction (the "**Overlap Valuation Period**"), Counterparty shall notify Dealer of such instance prior to the commencement of such Overlap Valuation Period and Dealer shall only be permitted to purchase Shares with respect to the unwind of its hedge related to this Transaction on every other Scheduled Trading Day during such Overlap Valuation Period, commencing on the second day of such Overlap Valuation Period.

(o) **Tax Form.** For the purpose of Sections 4(a)(i) and (ii) of this Agreement, Dealer agrees to deliver to Counterparty a complete and duly executed United States Internal Revenue Service Form W-9 (or successor thereto) (i) promptly upon reasonable demand by Counterparty and (ii) promptly upon learning that such form previously provided by Dealer has become obsolete or incorrect.

(p) **No Collateral.** Notwithstanding any provision of the Agreement, or any other agreement between the parties, to the contrary, the obligations of Counterparty hereunder are not secured by any collateral.

(q) **Netting and Setoff.** Obligations under the Transaction shall not be netted, recouped or set off (including pursuant to Section 6 of the Agreement) against any other obligations of the parties, whether arising under the Agreement, this Confirmation, under any other agreement between the parties hereto, by operation of law or otherwise, and no other obligations of the parties shall be netted, recouped or set off (including pursuant to Section 6 of the Agreement) against obligations under the Transaction, whether arising under the Agreement, this Confirmation, under any other agreement between the parties hereto, by operation of law or otherwise, and each party hereby waives any such right of setoff, netting or recoupment provided that both parties agree that subparagraph (ii) of Section 2(c) of the Agreement shall apply to the Transaction.

(r) **Status of Claims in Bankruptcy.** Dealer acknowledges and agrees that this Confirmation is not intended to convey to it rights with respect to the Transaction that are senior to the claims of common stockholders in any U.S. bankruptcy proceedings of Counterparty; provided that nothing herein shall limit or shall be deemed to limit Dealer's right to pursue remedies in the event of a breach by Counterparty of its obligations and agreements with respect to the Transaction; and provided further that nothing herein shall limit or shall be deemed to limit Dealer's rights in respect of any transactions other than the Transaction.

(s) **Securities Contract; Swap Agreement.** The parties hereto agree and acknowledge that Dealer is a "financial institution," "swap participant" and "financial participant" within the meaning of Sections 101(22), 101(53C) and 101(22A) of the Bankruptcy Code. The parties hereto further agree and acknowledge (A) that this Confirmation is (i) a "securities contract," as such term is defined in Section 741(7) of the Bankruptcy Code, with respect to which each payment and delivery hereunder or in connection herewith is a "termination value," "payment amount" or "other transfer obligation" within the meaning of Section 362 of the Bankruptcy Code and a "settlement payment" or a "transfer" within the meaning of Section 546 of the Bankruptcy Code, and (ii) a "swap agreement," as such term is defined in Section 101(53B) of the Bankruptcy Code, with respect to which each payment and delivery hereunder or in connection herewith is a "termination value," a "payment amount" or "other transfer obligation" within the meaning of Section 362 of the Bankruptcy Code and a "transfer" within the meaning of Section 546 of the Bankruptcy Code, and (B) that Dealer is entitled to the protections afforded by, among other sections, Section 362(b)(6), 362(b)(17), 362(b)(27), 362(o), 546(e), 546(g), 546(j), 548(d)(2), 555, 560 and 561 of the Bankruptcy Code.

(t) **Payments on Early Termination.** Dealer and Counterparty agree that for this Transaction, for the purposes of Section 6(e) of the Agreement, the Second Method and Loss will apply.

(u) **Governing Law.** The law of the State of New York (without reference to choice of law doctrine).

(v) **WAIVER OF JURY TRIAL. EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING RELATING TO THE TRANSACTION. EACH PARTY (I) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH**

OTHER PARTY WOULD NOT, IN THE EVENT OF SUCH A SUIT, ACTION OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HAVE BEEN INDUCED TO ENTER INTO THE TRANSACTION, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS PROVIDED HEREIN.

7. **Account Details:**

8. **Offices:**

The Office of Counterparty for the Transaction is: Inapplicable, Counterparty is not a Multibranch Party.

The Office of Dealer for the Transaction is: Inapplicable, Dealer is not a Multibranch Party.

9. **Notices:**

For purposes of this Confirmation:

(a) Address for notices or communications to Counterparty:

Capital One Financial Corporation
1680 Capital One Drive
McLean, VA 22102
Attention: Simon Fairclough
Telephone No.:
Facsimile No.:

(b) Address for notices or communications to Dealer:

Morgan Stanley & Co. LLC
1585 Broadway
New York, NY 10036-8293
Attention: Angela Proske
Telephone: (212) 537-1572
Facsimile: (212) 507-0483

This Confirmation may be executed in several counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

THE SECURITIES REPRESENTED BY THE CONFIRMATION HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933 OR ANY OTHER UNITED STATES FEDERAL OR STATE SECURITIES LAWS; SUCH SECURITIES MAY NOT BE SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF APPROPRIATE REGISTRATION UNDER SUCH SECURITIES LAWS OR EXCEPT IN A TRANSACTION EXEMPT FROM OR NOT SUBJECT TO THE REGISTRATION REQUIREMENTS OF SUCH SECURITIES LAWS.

Counterparty hereby agrees to check this Confirmation and to confirm that the foregoing correctly sets forth the terms of the Transaction by signing in the space provided below and returning to Dealer a facsimile of the fully-executed Confirmation to Dealer at (+1) 212-507-0483. Originals shall be provided for your execution upon your request.

Very truly yours,

MORGAN STANLEY & CO. LLC

By: /s/ Serkan Savasoglu
Name: Serkan Savasoglu
Title: Managing Director

Accepted and confirmed as of the Trade Date:

CAPITAL ONE FINANCIAL CORPORATION

By: /s/ Stephen Linehan
Name: Stephen Linehan
Title: Treasurer

ANNEX A

Private Placement Procedures

(a) Counterparty shall afford Dealer, and any potential buyers of the Private Securities designated by Dealer a reasonable opportunity to conduct a due diligence investigation with respect to Counterparty customary in scope for private offerings of its size (including, without limitation, the availability of senior management to respond to questions regarding the business and financial condition of Counterparty and the right to have made available to them for inspection all financial and other records, pertinent corporate documents and other information reasonably requested by them), and Dealer (or any such potential buyer) shall be satisfied in all material respects with such opportunity and with the resolution of any disclosure issues arising from such due diligence investigation of Counterparty.

(b) Prior to or contemporaneously with the determination of the Private Placement Price (as described below), Counterparty shall enter into an agreement (a "**Private Placement Agreement**") with Dealer (or any affiliate of Dealer designated by Dealer) providing for the purchase and resale by Dealer (or such affiliate) in a private placement (or other transaction exempt from registration under the Securities Act) of the Private Securities, which agreement shall be on commercially reasonable terms and in form and substance reasonably satisfactory to Counterparty and Dealer (or such affiliate) and (without limitation of the foregoing) shall:

(i) contain customary restrictions on Dealer's ability to dispose of the Private Securities other than pursuant to a registration statement or an applicable exemption from the registration requirements of the Securities Act;

(ii) contain indemnification and contribution provisions in connection with the potential liability of Dealer and its affiliates relating to the resale by Dealer (or such affiliate) of the Private Securities;

(iii) provide for the delivery of related certificates and representations, warranties and agreements of Counterparty, including those necessary or advisable to establish and maintain the availability of an exemption from the registration requirements of the Securities Act for Dealer and resales of the Private Securities by Dealer (or such affiliate); and

(iv) provide (i) for the delivery to Dealer (or such affiliate) of customary opinions of counsel (including, without limitation, opinions relating to the due authorization, valid issuance and fully paid and non-assessable nature of the Private Securities and the availability of an exemption from the registration requirements of the Securities Act for Dealer (such opinions being subject to the satisfaction of safe harbor requirements relating to such exemption and the adequacy of the terms of the Private Placement Agreement with respect to such exemption), and (ii) for the delivery to Dealer (or such affiliate) of negative assurance with respect to material misstatements or omissions in filings by Counterparty under the Exchange Act identified by such counsel.

(c) Dealer shall determine the Private Placement Price (or, in the case of alternative termination settlement, any Termination Amount) in its discretion by commercially reasonable means, which may include (without limitation):

(i) basing such price on indicative bids from investors;

(ii) taking into account any factors that are customary in pricing private sales and any and all risks and costs in connection with the resale of the Private Securities by Dealer (or any affiliate of Dealer designated by Dealer), including, without limitation, a reasonable placement fee or spread to be retained by Dealer (or such affiliate); and

(iii) providing for the payment by Counterparty of all fees and expenses in connection with such sale and resale, including all fees and expenses of counsel for Dealer or such affiliate.

(d) Dealer shall notify Counterparty of the number of Private Securities required to be delivered by Counterparty and the Private Placement Price (or, in the case of alternative termination settlement, any Termination Amount) by 6:00 p.m. on the day such price is determined.

(e) Counterparty expressly agrees and acknowledges that the public disclosure of all material information relating to Counterparty is within Counterparty's control and that Counterparty shall promptly so disclose all such material information during the period from the first day of the relevant Valuation Period to and including the Valuation Date.

Counterparty agrees to use its best efforts to make any filings required to be made by it with the SEC, any securities exchange or any other regulatory body with respect to the issuance of the Private Securities.

Exhibit 12.1

COMPUTATION OF RATIO OF EARNINGS TO COMBINED FIXED CHARGES

(Dollars in millions)	Six Months Ended June 30, 2011	Six Months Ended June 30, 2010	Year Ended December 31, 2010	2009[1]	2008	2007	2006
Ratio (including interest expense on deposits):							
Earnings:							
Income from continuing operations before income taxes	**$ 2,781**	$ 2,145	$4,330	$1,336	**$ 582**	$3,870	$3,672
Fixed charges	**1,178**	1,545	2,903	2,975	3,985	4,583	3,087
Equity in undistributed loss of unconsolidated subsidiaries	**30**	48	49	60	55	43	15
Earnings available for fixed charges, as adjusted	**$ 3,989**	$ 3,738	$7,282	$4,371	$4,622	$8,496	$6,774
Fixed charges:							
Interest expense on deposits and debt	**$ 1,175**	$ 1,540	$2,896	$2,967	$3,963	$4,548	$3,073
Interest factor in rent expense	**3**	5	7	8	22	35	14
Total fixed charges	**$ 1,178**	$ 1,545	$2,903	$2,975	$3,985	$4,583	$3,087
Ratio of earnings to fixed charges, including interest on deposits	**3.39**	**2.42**	**2.51**	**1.47**	**1.16**	**1.85**	**2.19**
Ratio (excluding interest expense on deposits):							
Earnings:							
Income from continuing operations before income taxes	**$ 2,781**	$ 2,145	$4,330	$1,336	**$ 582**	$3,870	$3,672
Fixed charges	**549**	778	1,438	882	1,473	1,677	1,272
Equity in undistributed loss of unconsolidated subsidiaries	**30**	48	49	60	55	43	15
Earnings available for fixed charges, as adjusted	**$ 3,360**	$ 2,971	$5,817	$2,278	$2,110	$5,590	$4,959
Fixed charges:							
Interest expense on debt[2]	**$ 546**	$ 773	$1,431	$ 874	$1,451	$1,642	$1,258
Interest factor in rent expense	**3**	5	7	8	22	35	14
Total fixed charges	**$ 549**	$ 778	$1,438	$ 882	$1,473	$1,677	$1,272
Ratio of earnings to fixed charges, excluding interest on deposits	**6.12**	**3.82**	**4.05**	**2.58**	**1.43**	**3.33**	**3.90**

(1) On February 27, 2009, we acquired Chevy Chase Bank, FSB. The transaction was accounted for as a purchase, and the related results of operations are included in our consolidated results from the date of the transaction.

(2) Represents total interest expense reported in our consolidated statements of income, excluding interest on deposits of $629 million and $767 million for the six months ended June 30, 2011 and 2010, and $1.5 billion, $2.1 billion, $2.5 billion, $2.9 billion and $1.8 billion for the years ended December 31, 2010, 2009, 2008, 2007 and 2006, respectively.

News Release

Contacts:

Investor Relations
Jeff Norris 703.720.2455
Danielle Dietz 703.720.2455

Media Relations
Julie Rakes 804.284.5800
Tatiana Stead 703.720.2352

FOR IMMEDIATE RELEASE: July 13, 2011

Capital One Announces Pricing of $2 Billion Common Stock Offering

McLean, Va. (July 13, 2011) — Capital One Financial Corporation (NYSE: COF) today announced that it has priced a public offering of 40 million shares of its common stock at a per share price of $50.00, which will be subject to the forward sale agreements described below. Barclays Capital, Morgan Stanley, BofA Merrill Lynch and J.P. Morgan are acting as book-running managers for the offering. Capital One also has granted the underwriters a 30-day option to purchase an additional 6 million shares of common stock from Capital One at the same price to cover any over-allotments. Any shares purchased pursuant to the underwriters' option to purchase additional shares are not subject to the forward sale agreements. The offering is expected to close on July 19, 2011, subject to customary closing conditions. Capital One intends to use the net proceeds received upon settlement of the forward sale agreements and any exercise of the over-allotment option to fund a portion of its previously announced acquisition of ING Direct.

In connection with the offering of its common stock, Capital One entered into forward sale agreements with Barclays Capital and Morgan Stanley, whom we refer to as the forward purchasers. The forward purchasers or their affiliates have agreed to borrow and sell to the public, through the underwriters, shares of Capital One's common stock. The settlement of the forward sale agreements is expected to occur no later than approximately seven months following the date of the common stock offering. Capital One expects to settle the forward sale agreements entirely by the physical delivery of shares of its common stock unless, subject to certain conditions, it elects cash or net share settlement for all or a portion of its obligations under the forward sale agreements.

The public offering is being made pursuant to an effective shelf registration statement that has been filed with the Securities and Exchange Commission (the “SEC”). A preliminary prospectus supplement related to the offering will be filed with the SEC and will be available on the SEC’s website at http://www.sec.gov. Copies of the prospectus supplement and the base prospectus relating to these securities may be obtained from (i) Barclays Capital Inc. by calling 1-888-603-5847, by mail at Barclays Capital Inc. c/o Broadridge Financial Solutions, 1155 Long Island Avenue, Edgewood, NY 11717 or by e-mail, at Barclaysprospectus@broadridge.com, or (ii) Morgan Stanley & Co. LLC, by calling 1-866-718-1649, by mail at Morgan Stanley Prospectus Department, 180 Varick Street, 2nd Floor, New York, NY 10014, Attention: Prospectus Dept., or by e-mail at prospectus@morganstanley.com, Telephone: (866) 718-1649.

This press release is neither an offer to sell nor a solicitation of an offer to buy any of the common stock or any other security of Capital One, nor shall there be any sale of the common stock in any jurisdiction in which such an offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.

Forward-looking statements

The company cautions that its current expectations in this release dated July 13, 2011, and the company's plans, objectives, expectations, and intentions, are forward-looking statements which speak only as of the date hereof. The company does not undertake any obligation to update or revise any of the information contained herein whether as a result of new information, future events or otherwise. Actual results could differ materially from current expectations due to a number of factors, including, but not limited to: general economic conditions in the U.S., the U.K., Canada or the company's local markets, including conditions affecting consumer income, confidence, spending, and savings which may affect consumer bankruptcies, defaults, charge-offs, deposit activity, and interest rates; financial, legal, regulatory, tax or accounting changes or actions, including the impact of the Dodd-Frank Act and the regulations promulgated thereunder; developments, changes or actions relating to any litigation matter involving the company; increases or decreases in interest rates; the success of the company's marketing efforts in attracting or retaining customers; changes in the credit environment; increases or decreases in the company's aggregate loan balances or the number of customers and the growth rate and composition thereof; the level of future repurchase or indemnification requests the company may receive, the actual future performance of mortgage loans relating to such requests, the success rates of claimants against the company, any developments in litigation and the actual recoveries the company may make on any collateral relating to claims against it; changes in the reputation of or expectations regarding the financial services industry or the company with respect to

practices, products, or financial condition; any significant disruption in the company’s operations or technology platform; the company's ability to execute on its strategic and operational plans; changes in the labor and employment market; competition from providers of products and services that compete with the company's businesses; the possibility that regulatory and other approvals and conditions to the ING Direct acquisition are not received or satisfied on a timely basis or at all; the possibility that modifications to the terms of the ING Direct acquisition may be required in order to obtain or satisfy such approvals or conditions; changes in the anticipated timing for closing the ING Direct acquisition; difficulties and delays in integrating the company’s and ING Direct’s businesses or fully realizing projected cost savings and other projected benefits of the ING Direct acquisition; business disruption during the pendency of or following the ING Direct acquisition; the inability to sustain revenue and earnings growth; changes in interest rates and capital markets; diversion of management time on issues related to the ING Direct acquisition; and changes in asset quality and credit risk as a result of the ING Direct acquisition. A discussion of these and other factors can be found in the company's annual report and other reports filed with the Securities and Exchange Commission, including, but not limited to, the company's report on Form 10-K for the fiscal year ended December 31, 2010.

About Capital One

Capital One Financial Corporation (www.capitalone.com) is a financial holding company whose subsidiaries, which include Capital One, N.A. and Capital One Bank (USA), N.A., had $126.1 billion in deposits and $199.8 billion in total assets outstanding as of June 30, 2011. Headquartered in McLean, Virginia, Capital One offers a broad spectrum of financial products and services to consumers, small businesses and commercial clients. Capital One, N.A. has approximately 1,000 branch locations primarily in New York, New Jersey, Texas, Louisiana, Maryland, Virginia, and the District of Columbia. A Fortune 500 company, Capital One trades on the New York Stock Exchange under the symbol “COF” and is included in the S&P 100 index.