

THE OFFICE OF THE DELAWARE STATE BANKING COMMISSION
STATE BANKING COMMISSIONER
DOVER, DELAWARE

COOPERATIVE AGREEMENT TO ENSURE PUBLIC CONVENIENCE AND ADVANTAGE

This matter comes before the Delaware State Banking Commission by application of Capital One to merge with ING Direct for the purpose of providing an integrated, convenient and advantageous strategy for Capital One's banking operations in Delaware. As approved this merger will have a significant impact on commerce and trade within the State of Delaware. Pursuant to the powers granted to the Delaware State Banking Commission by Title 5 of the Delaware Code, this Cooperative Agreement is entered into as a condition precedent to the granting of the Capital One/ING Direct application.

I. JURISDICTION AND PROVISIONS

1. This agreement shall be referred to as the Cooperative Agreement to Ensure Public Convenience and Advantage.
2. The purpose of this agreement is to ensure the orderly administration and expenditure within the State of Delaware of funds committed by Capital One, \$3,600,000,000, over the term of this agreement.
3. Under this agreement, Capital One will add 500 new jobs in the State of Delaware within two years from the date of this agreement.
4. Capital One agrees to undertake specific actions to establish community reinvestment operations in Delaware.
5. Capital One recognizes that the strategic approach set out in this agreement will allow Capital One to optimize investments for multiple reinvestment objectives (e.g., bank accounts, job retention, real estate space utilization, consumer issues, etc.), invest its money and resources in improving the quality of life in Delaware as it pertains to consumers of financial services, and more efficiently manage and recover societal costs (such as harm from abusive lending practices).
6. Capital One will design a Delaware specific ten-year pledge for investing, lending, and servicing Delaware's consumers of financial services in the amount of \$360 million a year for ten years beginning January 2012—with \$18 million annually designated to community reinvestment initiatives.
7. The Delaware State Banking Commissioner shall appoint a Monitor to oversee compliance with and implementation of this agreement. Applicants for the position of Monitor shall be submitted to the Banking Commissioner by December 1, 2011, with an appointment by the Commissioner by December 30, 2011. The Monitor shall assume duties for compliance and oversight on January 1, 2012.
8. By January 31, 2012, Capital One shall submit to the Monitor its plan for the following:
 - a. Financial and technical support of financial counseling, housing counseling, and small business technical assistance in Delaware.
 - b. Efforts to build the credit worthiness of Delawareans through support of and/or creation of viable products that benefit the low-income community such as IDA programs, credit builder programs, viable community-based alternatives to high cost loans, etc.
 - c. Support of small business and other consumer financing either directly or through CDFIs, low-income credit unions, and other intermediaries in Delaware.

- d. Development of small business loan products that are competitive and have flexible underwriting.
 - e. Development of competitive mortgage and lending products in Delaware.
 - f. Development of a plan for equitable distribution of prime mortgage products throughout Delaware's underserved people (ethnic, race, gender minorities) and places (LMI tracts and identified pockets of poverty in Southern Delaware).
 - g. A housing counseling program for all Delaware LMI borrowers (whether entering the system through prime or subprime channels).
 - h. A plan to assist Delaware through the affordable housing crisis.
 - i. A contingency plan to for responding to emerging demographic and economic trends in Delaware, with an emphasis on the Delaware counties of Kent and Sussex with their rapidly growing Spanish-speaking community's consumer finance needs.
 - j. A plan for supporting the arts, education, non-traditional CRA community service organizations, and employment for the disabled.
 - k. A plan for the establishment of retail presence statewide in Delaware.
 - l. The development of a job retention plan for Delaware including financial and technical support of think tanks engaged in exploring the next economic frontier for Delaware.
 - m. A plan for implementing a Credit Card Bill of Rights.
9. The Monitor shall file quarterly reports with the Banking Commissioner, beginning on March 31, 2012, and each three months thereafter for the period of this agreement.
10. In evaluating compliance by Capital One with this agreement, the Monitor shall take into account the following:
- a. Delaware's average credit score increases.
 - b. Home Mortgage Disclosure Act (HMDA) analysis demonstrates that there is no denial disparity by race or income among various prime and subprime products.
 - c. Small Business Data Disclosure analysis demonstrates a robust activity.
 - d. Statewide retail presence is explored and if feasible, established.
 - e. Jobs are retained and new jobs are added to Delaware.
11. All disputes under this agreement shall be submitted by either the Monitor or Capital One to the Banking Commissioner for resolution.

II. PERIOD OF AGREEMENT

This agreement shall commence following its signing by both parties and continue for ten years, (starting on January 1, 2012).

III. ENTIRE AGREEMENT

This agreement, together with any specifications, referenced parts, attachments and effective amendments shall constitute the entire agreement. Communications or understandings made prior to the signing of this agreement and pertaining to its subject matter are hereby superseded. All revisions to this agreement must be made by a written amendment to this agreement, and signed by both parties and issued under the same procedures as this agreement.

IV. APPROVALS COVERED

The approval to the proposal by Capital One to acquire ING Direct is covered under this agreement.

V. APPLICABLE LAW

The laws of the State of Delaware shall govern this agreement. Except as provided herein, Capital One shall at all times comply with all Federal, State, and Local laws, ordinances and regulations in effect during the period of this agreement.

VI. SEVERABILITY

This agreement shall be deemed severable, and the invalidity or unenforceability of any term contained herein shall not affect the validity or enforceability of this agreement or of any other term contained therein. To the extent that such invalidity or unenforceability has a material impact on the expectations of Capital One or DCRAC, the parties agree to make appropriate modifications to this agreement to take such impact into account.

Agreed and Consented to this day of November, 2011.

Robert A. Glen
Banking Commissioner

Andy Navarette
Vice President
Capital One

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