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Testimony of Dory Rand
Woodstock Institute's President
Before the Board of Governors of the Federal Reserve System and the
Federal Reserve Bank of Chicago

September 27, 2011

Good morning, my name is Dory Rand, and I am president of Woodstock Institute. Woodstock Institute is a leading nonprofit research and policy organization in the areas of fair lending, wealth creation, and financial systems reform. Woodstock Institute works locally and nationally to create a financial system in which lower-wealth persons and communities of color can safely borrow, save, and build wealth so that they can achieve economic security and community prosperity.

I would like to thank the Board of Governors of the Federal Reserve System and the Federal Reserve Bank of Chicago for the opportunity to testify in opposition to the acquisition of ING Direct by Capital One. Woodstock Institute opposes this merger on the grounds that Capital One has an inadequate past record of meeting community financial needs. We also believe that the combined financial institution, as the fifth largest bank by deposits with a vulnerable portfolio heavily concentrated in credit cards, would pose significant risk to the financial system. Finally, this application demonstrates the inadequacy of current regulatory for ensuring that large financial institutions with limited branch networks are meeting the lending and financial services needs of low-wealth communities.

The Federal Reserve Board considers many factors in its evaluation of merger applications, including the convenience and needs of communities affected. I will share two examples of Capital One's failure to meet community needs. In 2010, Capital One implemented a policy that cut off Federal Housing Administration (FHA) loans to borrowers with credit scores between 580-620 even though FHA fully guarantees these loans. Capital One's policy would have a disparate impact in many African American communities, including those in the Chicago region, where 54 percent of individuals have credit scores of less than 620. The bank's last-minute pledge to provide FHA loans to all qualified borrowers is not sufficient to demonstrate a past record of meeting community needs.

Capital One did not continue the community reinvestment commitments made by Chevy Chase, which they acquired in 2009. Under a settlement reached with the U.S. Department of Justice in 1994 for failing to offer services in communities of color, Chevy Chase agreed to take all reasonable steps to obtain a market share of mortgage loans in predominately African American communities that is comparable to its market share in white communities. According to an analysis by the National Community Reinvestment Coalition, Capital One has not achieved comparable market share in many of its markets, including the Washington, D.C., metro area.

The Federal Reserve Board also considers the systemic risk that the combined institution will pose to the financial system during its evaluation of merger applications. Capital One is heavily concentrated in credit cards and the combined institution will do little to diversify its portfolio. According to an analysis by NCRC, Capital One derives 75 percent of its income from credit cards, a vulnerable income source during economic downturns when revolving credit lines shrink and charge-offs increase. No other bank in the top five relies on any one product for more than 32 percent of its income.

Finally, Capital One and ING Direct currently have minimal Community Reinvestment Act obligations as a result of a limited branch presence. Both banks carry out a substantial portion of their business throughout the country, but have a minimal branch network. Capital One has credit card customers in Illinois and ING Direct receives deposits from Illinois customers, but neither bank designates the Chicago region or Illinois as an assessment area. We urge the Federal Reserve Board to adopt meaningful modernization of the rules implementing the Community Reinvestment Act, including changes to the rules designating assessment areas, before considering approval of this or any application that would allow financial institutions to expand without clear community reinvestment obligations.

If the Federal Reserve Board chooses to move forward with this application over our opposition and the opposition of our colleagues in Chicago and across the country, we respectfully request that it grant conditional approval and require Capital One to address these concerns. Specifically, we believe that the Federal Reserve Board should condition the approval of the application on the adoption of CRA assessment areas and reporting obligation where the combined financial institution will have a significant market presence.

There is a precedent for this request. In February 2003, the Office of the Comptroller of the Currency issued a decision on the application to charter Charles Schwab Bank in Reno, Nevada. At the time, Charles Schwab Bank was proposing to create a financial institution with national operations, but only one CRA assessment area in the Reno MSA. The OCC stated that it would require the bank to provide additional information on CRA qualifying loans, investments and services provided by the bank outside of its assessment area. As a condition of approval, Charles Schwab Bank was required to annually provide the OCC with the number, type and amount of loans and investments made in low- and moderate-income geographies outside its assessment area. The application of Capital One to acquire ING Direct proposes to create a similar financial institution with a national presence in both online deposits and credit cards but minimal branch presence. It is appropriate to require CRA reports from of the bank's performance outside of its current assessment areas is in this circumstance.

Once again, I appreciate the opportunity to testify in opposition to the approval of this application and request that my full, written comments be accepted into the record of this public meeting.