

# United States Senate

WASHINGTON, DC 20510

June 24, 2020

Richard Fairbank  
Chairman and Chief Executive Officer  
Capital One Financial Corp  
1680 Capital One Drive  
McLean, VA 22102-3491

Dear Mr. Fairbank:

We write regarding recent reports that Capital One Financial Corp. (Capital One) has been collecting debt from its customers through wage garnishment—an aggressive and often complicated form of debt collection—during the coronavirus disease 2019 (COVID-19) pandemic.<sup>1</sup>

Nobody should lose their home, their car, their utilities, or access to basic needs during a global pandemic.<sup>2</sup> However, while courts, governors, and local officials across the country have taken steps to provide some debt collection relief to some consumers, many still remain vulnerable to predatory and intrusive debt collection practices.

Capital One has reportedly “largely suspended filing new debt collection lawsuits,” but is still garnishing the wages of consumers against whom it had already won judgments.<sup>3</sup> This presents a serious concern for families across the country, many of whom have been forced to turn to credit cards to make ends meet and afford basic necessities. According to a recent survey, 23% of credit card users responded that they have “added to their credit card debt as a direct result of the current Covid-19 pandemic,”<sup>4</sup> and a separate study found “the number of tenants paying rent with a credit card during the first week of April rose 30% compared with the same period in March.”<sup>5</sup>

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<sup>1</sup> ProPublica, “Capital One and Other Debt Collectors Are Still Coming for Millions of Americans,” Paul Kiel and Jeff Ernsthausen, June 8, 2020, <https://www.propublica.org/article/capital-one-and-other-debt-collectors-are-still-coming-for-millions-of-americans>.

<sup>2</sup> Medium, “Congress must provide immediate relief for consumers. Here’s how.,” Senators Elizabeth Warren and Sherrod Brown, April 21, 2020, <https://medium.com/@SenWarren/congress-must-provide-immediate-relief-for-consumers-heres-how-2aeb99672ef9>.

<sup>3</sup> ProPublica, “Capital One and Other Debt Collectors Are Still Coming for Millions of Americans,” Paul Kiel and Jeff Ernsthausen, June 8, 2020, <https://www.propublica.org/article/capital-one-and-other-debt-collectors-are-still-coming-for-millions-of-americans>.

<sup>4</sup> CNBC, “Almost half of America is now carrying credit card debt, and more of it,” AJ Horch, May 4, 2020, <https://www.cnbc.com/2020/05/04/almost-half-of-america-now-carrying-credit-card-debt-and-more-of-it.html#:~:text=Alarmingl%2C%2023%25%20of%20credit%20card,further%20into%20credit%20card%20debt>.

<sup>5</sup> Wall Street Journal, “Out-of-Work Apartment Tenants Putting Monthly Rent on Plastic,” Will Parker, April 15, 2020, <https://www.wsj.com/articles/out-of-work-apartment-tenants-putting-monthly-rent-on-plastic-11586966251>.

Capital One claims that its debt collection program is not about “making money,” but instead about “helping customers resolve their delinquent debt and reducing losses.”<sup>6</sup> Capital One’s history suggests otherwise. During the recession that followed the 2008 financial crisis, “when the number of credit card defaults surged,” Capital One’s debt collection lawsuits eclipsed all other banks “reaching levels never matched by any company before or since.”<sup>7</sup> Last year alone, Capital One reported recovering close to \$1.4 billion from domestic “credit card accounts that had been previously charged-off, or recognized as losses.”<sup>8</sup> Additionally, a cursory review of the Consumer Financial Protection Bureau’s Consumer Complaint Database shows that over the last seven years, Capital One has been the subject of close to 4,000 complaints related to credit card debt collection – 228 of which were filed after March 13, 2020,<sup>9</sup> when the United States declared a national emergency due to the COVID-19 pandemic.<sup>10</sup>

As courts across the country take steps to gradually reopen and restore operations in the coming weeks and months,<sup>11</sup> some debt collectors are reportedly “laying the groundwork for a return to normal by filing suits by the thousands.”<sup>12</sup> This is all the more concerning because many families find themselves in increasingly dire financial situations. More than 42 million workers have filed for unemployment benefits in the last 11 weeks,<sup>13</sup> and according to a U.S. Census Bureau survey, almost half of all households in the United States have experienced loss in employment income in the last several weeks.<sup>14</sup>

You should suspend these practices immediately. Filing collection lawsuits and garnishing the wages of consumers already struggling to pay for basic necessities will only exacerbate the economic and public health crisis. To better understand the scope of your use of these debt

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<sup>6</sup> ProPublica, “Capital One and Other Debt Collectors Are Still Coming for Millions of Americans,” Paul Kiel and Jeff Ernsthause, June 8, 2020, <https://www.propublica.org/article/capital-one-and-other-debt-collectors-are-still-coming-for-millions-of-americans>.

<sup>7</sup> ProPublica, “At Capital One, Easy Credit and Abundant Lawsuits,” Paul Kiel, December 28, 2015, <https://www.propublica.org/article/at-capital-one-easy-credit-and-abundant-lawsuits>.

<sup>8</sup> ProPublica, “Capital One and Other Debt Collectors Are Still Coming for Millions of Americans,” Paul Kiel and Jeff Ernsthause, June 8, 2020, <https://www.propublica.org/article/capital-one-and-other-debt-collectors-are-still-coming-for-millions-of-americans>; Capital One, “Capital One Reports Fourth Quarter 2019 Net Income of \$1.2 billion, or \$2.25 per share,” January 21, 2020, <http://investor.capitalone.com/news-releases/news-release-details/capital-one-reports-fourth-quarter-2019-net-income-12-billion-or>.

<sup>9</sup> Consumer Financial Protection Bureau, “Consumer Complaint Database,” accessed on June 10, 2020, <https://www.consumerfinance.gov/data-research/consumer-complaints/>.

<sup>10</sup> White House, “Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak,” March 13, 2020, <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>.

<sup>11</sup> Boston Globe, “Mass. courthouses expected to physically reopen this summer amid coronavirus; jury trials possible in September,” Travis Andersen, May 14, 2020, <https://www.bostonglobe.com/2020/05/14/nation/mass-courthouses-expected-physically-reopen-this-summer-amid-coronavirus-jury-trials-possible-september/>; Maryland Courts, “Maryland courts announce plan to gradually reopen through phased approach,” press release, May 22, 2020, <https://mdcourts.gov/media/news/2020/pr20200522>.

<sup>12</sup> ProPublica, “Capital One and Other Debt Collectors Are Still Coming for Millions of Americans,” Paul Kiel and Jeff Ernsthause, June 8, 2020, <https://www.propublica.org/article/capital-one-and-other-debt-collectors-are-still-coming-for-millions-of-americans>.

<sup>13</sup> Politico, “New unemployment claims rose by 1.9 million last week,” Rebecca Rainey, June 4, 2020, <https://www.politico.com/news/2020/06/04/unemployment-claims-numbers-coronavirus-300477>.

<sup>14</sup> United States Census Bureau, “Household Pulse Survey,” accessed on June 10, 2020, <https://www.census.gov/data-tools/demo/hhp/#/>.

collection practices during the pandemic, please provide answers to the following questions no later than July 8, 2020.

1. Provide the following information for each of these account types for each month in 2020 to date: domestic credits cards, international credit cards, auto and retail banking.
  - a. Number of charged-off accounts
  - b. Number of debt collection lawsuits
  - c. For debt collection lawsuits, the average dollar amount of claims originated by Capital One or associated affiliates or entities
  - d. Number of debt collection lawsuits for which Capital One or associated affiliates or entities won judgments
  - e. Number of accounts for which collection started
  - f. Number of account holders having their wages garnished
  - g. Average dollar amount and percentage of wages garnished
2. Does Capital One still charge interest, late fees, collection charge, or any other fees for debts in collection? Please list and describe each additional fee and the rate of the fee you charge accounts under collection.
  - a. What is the average dollar amount in interest and other fees that has accrued for debts in collection for each month in 2020 to date?
3. Has Capital One sold or transferred any charged-off accounts to third party debt collectors in 2020? If so, please provide the names of the third-party collectors, the number of accounts transferred, and the total outstanding amounts for the transferred accounts.
4. How many Capital One customers have received communication (by phone, mail or email) from Capital One regarding the charge-off status of their accounts or notices related to debt collection for each month in 2020 to date? Please provide exemplars of each communication (including scripts used for phone communications).

Sincerely,

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Elizabeth Warren  
United States Senator

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Sherrod Brown  
United States Senator