

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

THE PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES, Attorney
General of the State of New York,

Plaintiff,

v.

CAPITAL ONE, N.A. and CAPITAL ONE
FINANCIAL CORPORATION,

Defendants.

Case No. 1:25-cv-4037

COMPLAINT

The People of the State of New York, by Letitia James, the Attorney General of the State of New York (“Plaintiff”) brings this action against Capital One, N.A. (“CONA”) and Capital One Financial Corporation (“COFC”) (together, “Capital One” or “Defendants”) and alleges as follows:

INTRODUCTION

1. Capital One marketed its 360 Savings online savings account as a “high interest” account with “one of the nation’s best savings rates.” Capital One specifically promised consumers: “Your money will earn much more than what it would in an average savings or money market account. . . . **What’s the catch? There is none.**”¹

2. But there was a catch, and it cost New Yorkers millions of dollars in unpaid interest.

3. In 2019, Capital One created 360 Performance Savings, a nearly identical savings account which paid a higher interest rate than 360 Savings. Capital One stopped opening 360 Savings accounts for new customers but continued to maintain existing 360 Savings accounts. And

¹ Emphasis added.

it concealed these facts from 360 Savings customers, actively working to keep them in the dark about the new product to avoid paying them competitive rates.

4. In September 2019, the 360 Performance Savings interest rate was 1.90%, while the 360 Savings rate was 1.0%. This disparity grew even wider over time. Capital One lowered the 360 Savings rate to 0.30% in December 2020, and kept it frozen there during a period of rising interest rates nationwide. At one point, the 360 Performance Savings rate was 4.35%, more than **14 times higher** than the 360 Savings rate.

5. 360 Savings customers were told that their “high interest” savings accounts would earn interest at “a competitive rate you can bank on.” Instead of a “great everyday interest rate,” they were not only earning less than other Capital One customers with otherwise identical savings accounts, but they were also earning less than the national average savings rate.

6. Capital One created confusion so that 360 Savings customers wouldn’t realize that their accounts were obsolete and wouldn’t know that they had to open new 360 Performance Savings accounts to receive the rates advertised on Capital One’s website going forward.

7. Capital One scrubbed references to 360 Savings from its website and replaced them with references to 360 Performance Savings, with its similar name, similar features, and similar marketing, creating the impression that they were one and the same. Capital One knew customers would be “unhappy they weren’t aware of the 360 Performance Savings product or the higher rate offered” if they discovered the deception, but it instructed its employees **not** to proactively mention the new product to 360 Savings customers.

8. This allowed Capital One to operate a secret, two-tier system of savings accounts, in which only new 360 Performance Savings accounts received the high interest rates that Capital One advertised, while existing 360 Savings accounts languished at much lower rates.

9. Capital One's customers opened and maintained 360 Savings accounts based on Capital One's promises that they would receive "one of the nation's best savings rates." Instead, Capital One took advantage of its customers and hoped that they wouldn't notice.

10. Capital One deliberately deceived consumers by concealing that 360 Savings and 360 Performance Savings were two distinct products with very different interest rates, and that only new 360 Performance Savings were receiving the advertised interest rates. Capital One represented that 360 Savings was a "high interest" savings account with a competitive, variable rate, then artificially held its rate below the national savings average.

11. Collectively, New York consumers lost out on millions of dollars in interest compared to what they would have received with 360 Performance Savings accounts, while Capital One pocketed the difference.

12. Capital One's conduct, as described herein, violated New York Executive Law § 63(12), New York General Business Law § 349, New York General Business Law § 350, the Consumer Financial Protection Act, 12 U.S.C. § 5536(a)(1)(A) and (B), the Truth in Savings Act, 12 U.S.C. § 4302(e), and Regulation DD, 12 C.F.R. § 1030.8(a)(1). The Court should enjoin Capital One from engaging in illegal and deceptive conduct and award restitution, disgorgement, damages, penalties, and other relief as appropriate.

PARTIES AND JURISDICTION

13. Plaintiff is the People of the State of New York, by their attorney, Letitia James, the Attorney General of the State of New York. Plaintiff is authorized to take action to enjoin repeated and persistent fraudulent and illegal conduct under Executive Law § 63(12) and deceptive business practices and false advertising under GBL §§ 349 and 350, and to enforce provisions of, and regulations issued under, the Consumer Financial Protection Act.

14. Defendant Capital One, N.A. is a national bank with its principal place of business in McLean, Virginia. It is a wholly-owned subsidiary of Capital One Financial Corporation.

15. Defendant Capital One Financial Corporation is a holding company incorporated in the State of Delaware with its principal place of business in McLean, Virginia.

16. Plaintiff has provided Capital One with notice as specified in GBL §§ 349 and 350.

17. This Court has subject matter jurisdiction over this action because it presents a federal question, 28 U.S.C. § 1331, and because the state law claims form part of the same case or controversy with those claims that present a federal question, 28 U.S.C. § 1367(a).

18. This Court has personal jurisdiction over Capital One because the causes of action arise from Capital One's transacting of business within New York, contracting with New York residents to supply goods and services in New York, and committing of tortious acts within and without New York, causing injury to persons or property within New York. CPLR § 302.

19. Venue is proper in this district because Plaintiff resides in this district, a substantial amount of the transactions, practices, and courses of conduct at issue occurred within this district, and because Capital One conducts business in this district. 28 U.S.C. § 1391(b)(2).

FACTUAL ALLEGATIONS

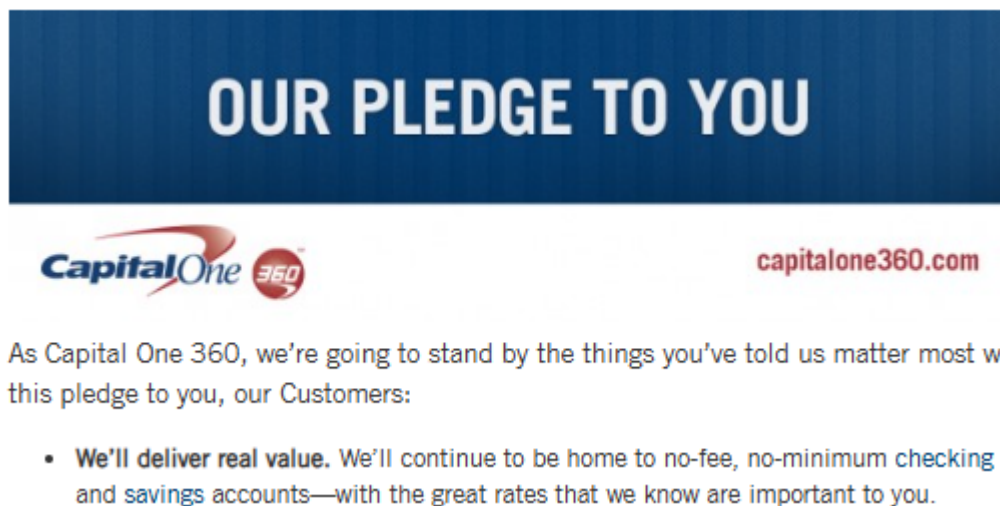
20. In 2012, COFC acquired ING Direct USA, an online bank. ING Direct USA offered a high-interest online savings account called ING Direct.

21. A high-interest savings account differs from a regular savings account in one important respect. Capital One's website puts it succinctly: "it's all about the interest." Specifically, "a high-yield savings account—sometimes called a high-interest savings account—is a bank

account that often has a higher interest rate or annual percentage yield (APY) than a traditional savings account.”²

22. In February 2013, Capital One rebranded ING Direct as 360 Savings. All existing ING Direct accounts were converted into 360 Savings accounts, and Capital One began offering 360 Savings accounts to new customers.

23. In connection with this rebranding, Capital One issued a “pledge” that it would “continue to be home to no-fee, no-minimum checking and savings accounts—with the great rates that we know are important to you.”³



24. Between 2013 and 2019, Capital One consistently marketed 360 Savings as a “high interest” savings account with a “great” interest rate.

25. Capital One promoted 360 Savings on its website, which is owned and maintained by COFC and CONA together. COFC and CONA are jointly responsible for any representations made or actions taken on that website.

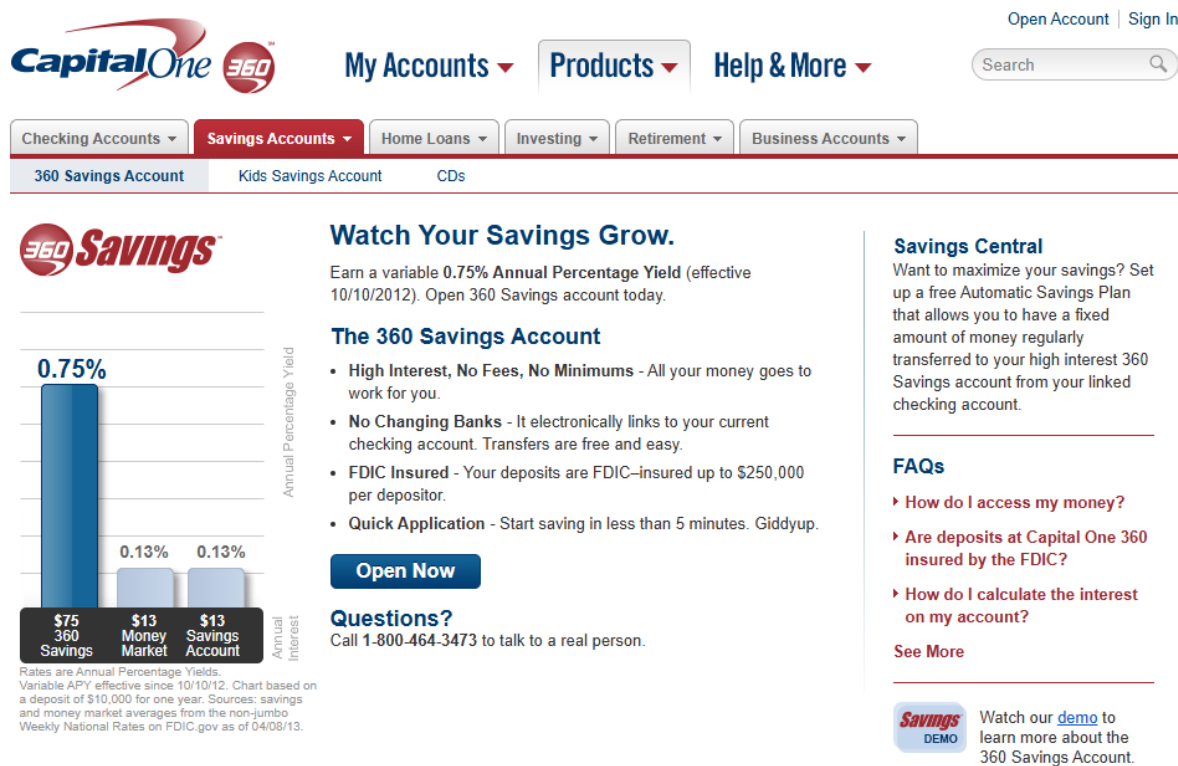
² Capital One, *What is a high-yield savings account?*, <https://www.capitalone.com/bank/money-management/banking-basics/what-is-a-high-yield-savings-account/> (visited May 12, 2025).

³ Capital One, *We, the Savers*, accessed via Wayback Machine at <https://web.archive.org/web/20130509093742/http://wethesavers.com/the-capital-one-360-customer-pledge/> (visited May 12, 2025).

26. Capital One's website contained dedicated pages for each of its different account products, including the 360 Savings account. On its 360 Savings account page, Capital One promoted "360 Savings – the online savings account from Capital One 360" as a "high interest" savings account with "a great everyday interest rate," no fees, and no minimum balance.

27. The 360 Savings page also prominently featured a chart which portrayed the interest rate on 360 Savings accounts as being substantially higher than the national average rates for money market and savings accounts.

28. Below are screen captures from Capital One's archived 360 Savings page, as of April 24, 2013,⁴ and March 14, 2016,⁵ respectively.



⁴ Capital One, *Online savings account*, accessed via Wayback Machine at <https://web.archive.org/web/20130424015814/https://home.capitalone360.com/online-savings-account> (visited May 12, 2025).

⁵ Capital One, *Online Savings Accounts*, accessed via Wayback Machine at <https://web.archive.org/web/20160314070804/https://home.capitalone360.com/online-savings-account> (visited May 12, 2025).



Challenge everything you'd expect from a savings account.

No Fees | Great everyday interest rate | Real people at 1-800-289-1992

Open Now

What's 360 Savings?

Savings Tools

Deposits

Ratings & Reviews

360 Savings® — the online savings account from Capital One 360®.

We've challenged what it means to be a savings account by building one that's better for your money — and we deliver better, every single day. Here's what that means for you:

- **No fees and no minimums:** No fees and no minimum balance required to open or keep an account.
- **A high interest savings account:** Earn a great everyday interest rate on your money — currently 0.75% APY.
- **Real people to help when you need it:** Chat with a real person at 1-800-289-1992 and enjoy 24/7 online and mobile access to your account.
- **Easy ways to stash cash:** Open multiple savings accounts (and nickname them as you wish), keep track with [My Savings Goals](#) and put your money on auto-pilot with an [Automatic Savings Plan](#).
- **We have your back:** Your deposits are FDIC-insured up to \$250,000 per depositor.
- **Deposit checks in a snap:** Deposit checks from anywhere using your mobile smartphone or computer with [Mobile Deposit](#).

Open Now

Questions?

Call 1-800-289-1992 to chat with a real person.

Ratings & Reviews

[Check out](#) what Customers are saying about 360 Savings.

Learn More

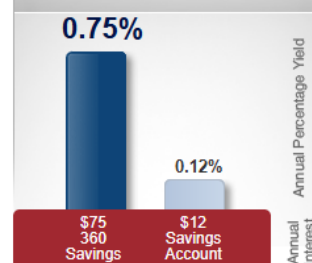
View a short [demo](#).
Check out our [guide](#).



Track Great Saves

Keep your eye on the prize with [My Savings Goals](#).

WATCH YOUR SAVINGS GROW



Rates are Annual Percentage Yields. Variable APY effective 4/15/2016. Chart based on a deposit of \$10,000 for one year. Source: National savings averages from the Informa Research Deposit Report as of 03/17/14.

29. Similarly, in its direct marketing materials, Capital One advertised 360 Savings as having a “better everyday interest rate,” “one of the nation’s best savings rates,” “one of the nation’s top savings rates,” and “one of the nation’s highest savings rates.”

30. Below are screenshots of direct email advertisements sent by Capital One between May 2015 and April 2018, in which Capital One encouraged consumers to open or deposit money into a 360 Savings account on the strength of its interest rate.



360 Savings

CHALLENGE EVERYTHING YOU'D EXPECT IN A SAVINGS ACCOUNT.

Better everyday interest rate. Better access to your money. No fees. And a better bonus. Are you in?

[LEARN MORE >>](#)



[Sign In](#)



Tax season is over, now let the savings begin.

Put your tax refund toward your savings goals and earn one of the nation's highest savings rates.

[Save Now](#)



[Sign In](#)



A Savings Haven for Your Tax Refund

Looking for a perfect place to grow your tax refund? **Open a 360 Savings[®] account to earn one of the nation's best savings rates, 1.00% APY.**

[Open Now](#)

If you got a tax refund, our fee-free 360 Savings account is a perfect place to make the most of it.

Earn 1.00% Annual Percentage Yield: Get more from your savings with one of the nation's top savings rates, 1.00% APY.

Keep what you earn: With no fees or minimums to get in your way, what you earn is what you keep.

31. Capital One also presented 360 Savings as a passive savings vehicle that would provide competitive interest rates based on market conditions, with no catches.

32. On its website, Capital One describes high-interest savings accounts as “a safe place to park your cash” with no further action required: “once you deposit your money and keep it in the account, the interest alone will help your savings grow.” Capital One also encourages customers to “put your money into a high-interest savings account and leave it in there to earn interest” as a way “to help your savings grow faster.”⁶

33. Capital One marketed 360 Savings accounts as featuring “**a competitive rate you can bank on**—no promo periods, just savings that add up everyday,” and suggested that customers could “put everything on autopilot.”⁷

360 Savings®

No fees

No minimum balance

Earns interest

★★★★★
Read all 7,028 reviews

Open Now

or call 1-800-289-1992

[Read Disclosure](#)

Set some money aside for the big-ticket stuff (or the not-so-big-ticket stuff)

Get a competitive rate you can bank on—no promo periods, just savings that add up everyday.

Take advantage of pure savings—there are no pesky fees and no balance requirements (which means there's nothing to hold you back).

Tap into your account online or on the phone.

Open multiple accounts and name them. Then [track your goals](#) or put everything on autopilot with our [automatic savings plan](#).

Questions? Call 1-800-289-1992 to chat with a real person.

360 Savings Rates

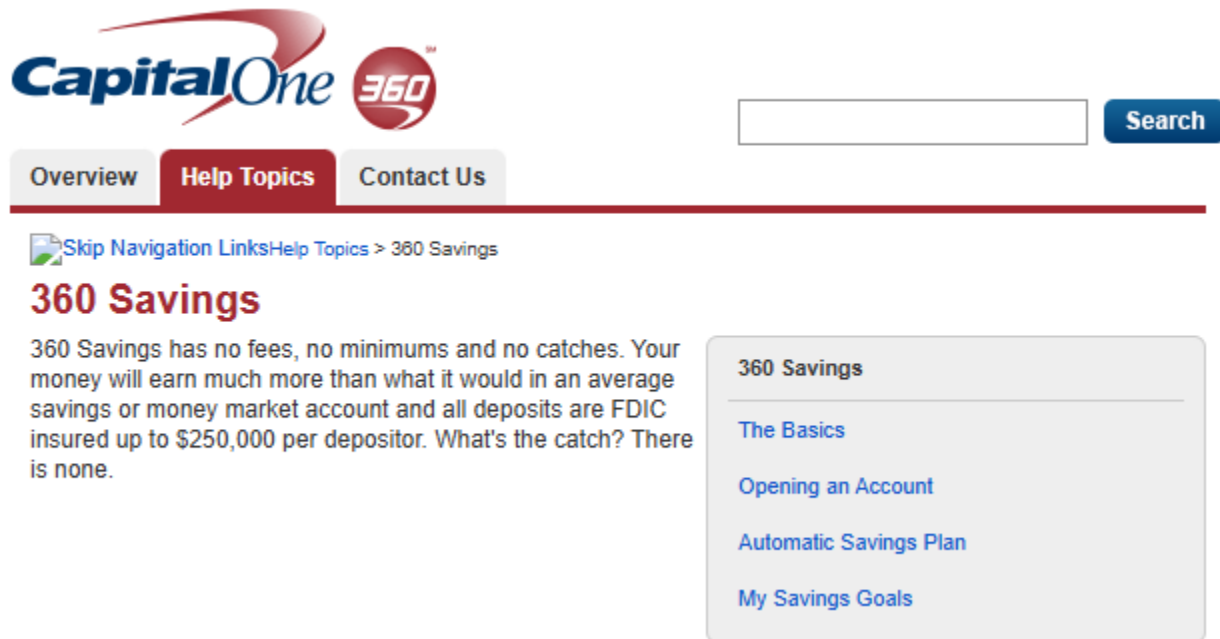
Account Balance	Variable Annual Percentage Yield (APY)
No Minimum	0.75%

APYs are effective 03/14/2017.

⁶ Capital One, *What is a high-yield savings account?*, <https://www.capitalone.com/bank/money-management/banking-basics/what-is-a-high-yield-savings-account/> (visited May 12, 2025).

⁷ Capital One, *Online Savings Account – Fee-Free 360 Savings*, accessed via Wayback Machine at <https://web.archive.org/web/20170314051034/https://www.capitalone.com/savings-accounts/online-savings-account/> (visited May 12, 2025) (emphasis added).

34. Capital One also promised on its website that “360 Savings has no fees, no minimums and **no catches**. Your money will earn much more than what it would in an average savings or money market account **What’s the catch? There is none.**”⁸



35. Capital One is aware that most customers do not closely monitor their savings accounts. A survey commissioned by Capital One and summarized on its website “found that 57% of respondents only check their savings account less than once a month – or not at all – and nearly half (48%) of respondents don’t know what their savings account interest rate is.”⁹

36. Capital One’s representations about the 360 Savings interest rate were important to customers’ decisions to open and maintain 360 Savings accounts.

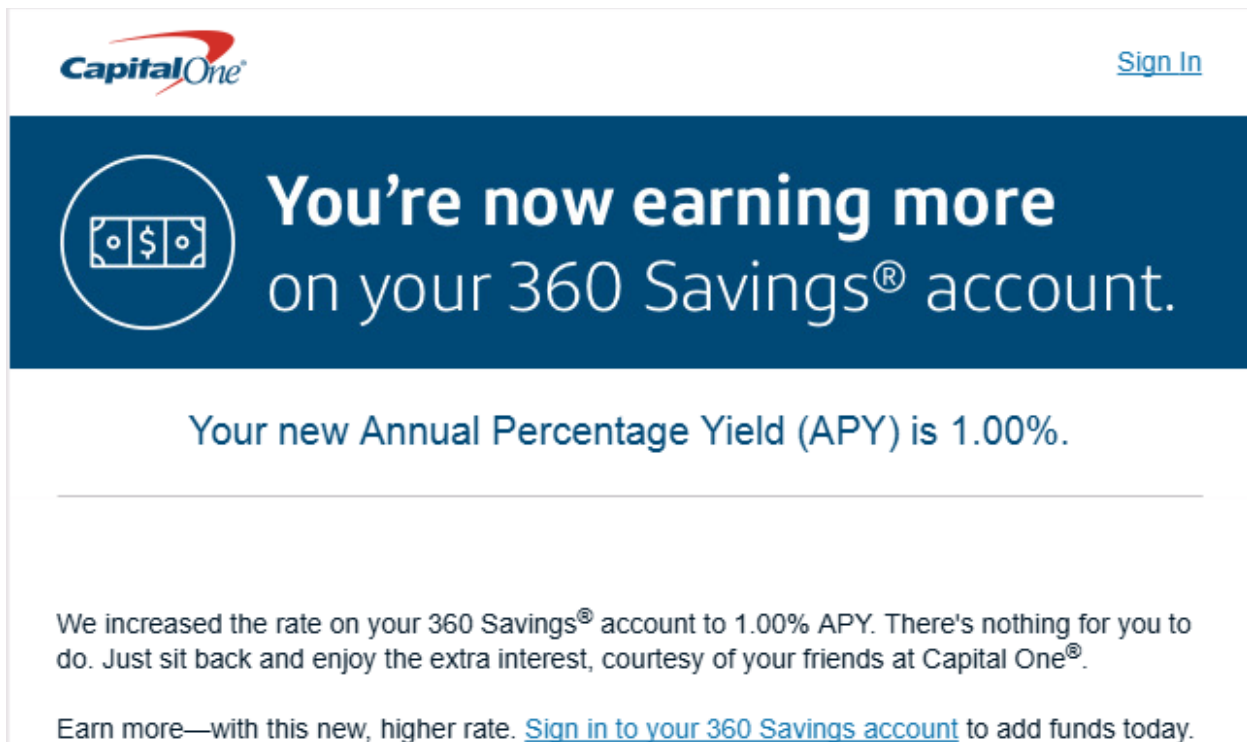
⁸ Capital One, *360 Savings – Capital One 360 Help Center*, accessed via Wayback Machine at <https://web.archive.org/web/20130511165925/https://helpcenter.capitalone360.com/bnk/Topic.aspx?category=C2BNKSVOSA> (visited May 12, 2025) (emphasis added).

⁹ Capital One, *Nicole Lapin’s Top 5 Tips to Save*, <https://www.capitalone.com/about/newsroom/national-savings-day-2022/> (visited May 12, 2025).

37. The federal funds rate, which is set by the Federal Reserve (“Fed”), is “the central interest rate in the U.S. financial market,” and it “indirectly influences longer-term interest rates such as mortgages, loans, and savings[.]”¹⁰

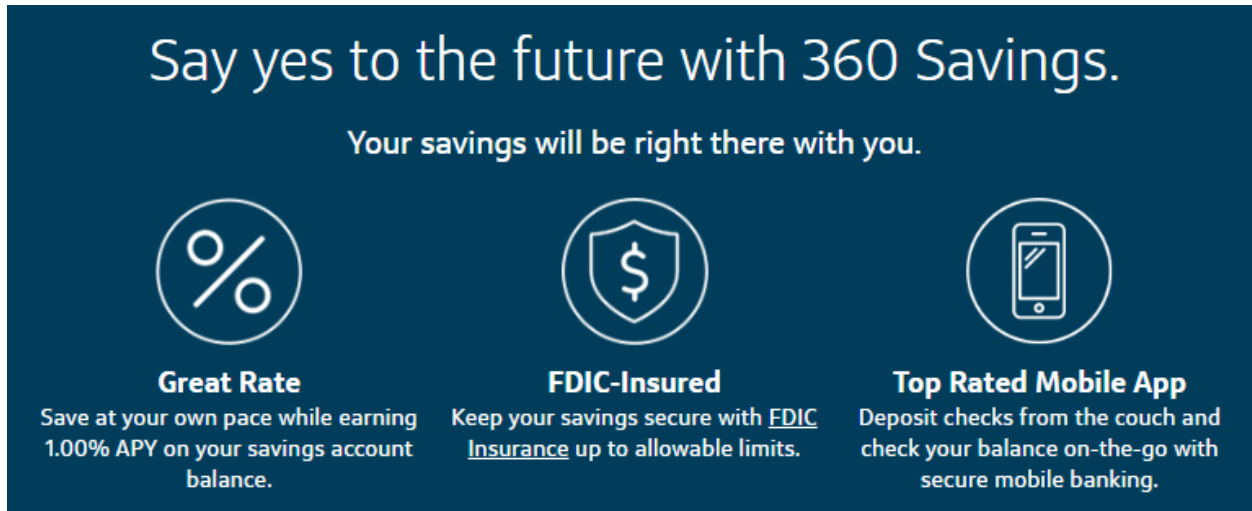
38. From 2013 until early 2017, 360 Savings offered a higher rate than both the federal funds rate and the national average savings account rate published by the Federal Deposit Insurance Corporation (“FDIC”).

39. For example, in December 2017, Capital One raised the 360 Savings rate from 0.75% to 1.0% to reflect an increase in the federal funds rate. It emailed 360 Savings customers to notify them that they were now “earning more,” and assured them: “There’s nothing for you to do. Just sit back and enjoy the extra interest, courtesy of your friends at Capital One.”



¹⁰ Board of Governors of the Federal Reserve System (US), *Federal Funds Effective Rate*, FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/FEDFUNDS> (visited May 12, 2025).

40. On September 17, 2019, Capital One’s website encouraged consumers to “**say yes to the future with 360 Savings.**”¹¹



41. The following day, Capital One began offering a new online savings account product, which it called 360 Performance Savings.

42. 360 Performance Savings, like 360 Savings, was a high-interest savings account with no monthly fees, no minimum balance requirement. 360 Performance Savings even had the same terms and conditions as 360 Savings.

43. The two products were identical in every material respect, except for the most salient one: 360 Performance Savings had a significantly higher interest rate. In September 2019, the 360 Performance Savings rate was 1.90%, while the 360 Savings rate was just 1.0%.

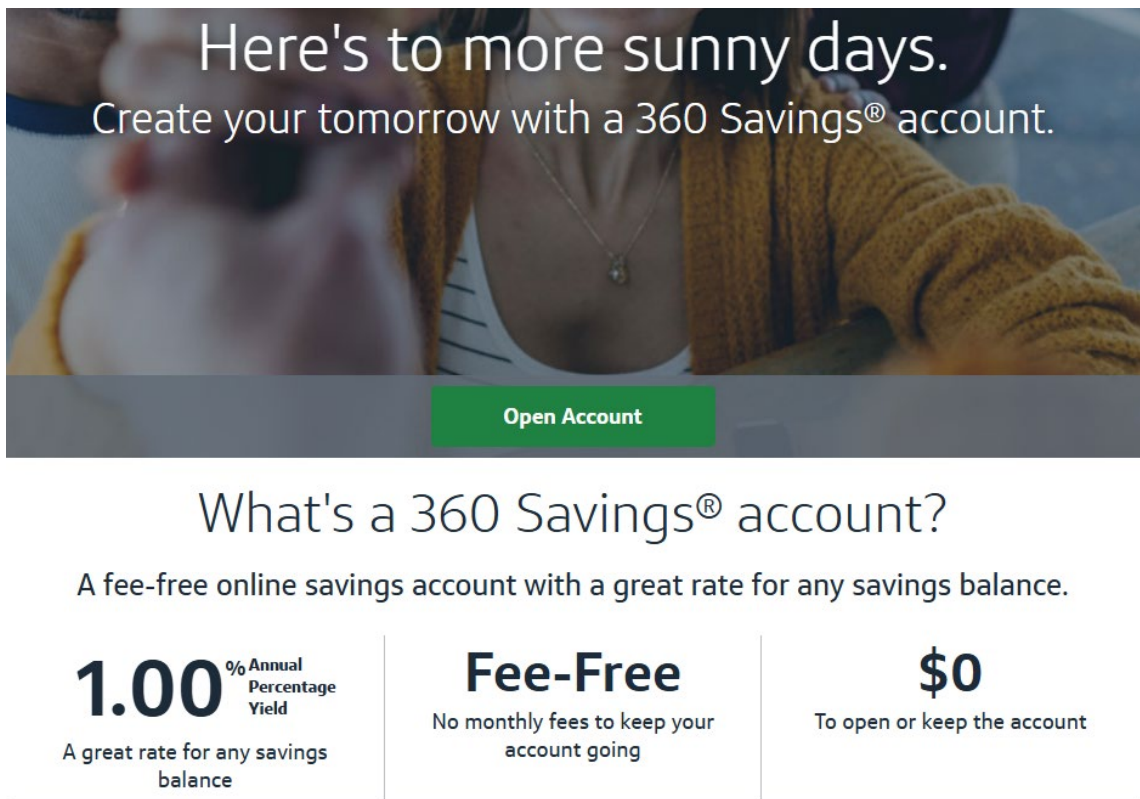
44. When Capital One started offering 360 Performance Savings, it stopped promoting, offering, or opening new 360 Savings accounts.

¹¹ Capital One, *Online Savings Account: Fee-Free 360 Savings*, accessed via Wayback Machine at <https://web.archive.org/web/20190917195807/https://www.capitalone.com/bank/savings-accounts/online-savings-account/> (visited May 12, 2025) (emphasis added).

45. Capital One quickly and quietly removed references to 360 Savings from its website and marketing materials and replaced them with references to 360 Performance Savings, with no further explanation.

46. Capital One removed the 360 Savings page from its website and replaced it with a 360 Performance Savings page, where it marketed 360 Performance Savings as a “high-yield, fee-free savings account” with “no monthly fees” and “no minimums,” emphasizing the same account features as 360 Savings using almost identical language.

47. Below is a screen capture of the 360 Savings page as of September 17, 2019.¹²



Here's to more sunny days.
Create your tomorrow with a 360 Savings® account.

Open Account

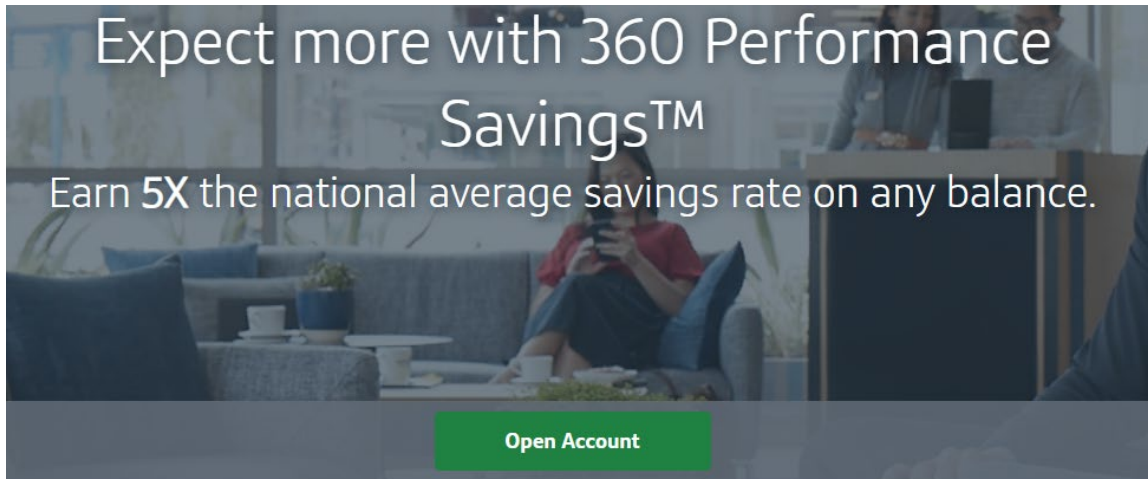
What's a 360 Savings® account?

A fee-free online savings account with a great rate for any savings balance.

<p>1.00 % Annual Percentage Yield</p> <p>A great rate for any savings balance</p>	<p>Fee-Free</p> <p>No monthly fees to keep your account going</p>	<p>\$0</p> <p>To open or keep the account</p>
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¹² Capital One, *Online Savings Account: Fee-Free 360 Savings*, accessed via Wayback Machine at <https://web.archive.org/web/20190917195807/https://www.capitalone.com/bank/savings-accounts/online-savings-account/> (visited May 12, 2025).

48. And below is a screen capture of the 360 Performance Savings page as of September 18, 2019.¹³



Introducing 360 Performance Savings.

A high-yield, fee-free savings account you can open in about 5 minutes.
This is Banking Reimagined®

5X National
Average
Rate
Earn 1.90% Annual
Percentage Yield (APY) on
any balance

Fee-Free
No monthly fees means what you
earn is what you keep

No Minimums
There are no minimums to open or
maintain your high-yield savings
account

49. Capital One even updated its website so that the URL for the 360 Savings page (<https://www.capitalone.com/bank/savings-accounts/online-savings-account/>) automatically sent users to the 360 Performance Savings page (<https://www.capitalone.com/bank/savings-accounts/online-performance-savings-account/>) instead.

¹³ Capital One, *Online Savings Account: 360 Performance Savings*, accessed via Wayback Machine at <https://web.archive.org/web/20190918181856/https://www.capitalone.com/bank/savings-accounts/online-performance-savings-account/> (visited May 12, 2025).

50. Capital One also eliminated 360 Savings from its list of “all” of its account products and removed the ability to make side-by-side comparisons to other Capital One products.

51. On September 17, 2019, before the launch of 360 Performance Savings, the “All Online Accounts” page on Capital One’s website invited users to “check out all of our account options below.” As shown below, the page featured side-by-side comparisons of all of Capital One’s online savings account products, including 360 Savings.¹⁴

Compare savings accounts.

360 Money Market®		360 Savings®		Kids Savings Account	
Where you can bank	Online/Mobile	Where you can bank	Online/Mobile	Where you can bank	Online/Mobile
APY	Up to 1.90%	APY	1.00%	APY	1.00%
Minimum balance for 1.90%	\$10,000	Minimum balance	\$0	Minimum balance	\$0
FDIC-insured	Yes	FDIC-insured	Yes	FDIC-insured	Yes
Open Account		Open Account		Open Account	
Read Disclosures		Read Disclosures		Read Disclosures	

360 IRA Savings® Traditional		360 IRA Savings® Roth	
Where you can bank	Online/Mobile	Where you can bank	Online/Mobile
APY	1.00%	APY	1.00%
Minimum balance	\$0	Minimum balance	\$0
FDIC-insured	Yes	FDIC-insured	Yes
Open Account		Open Account	
Read Disclosures		Read Disclosures	

¹⁴ Capital One, *Compare and Open a Bank Account Online*, accessed via Wayback Machine at <https://web.archive.org/web/20190917195820/https://www.capitalone.com/bank/open-an-account/> (visited May 12, 2025).

52. The next day, September 18, 2019, Capital One removed 360 Savings from its “All Online Accounts” page and added 360 Performance Savings in its place.¹⁵ Even though the page purported to include “**all of our account options**,” it did not list the 360 Savings account at all.

Compare savings accounts.

360 Performance SavingsTM

APY	1.90%
Fees	None
Minimum balance	\$0
FDIC-insured	Yes

Open Account

Read Disclosures

Kids Savings Account

APY	1.00%
Fees	None
Minimum balance	\$0
FDIC-insured	Yes

Open Account

Read Disclosures

360 IRA Savings[®] Traditional

APY	1.00%
Fees	None
Minimum balance	\$0
FDIC-insured	Yes

Open Account

Read Disclosures

360 IRA Savings[®] Roth

APY	1.00%
Fees	None
Minimum balance	\$0
FDIC-insured	Yes

Open Account

Read Disclosures

¹⁵ Capital One, *Compare and Open a Bank Account Online*, accessed via Wayback Machine at <https://web.archive.org/web/20190918192359/https://www.capitalone.com/bank/open-an-account/> (May 12, 2025).

53. 360 Performance Savings, which had a higher interest rate and otherwise identical features to 360 Savings, would have been obviously appealing to existing 360 Savings customers.

54. For example, when Capital One increased the rate on its 360 Money Market account, it sent mailers to 360 Savings account holders because “we wanted our valued customers to know” that their “savings could be earning more” with a 360 Money Market account, with “the same perks you currently enjoy with your 360 Savings account.”

As a Capital One 360 Savings® customer, you know how good it feels to watch your cash grow at 1.00% APY. But did you know your savings could be earning more?

We recently raised the savings rate on our **360 Money Market** account to **1.60% APY** on balances of \$10,000 or more, and we want our valued customers to know. This is one of the highest savings rates in the nation—plus, you'll get the same perks you currently enjoy with your 360 Savings account.


- **No fees:** You won't have to worry about fees with 360 Money Market—to open or keep your account.
- **Security:** You'll have peace of mind with free fraud coverage and FDIC insurance up to the allowable limits.
- **Convenience:** Our top-rated mobile app keeps you connected to your money when you're on the go.

Estimate how much **cash you could earn** in a year with 360 Money Market—when you deposit \$10,000 or more—compared to your 360 Savings account.

Example Balance	1.00% APY with your 360 Savings account	1.60% APY when you open a 360 Money Market	Additional interest you could earn with 360 Money Market
\$10,000	\$100	\$160	\$60
\$50,000	\$500	\$800	\$300
\$100,000	\$1,000	\$1,600	\$600

55. But Capital One did not inform 360 Savings customers that 360 Performance Savings was available or encourage them to open a new account.

56. Instead, when Capital One promoted the product to existing Capital One customers, it targeted customers that did not already have 360 Savings accounts, and did not send those same advertisements to 360 Savings customers.



[Sign In](#)

CASH BONUS UP TO \$1,000

5X Earn 5X the national average savings rate
with the **NEW 360 Performance Savings™**.

You work hard to save money. **Earning 1.90% Annual Percentage Yield (APY)** and a cash bonus can make that easier.

Introducing **360 Performance Savings**, the new savings account from Capital One® that earns **5X** the national average savings rate on any balance. That's right there's no minimum balance requirement to earn 1.90% APY.

And since you're a Capital One customer, we're offering an exclusive cash bonus: **Earn a \$200 or \$1,000 bonus** when you open a 360 Performance Savings account with promo code . Click below for offer details.

57. Capital One knew that its 360 Savings customers might be “unhappy they weren’t aware of the 360 Performance Savings product or the higher rate offered,” but it kept them in the dark to boost its own bottom line.

2 The customer is unhappy they weren't aware of the 360 Performance Savings product or the higher rate offered.

- **EXAMPLE:**

- "I didn't know you were offering an account with a higher rate than what I'm earning in my current savings account."

58. Capital One even instructed its employees **not to tell** 360 Savings customers about the new product unless they explicitly asked: “You must only be **reactive** in mentioning 360 Performance Savings ... to 360 Savings account holders.”¹⁶

Account Opening	<p>Customers can open the new account online or at a Capital One location.</p> <ul style="list-style-type: none"> • All interested customers who meet eligibility requirements are welcome to open a 360 Performance Savings Account.
	<ul style="list-style-type: none"> • You must only be reactive in mentioning 360 Performance Savings to 360 Money Market or 360 Savings account holders • EXAMPLE: If the customer asks you, "Do you have any higher rate accounts?" you're able to explain the benefits of a 360 Performance Savings and help them open an account. ⓘ
Closing an Existing Account	<p>Customers interested in the highest rates available may decide to close their other savings products in favor of a 360 Performance Savings.</p> <ul style="list-style-type: none"> • CSST <ul style="list-style-type: none"> ◦ You must only be reactive in offering to move balances from an existing account with us; but, if they're already opening a 360 Performance Savings account and moving over all of their balances, it's fine to offer to help close the old account with \$0 deposit balances. ▪ EXAMPLE: If the customer asks you, "Do you have any higher rate accounts?" you're able to explain the benefits of a 360 Performance Savings.

59. Capital One uses customer deposits, including 360 Savings accounts, to fund its operations and earn revenue. COFC’s Form 10-K states that “deposits, which include . . . savings accounts . . . represent our largest source of funding for our assets and operations,” and that its “total net revenues are derived primarily from lending to consumer and commercial customers net of funding costs associated with our deposits” As of December 31, 2024, Capital One had over \$318 billion in total consumer banking deposits.¹⁷

60. Capital One profited from operating a two-tier system of savings accounts because it paid vastly divergent interest rates to 360 Savings and 360 Performance Savings customers.

¹⁶ Emphasis added.

¹⁷ Capital One, *Form 10-K Annual Report*, <https://ir-capitalone.gcs-web.com/node/57971/html> (visited May 12, 2025).

61. In September 2019, the 360 Performance Savings rate was 1.90% and the 360 Savings rate was 1.0%. Capital One has always kept the 360 Performance Savings rate higher than the 360 Savings rate, and that gap has grown wider over time.

62. Shortly after the launch of 360 Performance Savings, interest rates fell nationwide, and Capital One lowered the rates for both 360 Performance Savings and 360 Savings.

63. Capital One gave its employees “talking points” for responding to customer inquiries about these rate decreases, emphasizing market conditions and competition: “Federal Reserve rates are moving downward, which affects everything from mortgages to savings accounts. **Because of these new market conditions, we’ve adjusted our deposit account rates, just like many other banks and financial institutions.**”

FAQ	Talking Points
<p>Why did my rate change?</p> <p>Can you match the rate of another bank?</p>	<ul style="list-style-type: none"> You may have heard on the news that Federal Reserve rates are moving downward, which affects everything from mortgages to savings accounts. Because of these new market conditions, we’ve adjusted our deposit account rates, just like many other banks and financial institutions.

64. Beginning in March 2020, in response to the COVID-19 pandemic, the Fed lowered the federal funds rate to almost zero. Capital One continued to lower the rates for both 360 Performance Savings and 360 Savings. As of December 2020, the 360 Performance Savings rate was 0.40% and the 360 Savings rate was 0.30%.

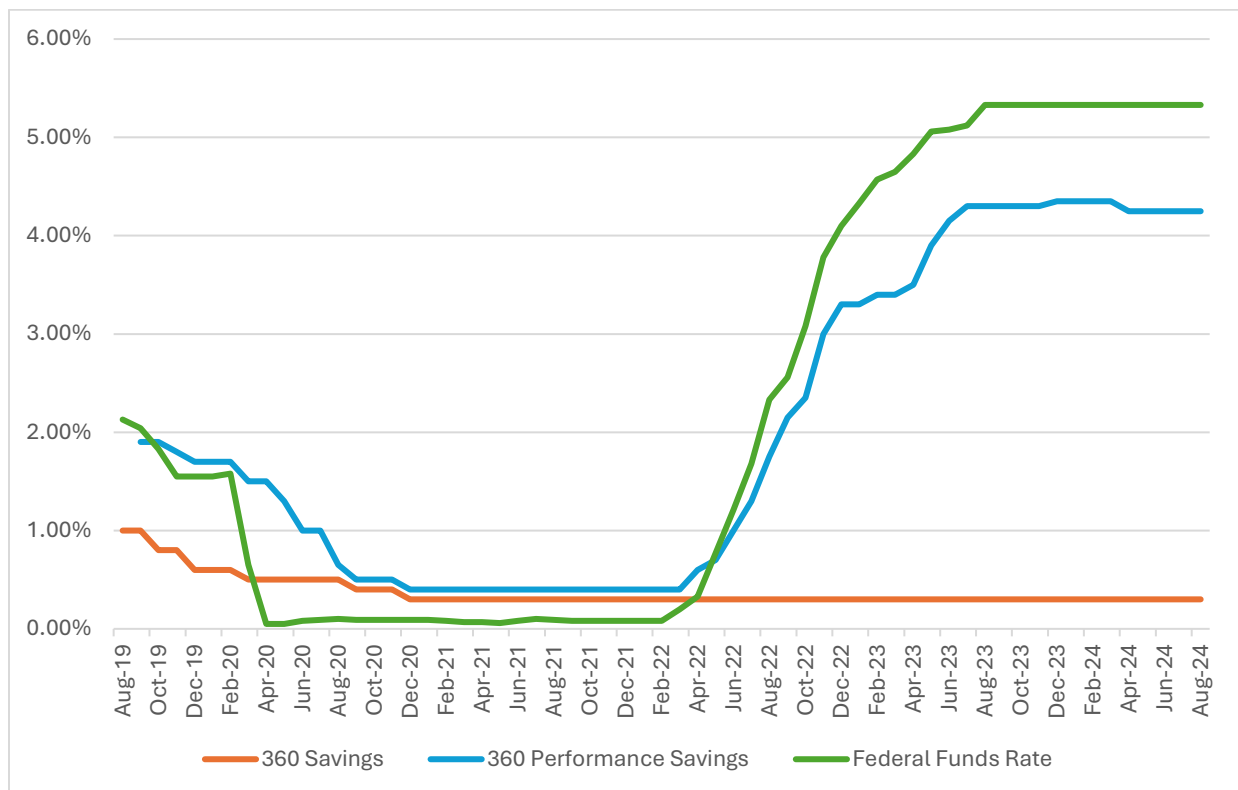
65. Interest rates bounced back in 2022. The Fed steadily increased the federal funds rate from 0.08% in January 2022 to 4.33% in January 2023 and 5.33% in January 2024. Capital One responded by increasing the 360 Performance Savings rate from 0.40% in April 2022 to 3.30% in January 2023, and to a high of 4.35% in January 2024.

66. Capital One also updated its talking points for customer service representatives to reflect that “Federal Reserve rates are moving **upward**, which affects everything from mortgages to savings accounts. **Because of these new market conditions, we’ve adjusted our deposit account rates, just like many other banks and financial institutions.**”

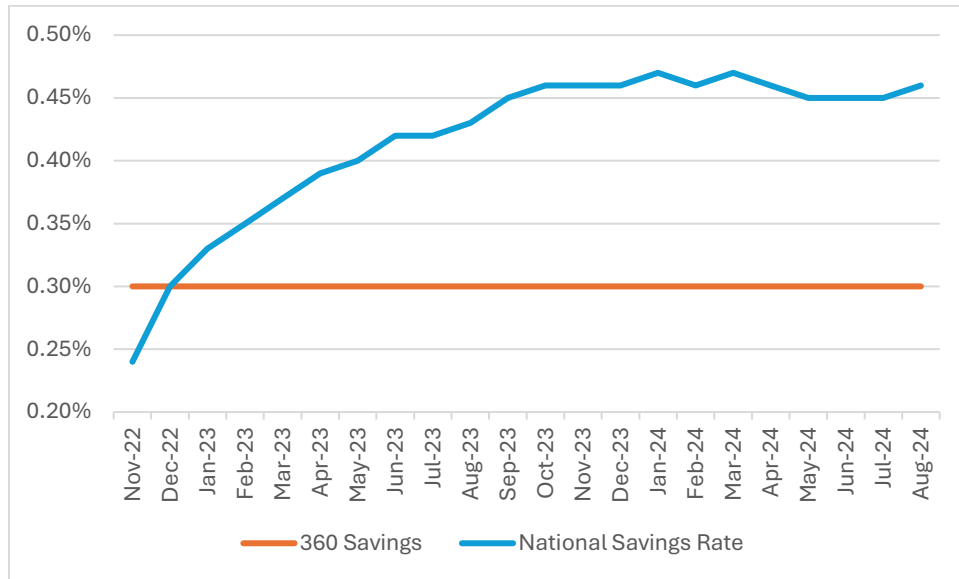
FAQ	Talking Points
<p>Why did my rate change?</p> <p>Can you match the rate of another bank?</p>	<ul style="list-style-type: none"> You may have heard on the news that Federal Reserve rates are moving upward, which affects everything from mortgages to savings accounts. Because of these new market conditions, we’ve adjusted our deposit account rates, just like many other banks and financial institutions.

67. During that same period, the 360 Savings rate never changed. It stayed frozen at just 0.30%, even as the 360 Performance Savings rate soared to up to **14 times higher**.

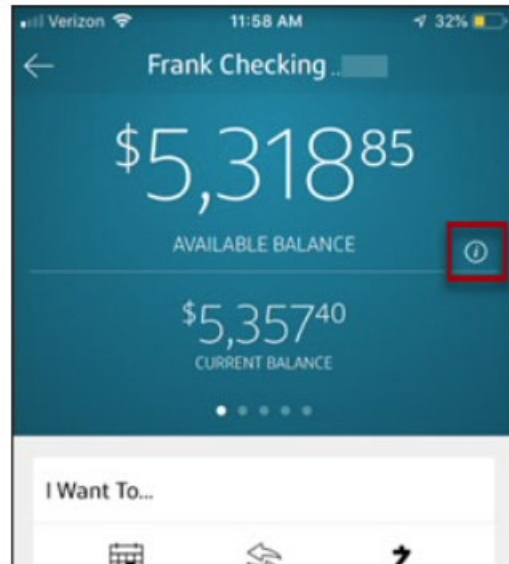
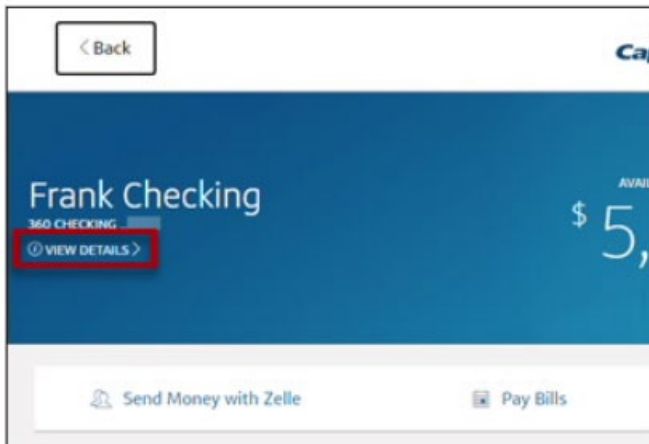
68. The chart below shows the 360 Savings rate (orange), the 360 Performance Savings rate (blue), and the federal funds rate (green) over a five-year period between 2019 and 2024, using a single interest rate value per month for each rate.



69. From January 2023 until at least late 2024, the interest rate on 360 Savings accounts—which were nominally “high interest” savings accounts—was **lower** than the FDIC national average savings account rate.



70. A 360 Savings customer would have to log into their online account on Capital One’s website or mobile app and then navigate to a separate page by clicking on a small, nondescript “information” icon to check their **actual** interest rate.



71. By removing all references to 360 Savings from its website and furtively replacing them with references to the identically named 360 Performance Savings, Capital One concealed the fact that (i) 360 Performance Savings was a different product from 360 Savings, which continued to exist as a separate product; and (ii) that the advertised rate and “high-yield” label for 360 Performance Savings did not apply to existing 360 Savings accounts.

72. Unsurprisingly, most 360 Savings customers did not notice this sleight of hand. When those that did notice tried to contact Capital One, they were informed that their 360 Savings accounts had been “grandfathered,” and that they would have to open new 360 Performance Savings accounts to receive the advertised rate. Capital One refused to credit the difference in the amount of interest that they would have received from 360 Performance Savings accounts.

73. Many New York residents were harmed by Capital One’s deceptive practices.¹⁸

74. One 360 Savings customer thought “thought [they] held a high-interest account,” but said that they were “tricked” by Capital One. When they noticed that they were earning 0.30% instead of the advertised rate of 4.30%, they contacted Capital One and were informed that they had a “grandfathered account” (*i.e.*, 360 Savings), and would have to open a new account “in order to get the advertised rate of the non grandfathered account” (*i.e.*, 360 Performance Savings).¹⁹

75. Another customer complained that 360 Savings were marketed as “high interest” accounts, but when Capital One created 360 Performance Savings, “only the new savings account had a high rate of payment.” They were not aware that they “would have to switch [their] money

¹⁸ The customer complaints summarized in paragraphs 69-72 are from the Consumer Financial Protection Bureau’s public Consumer Complaint Database or the Federal Trade Commission’s Consumer Sentinel Network and reflect only a small sample of complaints by New York residents.

¹⁹ Consumer Financial Protection Bureau, Consumer Complaint Database, <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/8138734> (visited May 12, 2025) (emphasis added).

to the new savings account” (*i.e.*, 360 Performance Savings) “to receive the competitive rate.” They reported that “all this time, i [*sic*] thought I was getting paid a high rate.” They also felt that they had been “tricked” by Capital One, which had given the two products “similar” names “so that customers wont [*sic*] realize that these are 2 separate accounts.”

76. One long-time customer, who had an ING Direct account before Capital One converted it into a 360 Savings account, eventually realized that their account “was paying an interest rate significantly below market.” They stated: “I called Capital One, and they informed me that in order to get the market rate, I’d have to close my existing account and transfer my funds over to a new 360 Performance Savings account. Customer service said all the terms were the same EXCEPT for the interest rate that was paid. I made the change with them in a process that took seconds -- This should’ve been an automatic process.”

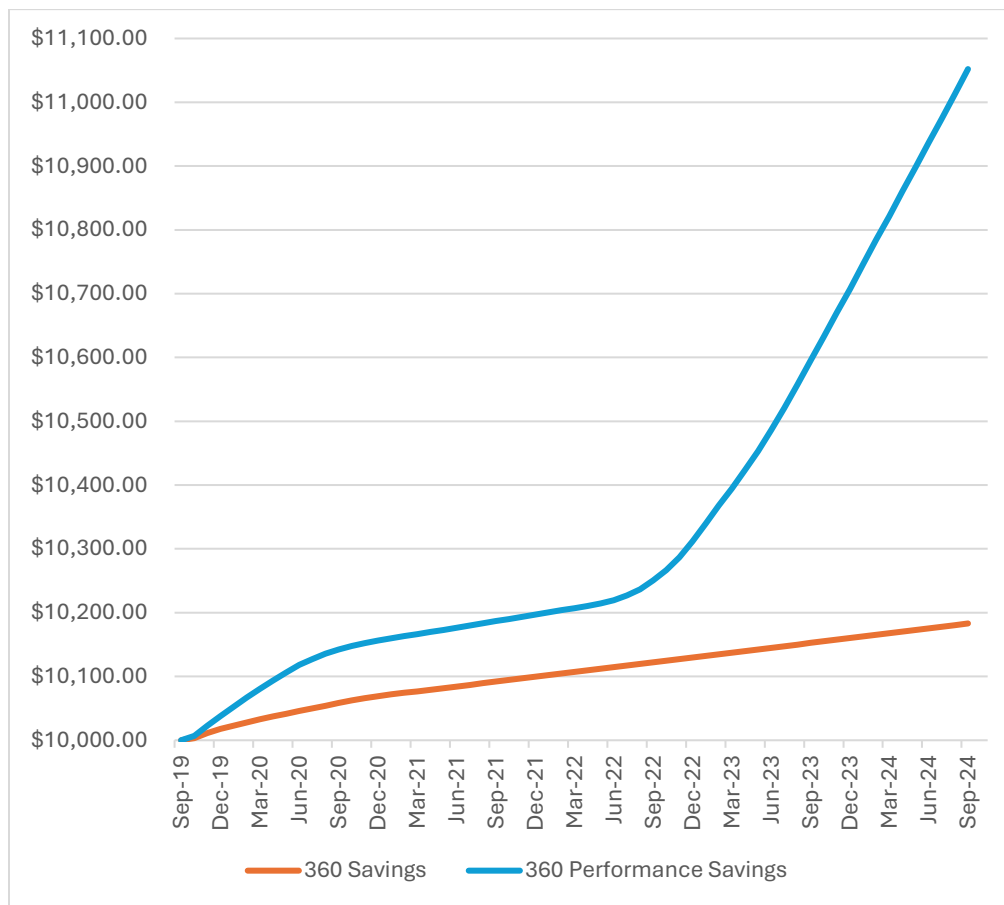
77. Another former ING Direct customer said that when Capital One changed the name of their savings account to 360 Savings, “the communication at the time was that everything would ‘stay the same.’” They later discovered that Capital One had started offering a “similarly named product” (*i.e.*, 360 Performance Savings) that paid “a significantly higher interest rate, as my [360 Savings account] was supposedly doing. Upon inspection, I noticed that the interest on the Capital One 360 Savings was no longer offering a competitive rate and had in fact been stagnant at 0.30% for nearly 2 years prior to that!! The rate did not automatically increase as it had in the past and because of this, I was not earning the interest I thought I was.”

78. As Capital One explains on its website, “even a small difference in percentage can add up, thanks to compound interest.”²⁰

²⁰ Capital One, *What is a high-yield savings account?*, <https://www.capitalone.com/bank/money-management/banking-basics/what-is-a-high-yield-savings-account/> (visited May 12, 2025).

79. The difference in percentage between the 360 Savings rate and the 360 Performance Savings rate was significant, to the detriment of 360 Savings customers.

80. The chart below shows the difference in what 360 Savings customers would have earned in interest if they had switched to 360 Performance Savings when it launched. With a starting balance of \$10,000 on September 18, 2019, a 360 Savings customer would have earned approximately \$186 in interest by October 1, 2024. During that same period, a 360 Performance Savings customer would have earned approximately \$1,090 in interest—almost **6 times as much**.



81. Capital One's deception allowed it to avoid paying millions of dollars in interest to New York consumers that held 360 Savings accounts, compared to what it would have had to pay them had they opened or been automatically transferred into 360 Performance Savings accounts.

CAUSES OF ACTION

Count I

Executive Law § 63(12) (Illegality) (Violations of General Business Law § 349) (Against All Defendants)

82. Plaintiff incorporates and re-alleges the allegations in paragraphs 1-81 above.

83. New York's Executive Law § 63(12) authorizes Plaintiff to seek injunctive and other equitable relief when any individual or business engages in repeated and persistent illegal conduct in the carrying on, conducting, or transaction of business in the state of New York.

84. New York's General Business Law § 349 prohibits deceptive acts and practices in the conduct of any business, trade, or commerce in the state of New York.

85. As described above, Capital One marketed 360 Savings as a "high interest" online savings account with a variable interest rate that would be a "great everyday rate," "a competitive rate you can bank on," and "one of the nation's highest" and "best savings rates." Capital One represented that "[y]our money will earn much more than what it would in an average savings or money market account," with "no catches."

86. Then, Capital One created 360 Performance Savings, a nearly identical savings account which paid a higher interest rate than 360 Savings. It kept existing 360 Savings customers in the dark about the new product, intentionally creating confusion so that 360 Savings customers wouldn't realize that their accounts had been rendered obsolete and wouldn't know that they had to open new 360 Performance Savings accounts to continue receiving competitive rates.

87. Capital One lowered the 360 Savings rate to 0.30% and froze it at this artificially low level for years, while interest rates rose nationwide. A 0.30% interest rate was not "high" or "competitive" relative to other online savings accounts.

88. Capital One operated a secret, two-tier system of savings accounts, in which only new 360 Performance Savings accounts received the high interest rates that Capital One advertised, while existing 360 Savings accounts languished at much lower rates. Collectively, New York consumers lost out on millions of dollars in interest compared to what they would have received with 360 Performance Savings accounts, while Capital One pocketed the difference.

89. Capital One deceived consumers by concealing that 360 Savings and 360 Performance Savings were two distinct products with very different interest rates, and that only new 360 Performance Savings were receiving the advertised interest rates.

90. Capital One deceived consumers by representing that 360 Savings was a “high interest” savings account with a competitive, variable rate, then freezing the 360 Savings rate below the national savings average.

91. By reason of the above, Capital One has violated General Business Law § 349 and therefore engaged in repeated and persistent illegal conduct in violation of New York Executive Law § 63(12).

Count II
Executive Law § 63(12) (Illegality)
(Violations of General Business Law § 350)
(Against All Defendants)

92. Plaintiff incorporates and re-alleges the allegations in paragraphs 1-81 above.

93. New York’s Executive Law § 63(12) authorizes Plaintiff to seek injunctive and other equitable relief when any individual or business engages in repeated and persistent illegal conduct in the carrying on, conducting, or transaction of business in the state of New York.

94. New York’s General Business Law § 350 prohibits false advertising in the conduct of any business, trade, or commerce in the state of New York.

95. As described above, Capital One marketed 360 Savings as a “high interest” online savings account with a variable interest rate that would be a “great everyday rate,” “a competitive rate you can bank on,” and “one of the nation’s highest” and “best savings rates.” Capital One represented that “[y]our money will earn much more than what it would in an average savings or money market account,” with “no catches.”

96. Then, Capital One created 360 Performance Savings, a nearly identical savings account which paid a higher interest rate than 360 Savings. It kept existing 360 Savings customers in the dark about the new product, intentionally creating confusion so that 360 Savings customers wouldn’t realize that their accounts had been rendered obsolete and wouldn’t know that they had to open new 360 Performance Savings accounts to continue receiving competitive rates.

97. Capital One lowered the 360 Savings rate to 0.30% and froze it at this artificially low level for years, while interest rates rose nationwide. A 0.30% interest rate was not “high” or “competitive” relative to other online savings accounts.

98. Capital One operated a secret, two-tier system of savings accounts, in which only new 360 Performance Savings accounts received the high interest rates that Capital One advertised, while existing 360 Savings accounts languished at much lower rates. Collectively, New York consumers lost out on millions of dollars in interest compared to what they would have received with 360 Performance Savings accounts, while Capital One pocketed the difference.

99. Capital One deceived consumers by concealing that 360 Savings and 360 Performance Savings were two distinct products with very different interest rates, and that only new 360 Performance Savings were receiving the advertised interest rates.

100. Capital One deceived consumers by representing that 360 Savings was a “high interest” savings account with a competitive, variable rate, then freezing the 360 Savings rate below the national savings average.

101. By reason of the above, Capital One has violated General Business Law § 350 and therefore engaged in repeated and persistent illegal conduct in violation of New York Executive Law § 63(12).

Count III
Executive Law § 63(12) (Fraud)
(Against All Defendants)

102. Plaintiff incorporates and re-alleges the allegations in paragraphs 1-81 above.

103. New York’s Executive Law § 63(12) authorizes Plaintiff to seek injunctive and other equitable relief when any individual or business engages in repeated and persistent fraud in the carrying on, conducting, or transaction of business in the state of New York.

104. As described above, Capital One marketed 360 Savings as a “high interest” online savings account with a variable interest rate that would be a “great everyday rate,” “a competitive rate you can bank on,” and “one of the nation’s highest” and “best savings rates.” Capital One represented that “[y]our money will earn much more than what it would in an average savings or money market account,” with “no catches.”

105. Then, Capital One created 360 Performance Savings, a nearly identical savings account which paid a higher interest rate than 360 Savings. It kept existing 360 Savings customers in the dark about the new product, intentionally creating confusion so that 360 Savings customers wouldn’t realize that their accounts had been rendered obsolete and wouldn’t know that they had to open new 360 Performance Savings accounts to continue receiving competitive rates.

106. Capital One lowered the 360 Savings rate to 0.30% and froze it at this artificially low level for years, while interest rates rose nationwide. A 0.30% interest rate was not “high” or “competitive” relative to other online savings accounts.

107. Capital One operated a secret, two-tier system of savings accounts, in which only new 360 Performance Savings accounts received the high interest rates that Capital One advertised, while existing 360 Savings accounts languished at much lower rates. Collectively, New York consumers lost out on millions of dollars in interest compared to what they would have received with 360 Performance Savings accounts, while Capital One pocketed the difference.

108. Capital One deceived consumers by concealing that 360 Savings and 360 Performance Savings were two distinct products with very different interest rates, and that only new 360 Performance Savings were receiving the advertised interest rates.

109. Capital One deceived consumers by representing that 360 Savings was a “high interest” savings account with a competitive, variable rate, then freezing the 360 Savings rate below the national savings average.

110. By reason of the above, Capital One has engaged in repeated and persistent fraudulent conduct in violation of New York Executive Law § 63(12).

Count IV
Executive Law § 63(12) (Illegality)
(Violations of Truth in Savings Act and Regulation DD)
(Against CONA)

111. Plaintiff incorporates and re-alleges the allegations in paragraphs 1-81 above.

112. New York’s Executive Law § 63(12) authorizes Plaintiff to seek injunctive and other equitable relief when any individual or business engages in repeated and persistent illegal conduct in the carrying on, conducting, or transaction of business in the state of New York.

113. The Truth in Savings Act (“TISA”) provides that “[n]o depository institution . . . shall make any advertisement, announcement, or solicitation relating to a deposit account that is inaccurate or misleading or that misrepresents its deposit contracts.” 12 U.S.C. § 4302(e).

114. Regulation DD, TISA’s implementing regulation, also provides that advertisements “shall not . . . [b]e misleading or inaccurate or misrepresent a depository institution’s deposit contract.” 12 C.F.R. § 1030.8(a)(1).

115. As described above, CONA marketed 360 Savings as a “high interest” online savings account with a variable interest rate that would be a “great everyday rate,” “a competitive rate you can bank on,” and “one of the nation’s highest” and “best savings rates.” CONA represented that “[y]our money will earn much more than what it would in an average savings or money market account,” with “no catches.”

116. Instead, CONA lowered the 360 Savings rate to 0.30% and froze it at this artificially low level for years, while interest rates rose nationwide. A 0.30% interest rate was not “high” or “competitive” relative to other online savings accounts.

117. By reason of the above, CONA has engaged in repeated and persistent illegal conduct in violation of New York Executive Law § 63(12).

Count V
Consumer Financial Protection Act, 12 U.S.C. § 5536(a)(1)(A)
(Violations of Regulation DD)
(Against CONA)

118. Plaintiff incorporates and re-alleges the allegations in paragraphs 1-81 above.

119. The Consumer Financial Protection Act (“CFPA”) makes it unlawful for any covered person “to offer or provide to a consumer any financial product or service not in conformity with Federal consumer financial law, or otherwise commit any act or omission in violation of a Federal consumer financial law.” 12 U.S.C. § 5536(a)(1)(A).

120. The CFPA authorizes Plaintiff to “bring a civil action ... against a national bank ... to enforce a regulation prescribed by the [Consumer Financial Protection] Bureau under a provision of this title and to secure remedies under provisions of this title or remedies otherwise provided under law.” U.S.C. § 5552(a)(2)(B).

121. Regulation DD, the implementing regulation for the Truth in Savings Act, provides that advertisements “shall not . . . [b]e misleading or inaccurate or misrepresent a depository institution’s deposit contract.” 12 C.F.R. § 1030.8(a)(1).

122. Regulation DD is a regulation prescribed under the CFPA for purposes of Section 5552(a)(2)(B), and a Federal consumer financial law for purposes of Section 5536(a)(1)(A). *See* Pub. L. No. 111-203, Sec. 1100B (2010); 12 U.S.C. § 5481(12)(P); 12 C.F.R. § 1030.1(a).

123. CONA is a covered person under the CFPA.

124. As described above, CONA marketed 360 Savings as a “high interest” online savings account with a variable interest rate that would be a “great everyday rate,” “a competitive rate you can bank on,” and “one of the nation’s highest” and “best savings rates.” CONA represented that “[y]our money will earn much more than what it would in an average savings or money market account,” with “no catches.”

125. Instead, CONA lowered the 360 Savings rate to 0.30% and froze it at this artificially low level for years, while interest rates rose nationwide. A 0.30% interest rate was not “high” or “competitive” relative to other online savings accounts.

126. By reason of the above, CONA has violated Regulation DD and the CFPA.

Count VI
Consumer Financial Protection Act, 12 U.S.C. § 5536(a)(1)(B) (Deceptiveness)
(Against COFC)

127. Plaintiff incorporates and re-alleges the allegations in paragraphs 1-81 above.

128. The Consumer Financial Protection Act (“CFPA”) prohibits covered persons or service providers from engaging in deceptive acts or practices. 12 U.S.C. § 5536(a)(1)(B). An act or practice is deceptive if it involves a material misrepresentation or omission likely to mislead consumers acting reasonably under the circumstances. Information is material to consumers if it is likely to affect a consumer’s conduct regarding the product.

129. The CFPA authorizes Plaintiff to “bring a civil action ... to enforce provisions of this title ... and to secure remedies under provisions of this title or remedies otherwise provided under law.” U.S.C. § 5552(a)(1).

130. COFC is a “covered person” within the meaning of the CFPA.

131. As described above, COFC owns and maintains the Capital One website with CONA and uses 360 Savings account deposits to fund its operations and earn revenue. COFC advertised and promoted 360 Savings and 360 Performance Savings accounts on the Capital One website and is jointly responsible for any representations made or actions taken on that website.

132. Through its website, COFC marketed 360 Savings as a “high interest” online savings account with a variable interest rate that would be a “great everyday rate” and “a competitive rate you can bank on.” COFC represented that “[y]our money will earn much more than what it would in an average savings or money market account,” with “no catches.”

133. Then, Capital One created 360 Performance Savings, a nearly identical savings account which paid a higher interest rate than 360 Savings. It kept existing 360 Savings customers in the dark about the new product, intentionally creating confusion so that 360 Savings customers wouldn’t realize that their accounts had been rendered obsolete and wouldn’t know that they had to open new 360 Performance Savings accounts to continue receiving competitive rates.

134. Capital One lowered the 360 Savings rate to 0.30% and froze it at this artificially low level for years, while interest rates rose nationwide. A 0.30% interest rate was not “high” or “competitive” relative to other online savings accounts.

135. Capital One operated a secret, two-tier system of savings accounts, in which only new 360 Performance Savings accounts received the high interest rates that Capital One advertised, while existing 360 Savings accounts languished at much lower rates. Collectively, New York consumers lost out on millions of dollars in interest compared to what they would have received with 360 Performance Savings accounts, while Capital One pocketed the difference.

136. COFC deceived consumers by concealing that 360 Savings and 360 Performance Savings were two distinct products with very different interest rates, and that only new 360 Performance Savings were receiving the advertised interest rates.

137. COFC deceived consumers by representing that 360 Savings was a “high interest” savings account with a competitive, variable rate. Instead, Capital One froze the 360 Savings rate below the national savings average.

138. By reason of the above, COFC has engaged in deceptive acts or practices in violation of the CFPA.

Count VII
Consumer Financial Protection Act, 12 U.S.C. § 5536(a)(1)(B) (Abusiveness)
(Against COFC)

139. Plaintiff incorporates and re-alleges the allegations in paragraphs 1-81 above.

140. The Consumer Financial Protection Act (“CFPA”) prohibits covered persons or service providers from engaging in abusive acts or practices. 12 U.S.C. § 5536(a)(1)(B). An act or practice is abusive if it “takes unreasonable advantage of ... a lack of understanding on the part of

the consumer of the material risks, costs, or conditions of the product or service.” 12 U.S.C. § 5536(d)(2).

141. The CFPA authorizes Plaintiff to “bring a civil action ... to enforce provisions of this title ... and to secure remedies under provisions of this title or remedies otherwise provided under law.” U.S.C. § 5552(a)(1).

142. COFC is a “covered person” within the meaning of the CFPA.

143. As described above, COFC owns and maintains the Capital One website with CONA and uses 360 Savings account deposits to fund its operations and earn revenue. COFC advertised and promoted 360 Savings and 360 Performance Savings accounts on the Capital One website and is jointly responsible for any representations made or actions taken on that website.

144. 360 Savings account holders did not understand the following material risks and costs of 360 Savings:

- a. They did not understand the risk that Capital One would offer another savings product with nearly identical features except for its higher interest rate.
- b. Because they did not know of the existence of 360 Performance Savings as a separate and distinct savings account product with a higher interest rate, they did not understand the risk that they were using an obsolete and inferior savings account product. They also did not understand the opportunity cost of keeping their 360 Savings accounts and not opening 360 Performance Savings accounts, *i.e.*, the additional interest they missed out on earning.
- c. They did not understand the risk that Capital One would not deliver on its promises about the 360 Savings rate, that they would have to regularly monitor the interest rate on their 360 Savings accounts and compare it to other market rates to check

whether Capital One was delivering on its promises, or that they would have to regularly monitor Capital One's website and marketing for new savings account products to check whether their accounts had been rendered obsolete.

145. COFC took advantage of 360 Savings customers' lack of understanding of these risks and costs because CONA avoided paying the difference in interest that it would have had to pay 360 Savings account holders had they opened or been automatically transferred into 360 Performance Savings accounts. COFC benefited financially from this conduct because it used the additional interest that CONA retained to fund its operations and earn additional revenue.

146. COFC contributed to this lack of understanding by obscuring 360 Performance Savings' existence and higher interest from 360 Savings account holders through the representations made and actions taken on the Capital One website, which COFC owns and maintains with CONA.

147. By reason of the above, COFC has engaged in abusive acts or practices in violation of the CFPA.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court issue an order and judgment:

- i. permanently enjoining Defendants from engaging in the fraudulent and illegal practices alleged herein;
- ii. ordering Defendants to provide an accounting of all New York consumers that had 360 Savings accounts, did not open 360 Performance Savings accounts, and therefore received less in interest from their 360 Savings accounts than they would have if they had opened 360 Performance Savings accounts;

- iii. awarding such monetary relief as the Court finds necessary to redress injuries to New York consumers resulting from the fraudulent and illegal practices alleged herein, including but not limited to restitution, disgorgement or compensation for unjust enrichment, and payment of damages;
- iv. imposing civil monetary penalties, under General Business Law § 350-d, in the amount of \$5,000 for each violation of General Business Law §§ 349 and 350;
- v. imposing appropriate civil monetary penalties under 12 U.S.C. § 5565(c);
- vi. awarding costs under CPLR 8303(a)(6) and 12 U.S.C. § 5565(b); and
- vii. granting such other and further relief as the Court deems just and proper.

Dated: May 14, 2025

Respectfully submitted,

LETITIA JAMES
Attorney General of the State of New York

By: _____

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