

APR Misrepresentation in Nexo's Crypto Credit Line

1. Background

APR ("Annual Percentage Rate") is a legally defined disclosure term in the U.S., EU, UK, and Switzerland. It is reserved for repayment-based consumer credit products where the borrower retains control of collateral and repayment occurs over time through predictable installments.

Nexo AG (Switzerland) marketed its "Crypto Credit Line" as having a "safe APR" between 5.9%–12.9%, despite the product being a liquidation-based margin loan.

This document provides description of screenshots only; actual screenshots remain withheld until regulators confirm enforcement action.

2. Legal Incompatibility: APR vs. Liquidation

- APR requires:
 - Predictable repayment schedule.
 - Borrower control of pledged assets unless in true default.
 - Ability to calculate effective cost of credit over a fixed term.
- Liquidation eliminates APR:
 - Borrower's account can be forcibly liquidated at any time.
 - No predictable repayment stream.
 - The "cost of credit" cannot be measured when repayment may never occur.

Therefore, APR and liquidation are mutually exclusive. Marketing a liquidation product with APR labeling is structurally deceptive in all jurisdictions where APR is regulated.

3. Evidence of Misrepresentation

- Preserved forensic evidence: 37 timestamped, hashed screenshots show Nexo AG's app marketing the Crypto Credit Line with APR safety language.
- Removal of APR: By late 2021, Nexo silently removed "APR" from its app and dashboard. This strongly indicates recognition of legal risk ("consciousness of guilt").
- Impact: U.S. investors, including a 60-year-old, relied on APR marketing to treat the product as safe credit, when in fact liquidation risk caused catastrophic losses.

4. Legal Precedents & Statutory Alignment

- U.S. (TILA/Reg Z): APR must represent the annualized cost of repayment credit. APR labeling on liquidation-based lending violates disclosure law.
- EU Consumer Credit Directive / UK FCA rules: APR requires transparent repayment structure. Liquidation loans cannot carry APR.
- Switzerland (FinSA & FINMASA): Investor disclosures must be accurate and not misleading. APR marketing of liquidation loans breaches this obligation.
- Cayman / Offshore: No carve-out exists that permits APR misuse. The use of APR was deceptive everywhere Nexo marketed it.

5. Why This Matters for Enforcement

- By definition: APR is a regulated disclosure term. Misuse is per se unlawful, no subjective debate required.
- Knowledge/intent: Nexo's removal of APR in 2021 demonstrates they knew it was improper.
- Cross-border precedent: This case creates a reusable standard: APR misrepresentation cannot be laundered through offshore entities.
- Supervisory failure: FINMA failed to stop APR misuse despite being party to the October 2021 SEC–FINMA MOU. U.S. investors were harmed as a result.

6. Conclusion

Nexo AG's use of APR in a liquidation-based margin product was unlawful, misleading, and harmful to senior U.S. investors.

- The evidence is clean, preserved, and triage-ready.
- The removal of APR proves scienter.
- This single issue justifies a pilot/test case under the SEC Enforcement Manual's strategic priorities (§3.2 / §3.3).