**Risk Assessment Failure: Retirement-Age Investor in Liquidation-Based Product**

**Core Principle**

Every investment product requires a documented risk assessment to ensure suitability for the client. This is not optional, it is a universal obligation under U.S. (SEC), Swiss (FINMA/FinSA), and international investor-protection frameworks.

For retirement-age investors, regulators demand even stricter standards:

- Financial capacity alone (e.g., “accredited investor” status) is insufficient.
- Providers must assess investment objectives, knowledge, experience, and ability to absorb risk, with heightened scrutiny for retirement-age clients.
- Misrepresentation or omission in this context is considered a serious supervisory breach.

SEC Standards (U.S.)

- Accredited investor verification under Rule 501 of Regulation D measures only income or net worth.
- It does not replace suitability or disclosure requirements.
- SEC antifraud provisions (Securities Act §17(a), Exchange Act Rule 10b-5) apply regardless of accreditation.
- Retirement-age investors are widely recognized as requiring enhanced suitability assessments under U.S. investor-protection norms.

Swiss Standards (FINMA, FinSA, FINMASA)

- FinSA/FinSO: require providers to perform appropriateness and suitability tests, considering age, experience, objectives, and financial situation.
- FINMASA Articles 5 & 7: require FINMA to act if supervisory law is breached or if investors are left unprotected.
- Marketing liquidation-based margin loans as “APR” credit lines to retirement-age investors, without a documented suitability check, is a clear violation of supervisory expectations.

Case-Specific Failure

1. No documented risk assessment was performed by Nexo AG before placing a retirement-age investor (age 65) into a liquidation-based margin structure.

2. Nexo relied solely on “accredited investor” verification, which is legally irrelevant to assessing retirement suitability.

3. Misrepresentation occurred via APR marketing language, which concealed liquidation risk and created the appearance of a safe credit product.

4. As a result, retirement savings (~$3M) were liquidated without any supervisory safeguards.

## Regulatory Implications

- This failure is not a private dispute but a supervisory violation requiring regulatory action.
- SEC, FINMA, and DFPI have a duty to ensure risk assessments are properly conducted, especially for retirement-age investors.
- Investor protection requires that regulators enforce suitability standards, not accept accreditation as a substitute.

## Conclusion & Request

- Every investment requires a risk assessment.
- Retirement-age investors require stronger, documented risk assessment.
- Accredited investor status is irrelevant to supervisory obligations.
- DFPI (and peer regulators) should recognize this as a regulatory breach, not a contractual dispute, and require corrective measures from Nexo AG and its affiliates.