

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
DEPARTMENT OF BANKING AND SECURITIES

In the matter of:

Nexo Capital Inc.

Respondent.

ORDER NO: 22-94-B

**NOTICE OF INTENT TO ISSUE ORDER
IMPOSING CIVIL PENALTIES**

The Director of the Department of Commerce, Community, and Economic Development, Department of Banking and Securities (“Department”), has conducted an investigation into the business activities of Nexo Capital Inc. (“Respondent”) and has determined that Respondent violated certain provisions of AS 06.20 *et seq.* (“Alaska Small Loans Act”).

I. STATEMENT OF FACTS

1. Respondent is a corporation organized under the laws of the Cayman Islands. Respondent’s principal office address is Two Artillery Court, 2nd Floor, 161 Sheddon Road, George Town, KY1-1103, Cayman Islands. Respondent is owned by Nexo Inc. and part of the Nexo Group. Respondent is not registered with the Department in any capacity.
2. On September 20, 2021, Nexo Financial LLC applied for an Alaska Money Transmitter License through the Nationwide Multistate Licensing System (“NMLS”). The Department conditionally approved Nexo Financial LLC’s application on July 29, 2022.
3. On April 14, 2022, the Department notified Nexo Financial LLC through the NMLS that the Respondent was identified as engaging in consumer lending activity after review of Nexo Financial LLC’s data submitted on January 10, 2022. The Department requested a

1 transaction log of Alaskan customers showing all transactions, fees, place of origin,
2 destination, corresponding exchange rate, if applicable, and sender and receiver information.

3 The Department requested the information to be provided by June 13, 2022.

4 4. On June 13, 2022, Nexo Financial LLC responded to the request posted in NMLS. The
5 response was not complete and only included a spreadsheet that provided total USD value of
6 cryptocurrency credits borrowed by Alaska customers for each year since 2013.

7 5. On June 24, 2022, the Department contacted Nexo Group and requested information
8 about their Borrow Product. On July 29, 2022, Nexo Group stated in a letter that the
9 Respondent offers a service through their online platform, called the Borrow Product, which
10 allows customers to borrow certain digital and fiat currency. The Respondent's loan products
11 have a 12-month term and a maximum annual interest rate of 13.9%. The Respondent provided
12 a spreadsheet that documented 117 loans were provided to Alaskan customers since 2019, of
13 which 104 were under \$25,000 and totaled \$426,540.

14 6. On October 7, 2022, the Department sent a second letter to the Respondent requesting
15 additional information about their loan activity. The Respondent provided their response to the
16 Department on November 7, 2022. The response was not complete, and the Respondent
17 requested additional time, no more than 30 days from the date of the response, to calculate the
18 interest rate and APR for each loan provided to Alaskan customers. Included in the response
19 was a spreadsheet that documented all loans provided to Alaska customers. However, this
20 spreadsheet did not include 15 transactions that were provided in the response on July 29,
21 2022.

22 7. On December 5, 2022, and December 14, 2022, the Department emailed the
23 Respondent requesting a status on the pending requests. On December 16, 2022, the
24 Respondent emailed the Department requesting additional time to calculate the interest rate and

1 APR for each loan provided to Alaskan customers. The Respondent stated it would provide an
2 update by December 23, 2022.

3 8. The Respondents records show they provided 119 loans to Alaskan customers since
4 2019, of which 106 were under \$25,000 and totaled \$427,040. Six loans under \$25,000
5 incurred fees, which totaled \$74.46.

6 9. To date, the Department has not received a complete response to the requests submitted
7 to the Respondent. The Respondent has failed to provide basic loan data including the interest
8 rate and APR. The Department has received no further communication or information from
9 Respondent.

10 II. CONCLUSIONS OF LAW

11 1. Respondent is subject to AS 06.20.010(a) that states a person may not engage in the
12 business of making loans of money, credit, goods, or things in action in the amount or of the
13 value of \$25,000 or less and charge, contract for, or receive on the loan a greater rate of
14 interest, discount, or consideration than the lender would be permitted by law to charge if the
15 person were not a licensee under this chapter without first obtaining a license from the
16 department.

17 2. Respondent is subject to AS 06.20.300 that states a person may not directly or
18 indirectly charge, contract for, or receive any interest, discount, or consideration greater than
19 that which the person would be permitted by law to charge if the person were not a licensee,
20 upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, us,
21 or sale of credit of the amount or value of \$25,000 or less.

22 3. Respondent failed to provide loan term data despite the ample time to provide the
23 information and the fact that the Respondent is a technology company, which should have
24 the information readily accessible. Therefore, the Department makes an adverse inference

1 that the requested information exists and that it is unfavorable to Respondent. The
2 Department concludes that the Respondent violated AS 06.20.010 by providing loans to
3 Alaskans without a license and Respondent violated AS 06.20.260 by charging prohibited
4 fees to three customers.

5 4. Respondent is subject to a civil penalty under AS 06.20.320 for violating
6 AS 06.20.260 and AS 06.30.300.

7 **III. ORDER and NOTICE**

8 Pursuant to the Alaska Small Loans Act and on the basis of the Findings of Fact,
9 Conclusions of Law, the Department ORDERS Respondent to:

10 1. Apply for a Small Loan Company License as required under AS 06.20.010, if
11 Respondent wishes to continue activities in Alaska.

12 2. Pay a civil penalty of \$1,000 per loan for a total of \$106,000 (106 loans originated
13 with a loan amount under \$25,000 at \$1,000 per loan). This amount is due to the
14 Department.

15 3. Pursuant to AS 06.01.030(b), if Respondent desires a hearing, Respondent must
16 request a hearing within 30 days of receipt of this Notice. If Respondent does not request a
17 hearing within 30 days, Respondent is considered to have consented to the issuance of an
18 order.

19 4. The order is a publicly disclosable document.

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IT IS SO ORDERED.

Julie Sande, Commissioner
Department of Commerce, Community,
and Economic Development

1/5/2023
Date

/s/ Robert H. Schmidt
Robert H. Schmidt, Director
Division of Banking and Securities