

Press Releases

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27 September 2004

Cold Calling is Illegal

The SFC notes that there has been an increase in illegal cold calling of members of the public by intermediaries trying to induce them to trade futures contracts on overseas exchanges, in particular the commodities exchanges in Japan. Intermediaries are reminded that cold calling is illegal and they should have internal control measures in place to ensure their staff do not engage in such practices.

Common promotional tactics used in cold calling involve door-to-door visits, or telephone calls. People are often contacted using information obtained from public directories or other means, such as contact details gathered from those who answered questionnaires or attended seminars.

Unsolicited calls are a nuisance. The prohibition in the law is designed to protect the public from unwanted and undesirable approaches and sales tactics by SFC licensees (such as brokers), registrants (mostly banks) - and their staff (Note 1).

SFC licensees and registrants are reminded that it is a criminal offence to make an unsolicited call either to induce someone to invest in securities, futures or leveraged foreign exchange contracts, or if, as a result of the call, an agreement is reached to trade in these financial products.

Licensees and registrants are also reminded that:

- a call is unsolicited unless it is made at the express invitation of the person called;
- the fact that a person has provided a licensee or registrant with his or her contact information does not represent an invitation to call that person; and
- the fact that a licensee or registrant has met a person by inviting him or her to a seminar or by asking him or her to complete a questionnaire does not entitle the licensee or registrant to call that person to solicit business.

Licensees and registrants are allowed to distribute promotional brochures and hold seminars to promote their services but they are not entitled to follow up with those who received the brochures or attended the seminars or to talk to them to offer financial products unless they requested the licensee or registrant to do so.

Any SFC licensed representative or registrant's staff who engages in cold calling as described above breaks the law and any licensed or registered corporation that permits its staff to engage in such activities is also running the risk of facilitating a breach of the law.

A licensed or registered corporation should have in place internal control measures to ensure that its staff do not engage in cold calling. An internal policy prohibiting cold calling or requiring compliance with the applicable law and regulations is generally not enough. A licensed or registered corporation should not only ensure its staff have a reasonable understanding of the law but should also closely supervise and monitor their marketing or promotional efforts to ensure compliance.

The SFC may prosecute and take disciplinary action against licensed or registered corporations and their staff who engage in or permit cold calling.

Ends

Notes to Editor:

1. For details, please see [section 174 of the Securities and Futures Ordinance](#), and the [Securities and Futures \(Unsolicited Calls – Exclusion\) Rules](#) made under the Ordinance.

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