

(iii) Personal Relationship Exception

The associated person making the call has a personal relationship with the recipient of the call.

(c) Safe Harbor Provision

A broker, dealer or municipal securities dealer or person associated with a broker, dealer or municipal securities dealer making telephone solicitations will not be liable for violating paragraph (a)(iii) if the broker, dealer or municipal securities dealer or person associated with a broker, dealer or municipal securities dealer demonstrates that the violation is the result of an error and that as part of the broker, dealer or municipal securities dealer's routine business practice, it meets the following standards:

(i) *Written procedures.* The broker, dealer or municipal securities dealer has established and implemented written procedures to comply with the national do-not-call rules;

(ii) *Training of personnel.* The broker, dealer or municipal securities dealer has trained its personnel, and any entity assisting in its compliance, in procedures established pursuant to the national do-not-call rules;

(iii) *Recording.* The broker, dealer or municipal securities dealer has maintained and recorded a list of telephone numbers that it may not contact; and

(iv) *Accessing the national do-not-call database.* The broker, dealer or municipal securities dealer uses a process to prevent telephone solicitations to any telephone number on any list established pursuant to the do-not-call rules, employing a version of the national do-not-call registry obtained from the administrator of the registry no more than three months prior to the date any call is made, and maintains records documenting this process.

(d) Procedures

Prior to engaging in telemarketing, a broker, dealer or municipal securities dealer must institute procedures to comply with paragraph (a). Such procedures must meet the following minimum standards:

(i) *Written policy.* Brokers, dealers and municipal securities dealers must have a written policy for maintaining a do-not-call list.

(ii) *Training of personnel engaged in telemarketing.* Personnel engaged in any aspect of telemarketing must be informed and trained in the existence and use of the do-not-call list.

(iii) *Recording, disclosure of do-not-call requests.* If a broker, dealer or

municipal securities dealer receives a request from a person not to receive calls from that broker, dealer or municipal securities dealer, the broker, dealer or municipal securities dealer must record the request and place the person's name, if provided, and telephone number on the firm's do-not-call list at the time the request is made. Brokers, dealers and municipal securities dealers must honor a person's do-not-call request within a reasonable time from the date such request is made. This period may not exceed thirty days from the date of such request. If such requests are recorded or maintained by a party other than the broker, dealer or municipal securities dealer on whose behalf the telemarketing call is made, the broker, dealer or municipal securities dealer on whose behalf the telemarketing call is made will be liable for any failures to honor the do-not-call request.

(iv) *Identification of sellers and telemarketers.* A broker, dealer or municipal securities dealer or person associated with a broker, dealer or municipal securities dealer making a call for telemarketing purposes must provide the called party with the name of the individual caller, the name of the broker, dealer or municipal securities dealer, an address or telephone number at which the broker, dealer or municipal securities dealer may be contacted, and that the purpose of the call is to solicit the purchase of securities or related service. The telephone number provided may not be a 900 number or any other number for which charges exceed local or long distance transmission charges.

(v) *Affiliated persons or entities.* In the absence of a specific request by the person to the contrary, a person's do-not-call request shall apply to the broker, dealer or municipal securities dealer making the call, and will not apply to affiliated entities unless the consumer reasonably would expect them to be included given the identification of the caller and the product being advertised.

(vi) *Maintenance of do-not-call lists.* A broker, dealer or municipal securities dealer making calls for telemarketing purposes must maintain a record of a caller's request not to receive further telemarketing calls. A firm-specific do-not-call request must be honored for five years from the time the request is made.

(e) Wireless Communications

The provisions set forth in this rule are applicable to brokers, dealers and municipal securities dealers telemarketing or making telephone solicitations calls to wireless telephone numbers.

(f) Outsourcing Telemarketing

If a broker, dealer or municipal securities dealer uses another entity to perform telemarketing services on its behalf, the broker, dealer or municipal securities dealer remains responsible for ensuring compliance with all provisions contained in this rule.

(g) Definitions

(i) *Established business relationship.*

(A) An established business relationship exists between a broker, dealer or municipal securities dealer and a person if:

(1) the person has made a financial transaction with the broker, dealer or municipal securities dealer within the previous eighteen months immediately preceding the date of the telemarketing call; or

(2) the person has contacted the broker, dealer or municipal securities dealer to inquire about a product or service offered by the broker, dealer or municipal securities dealer within the previous three months immediately preceding the date of the telemarketing call.

(B) A person's established business relationship with a broker, dealer or municipal securities dealer does not extend to the broker, dealer or municipal securities dealer's affiliated entities unless the person would reasonably expect them to be included. Similarly, a person's established business relationship with a broker, dealer or municipal securities dealer's affiliate does not extend to the broker, dealer or municipal securities dealer unless the person would reasonably expect the broker, dealer or municipal securities dealer to be included.

(ii) The terms telemarketing and telephone solicitation mean the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person.

(iii) The term personal relationship means any family member, friend, or acquaintance of the telemarketer making the call.

Rule G-8. Books and Records to be Made by Brokers, Dealers and Municipal Securities Dealers

(a) *Description of Books and Records Required to be Made.* Except as otherwise specifically indicated in this rule, every broker, dealer and municipal securities dealer shall make and keep current the following books and records, to the extent applicable to the business of such broker, dealer or municipal securities dealer: