

The DTC Association

(The Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies)

存款公司公會 (香港有限制牌照銀行及接受存款公司公會)

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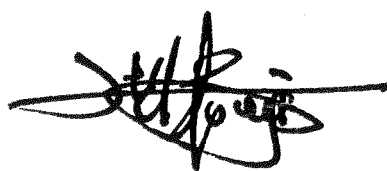
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- To: **All Members of the DTC Association**
- From: **Pui Chong LUND, Association Secretary, The DTC Association**
- Subject:

Revised Code of Practice for Person-to-Person Marketing Calls¹

Further to our circular of 28th March, 2014 (Fri) with reference 00/08/00 & 20/01/00, we enclose the Code of Practice on Person-to-Person Marketing Calls jointly issued by *The Hong Kong Association of Banks* (HKAB) and *the DTC Association* today for members' reference and adoption of the recommended measures by end November 2014.

Yours sincerely



Pui-Chong LUND
Association Secretary

Encl.

¹ The present circular is a parallel one to that issued by the Hong Kong Association of Banks' to their Association members of reference:- Circular no. S/14/097 dated 30th May, 2014 (Fri)

**Code of Practice
On
Person-to-Person Marketing Calls**

Preamble

1. This Code of Practice (“CoP”) is issued jointly by the Hong Kong Association of Banks (“HKAB”) and the DTC Association (“DTCA”) for the purpose of providing guidance to their members (collectively Authorised Institutions (“AIs”)) in making person-to-person telephone calls for marketing activities (“person-to-person marketing calls”).
2. This CoP applies to all person-to-person marketing calls to be made or authorised to be made by an AI, regardless of whether there is any business relationship between the AI and the called party. An AI, which has arranged the making of person-to-person marketing calls through another party, should advise the involved party of the recommendations in this CoP and request it to follow this CoP. By the same token, an AI which is authorised to make person-to-person marketing calls for other parties should make necessary arrangements with the concerned parties to ensure compliance with this CoP.
3. This is a non-statutory CoP issued on a voluntary basis. HKAB and the DTCA expect their respective members to take into account the recommendations set out in this CoP in the setting and review of their policies and procedures covering person-to-person marketing calls.
4. For the avoidance of doubt, nothing in this CoP shall absolve any person from complying with the Unsolicited Electronic Messages Ordinance (Cap. 593), the Personal Data (Privacy) Ordinance (Cap. 486) or other applicable laws in Hong Kong.

Interpretation

5. In this CoP, unless the context otherwise requires –

“called party” means a member of the public or an organisation;

“calling line identification information” means telecommunications network information generated and transmitted by the calling party’s telecommunications network for the purpose of enabling the called party’s telecommunications network to identify the telephone number of the calling party;

“marketing” means advertising or promoting goods, services, facilities, land, a business opportunity or an investment opportunity;

“organisation” includes -

- (a) a Hong Kong company;
- (b) any other company or body corporate, wherever incorporated or otherwise established; and
- (c) a partnership or other unincorporated body of persons, whether formed or established in Hong Kong or elsewhere;

“principal” means an individual or organisation who has authorised the making of person-to-person marketing calls;

“relationship / account manager” means a staff of the principal who is assigned to serve a designated client or a group of designated clients of the principal;

“telemarketer” means:

- (a) an individual or organisation who is authorised by a principal to make person-to-person marketing calls for and on behalf of the principal, if the principal has contracted out part or whole of the marketing campaign to that individual or organisation;
- (b) employees of the principal who are assigned the duty of making person-to-person marketing calls other than any relationship / account manager when he/she makes marketing calls to his/her own designated

client(s);

(c) employees of the individual or organisation of item (a) above;

“unsubscribe request”, in relation to a person-to-person marketing call, means:

(a) a message to the effect that the user of the telephone number to which the call is made does not wish to receive, at that telephone number, any further person-to-person marketing call from or authorized by that principal; or

(b) a message to similar effect.

“unsubscribe list” means the information maintained by a telemarketer pertaining to individuals who have made unsubscribe requests to the telemarketer in relation to person-to-person marketing calls.

6. In this CoP, the singular includes the plural and vice versa, and words importing a gender include every gender.

Hours of Calling

7. Generally, person-to-person marketing calls should only be made between Hong Kong time 9:00am and 10:00pm, unless the called party has advised that a call at another time would be more convenient and acceptable or a call outside this period is allowed under the guidelines published in accordance with the Banking Ordinance (Cap.155), the Supervisory Policy Manual of the Hong Kong Monetary Authority (“HKMA”) or other regulatory requirements applicable to AIs.

Identity and Purpose

8. A telemarketer who makes a person-to-person marketing call should not purposely conceal or withhold from the called party the calling line identification information of the sending telephone number, or issue any instruction in connection with making the call that has the same effect.

9. (a) Subject to subsection (b), at the commencement of a person-to-person marketing call, the telemarketer should address the called party by his full name and provide the following information to the called party:
- (i) the telemarketer's full name;
 - (ii) the name of the principal that authorised the making of the call;
 - (iii) the purposes of the call; and
 - (iv) an official telephone number of the principal ("Contact Telephone Number") which he can call during normal business hours to verify the identity of the telemarketer, lodge complaints in respect of the person-to-person marketing calls made or authorised to be made by the principal or to make enquiries with the principal.
- (b) Subsection (a) does not apply to a relationship / account manager making marketing calls to his / her designated client(s) with whom he / she has already established a business relationship, as part of his /her duty to provide service to these client(s).

Unsubscribe Request

10. A telemarketer should not make any further person-to-person marketing calls to an individual, be it prospective or existing customer, after the individual has made an unsubscribe request to him or to his principal (refer to paragraph 12).
11. A telemarketer should accept an unsubscribe request made during a person-to-person marketing call, as well as an unsubscribe request made when a person calls at the Contact Telephone Number as mentioned in paragraph 9 above. A telemarketer may choose to offer other additional channels for the called party of the public to make an unsubscribe request.
12. A telemarketer and a principal should ensure that the unsubscribe list is properly maintained and updated regularly; in the case of lists maintained and distributed on a computer network, this should be done as soon as the unsubscribe request is received and in other cases updates should be circulated to telemarketers at least once per week.

13. An individual may make a request to a telemarketer to delete him / her from the unsubscribe list. A telemarketer, however, should not initiate contact with the individuals on the unsubscribe list within the first two years after the individuals have first been included in the unsubscribe list to ascertain whether they would like to start to receiving person-to-person marketing calls.

Further Collection of Information

14. If information is to be collected from the called party subsequent to the person-to-person marketing call, the telemarketer should provide to the called party for the purposes of sending such information the contact information of the principal or the telemarketer which is publicised by the principal (e.g. on the principal's website) and can be verified by the called party. Where the marketing call is made by a relationship / account manager to his / her own designated client(s) with whom he / she has already established a relationship, as part of his / her duty of serving the client(s), he / she needs only to provide the contact information of the principal upon request of the called party.

Subsequent Meetings

15. If any meeting is to be held with the called party subsequent to the person-to-person marketing call, the called party should be advised to visit the premises of the principal or the telemarketer which are publicised by the principal (e.g. on the principal's website) or contact the principal via the official channels to arrange the meeting to be held at any other places. For the purposes of this clause, a relationship / account manager making marketing calls to his / her own designated client(s) with whom he / she has already established a relationship, as part of his / her duty of serving the client(s), may agree with the called party on the venue of the meeting which may be outside the principal's premises.

Complaints

16. A telemarketer and a principal should keep a proper record of complaints in relation to person-to-person marketing calls, and provide statistics of complaints to the HKMA, the Office of the Privacy Commissioner for Personal Data and the Commerce and Economic Development Bureau upon request.

Use of Automated Dialing Equipment

17. Telemarketers using automated dialing equipment should allow at least 5 seconds or four rings before disconnecting an unanswered call.
18. Calls using automated dialing equipment which are disconnected by the called party ultimately due to non-connection to a live agent after the call has been answered are considered as abandoned calls. Telemarketers should frequently review the percentage of abandoned calls and make every endeavour to minimise such percentage.
19. The automated dialing equipment deployed should be capable of generating relevant statistics for monitoring and ensuring compliance with this CoP.

Called Party Who is Travelling Overseas when the Call is Made

20. If a telemarketer, when making a person-to-person marketing call, is aware that the called party is travelling overseas, he should endeavour to disconnect the call immediately (if the call has not yet been answered by the called party) or terminate the conversation as soon as practicable (if the call has been answered by the called party) unless prior consent has been obtained.

Relationship/Account Managers

21. A relationship / account manager should observe the requirements of this CoP when making person-to-person marketing calls except otherwise

stated in sections 9, 14 and 15 when he / she makes marketing calls to his/her own designated client(s), with whom he/she has already established a relationship, as part of his / her duty of serving the client(s).

Effective Date

22. This CoP was first issued on 29 November 2010 and is subject to review and revision from time to time. Unless otherwise shown, this revised CoP is effective from 30 May 2014. AIs should endeavour to meet all new requirements as soon as practicable from the effective date but are allowed up to 6 months from the effective date to implement those provisions which require system changes.

The Hong Kong Association of Banks
The DTC Association
30 May 2014