

SASKATCHEWAN STAFF NOTICE 33-701
TELEMARKETING ACTIVITIES OF EMPLOYEES OR
INDEPENDENT AGENTS OF REGISTERED DEALERS

PART 1 INTRODUCTION

- 1.1 The Saskatchewan Securities Commission (the "Commission") receives requests from dealers for permission to use employees or other individuals ("Telemarketers") whose duties are restricted to identifying prospective clients for referral to a registered salesperson, partner or officer of a dealer ("Dealer") registered under *The Securities Act, 1988* (the "Act").
- 1.2 A Telemarketer may be an employee of the Dealer, or may be an independent agent or an employee of an independent agent retained under contract by a Dealer.
- 1.3 The purpose of this Staff Notice is to provide the views of the staff of the Commission on whether Telemarketers should be registered.

PART 2 ACTIVITIES REQUIRING REGISTRATION

- 2.1 It is a question of fact in every case whether a Telemarketer is or will be engaged in activities which require registration. The onus is upon the Dealer and the Telemarketer to determine whether registration of the Telemarketer is required.
- 2.2 Activities that constitute trading pursuant to clause 2(1)(vv) of the Act, including "acts in furtherance of a trade", require registration. For example, a Telemarketer would require registration where:
 - (a) His or her activities were directed towards the purchase or sale of specific securities;
 - (b) The discussions with potential investors went beyond a simple solicitation of a general interest in investors;
 - (c) A commission, remuneration or other benefit paid or accrued to a Telemarketer was associated with or resulted from any trades made by a Dealer; or
 - (d) The remuneration of the Telemarketer is tied to the number of referrals to the registered salesperson, partner or officer.
- 2.3 On the other hand, if the conduct of the Telemarketer does not constitute trading in securities as defined in the Act, there is no requirement for registration of the Telemarketer. For example, registration is not required by a Telemarketer if his or her conduct is limited to offering to have the Dealer provide investors with general information concerning investing in securities and then reporting to a registered salesperson, partner or officer of the Dealer that such an offer has been accepted. A Telemarketer using the script described in clause 3.1(b) would not be trading in securities and would not be required to be registered.

- 2.4 The failure of a Dealer to ensure the registration of its employees or agents whose activities constitute trading may result in the reprimand, suspension, cancellation of registration or restriction of registration of the Dealer.
- 2.5 Dealers and Telemarketers are advised to consult legal counsel to discuss whether in the circumstances of their case, registration would be required.

PART 3 SUPERVISION OF TELEMARKETERS

- 3.1 Dealers must take all necessary steps to supervise the activities of Telemarketers employed by or under contract to them to ensure that the Telemarketers are not engaged in activities which require registration. The following are some requirements for inclusion in the Dealer's program for supervision of Telemarketers:
- (a) Outline to the Telemarketer at the time that the Telemarketer is hired or contracted by the Dealer and regularly thereafter, both orally and in writing, the limited nature of activities permitted to be engaged in by the Telemarketer and the consequences of engaging in any activity which may be construed either as trading or as an act in furtherance of a trade;
 - (b) Provide the Telemarketer with a script which limits the conversation between the Telemarketer and the contact to the following:
 - (i) Providing the name of the Telemarketer;
 - (ii) Providing the name of the Dealer and a statement that the call originates from, or is on behalf of, the Dealer;
 - (iii) Requesting permission for the Dealer to forward complementary investment information to the contact;
 - (iv) Requesting the name, company name, address and telephone number of the contact; and
 - (v) Requesting permission for a duly registered salesperson, partner or officer of the Dealer to follow up with investment advice on the purchase or sale of specific securities;
 - (c) Include on the script a specific place for the Telemarketer to record the date the call was made and the telephone number called; and

- (d) Ensure that registered personnel of the Dealer regularly monitor the activities of any Telemarketer employed by or under contract with the Dealer to ensure that the Telemarketers do not:
 - (i) Engage in activities which would require registration under the Act;
 - (ii) Use pressure techniques to obtain the names of contacts; or
 - (iii) Offer free gifts or other inducements to obtain the names of contacts.

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Contact:

Deputy Director, Registration
(306) 787-5876