

**SECURITIES AND FUTURES**  
**(UNSOLICITED CALLS - EXCLUSION) RULES**

**SECURITIES AND FUTURES (UNSOLICITED CALLS - EXCLUSION) RULES**

(Made by the Securities and Futures Commission  
under section 384(1) of the Securities and  
Futures Ordinance ( of 2001))

**1. Commencement**

These Rules shall come into operation on the day appointed for the commencement of Part VII of the Securities and Futures Ordinance ( of 2001).

**2. Interpretation**

In these Rules, unless the context otherwise requires -

"permissible communication" ( ) means a  
communication referred to in section 3;

"recipient" ( ) means a person to whom a communication is  
made or, in the case of a permissible communication, a  
person who reads or hears the communication;

*[based on Article 6(e) of the FSMA 2000 (Financial Promotion) Order 2001]*

the expressions "call" ( ) and "unsolicited call" ( ) have the respective meanings assigned to them in section 169(7) of the Ordinance.

### **3. Excluded unsolicited calls**

(1) For the purposes of section 169(3)(d) of the Ordinance, section 169 of the Ordinance does not apply to any unsolicited call that is a permissible communication.

*[based on Article 16(a) of the FSMA 2000 (Financial Promotion) Order 2001]*

(2) For the purposes of these Rules, a permissible communication is any communication not made in the course of -

(a) a visit in person;

(b) a telephone conversation; or

(c) any other interactive dialogue in the course of which statements and responses to them are exchanged immediately.

*[based on Article 8(1)&(2) of the FSMA 2000 (Financial Promotion) Order 2001]*

(3) For the purposes of these Rules, the following are regarded as among indications that a communication is a permissible communication -

- (a) the communication is made to more than one recipient in identical terms (save for details of the recipient's identity);
- (b) the communication is made by way of a system which in the normal course constitutes or creates a record of the communication which is available to the recipient to refer to at a later time;
- (c) the communication is made by way of a system which in the normal course does not require the recipient to respond immediately to it.

*[based on Article 7(5) of the FSMA 2000 (Financial Promotion) Order 2001]*

Chairman,  
Securities and Futures  
Commission

2001

**Explanatory Note**

These Rules are made by the Securities and Futures Commission under section 384(1) of the Securities and Futures Ordinance ( of 2001) for the purposes of section 169(3)(d) of the Ordinance. They exclude from the application of section 169 of the Ordinance (which prohibits the negotiation of certain agreements by intermediaries during unsolicited calls) any unsolicited call that is a permissible communication as defined in section 3 of the Rules.