Executive Summary

Foreign regulators have informed the National Association of Securities Dealers, Inc. (NASD®) that persons associated with member firms may be soliciting business in the regulators’ jurisdictions in violation of local foreign laws. NASD Regulation, Inc. (NASD Regulation℠) reminds members considering soliciting business in foreign jurisdictions to ensure that such activities comply with all applicable laws.¹

Questions/Further Information

Questions regarding this Notice may be directed to Eric Moss, Assistant General Counsel, Office of General Counsel, NASD Regulation, at (202) 728-8982.

Discussion

In NASD Notice to Members 98-91 (NtM 98-91), the NASD alerted members to their obligations concerning cold calling and advertising to persons in the United Kingdom. In NtM 98-91, the NASD also reminded members considering cold calling or advertising in any foreign jurisdiction to ensure that such activities comply with all applicable laws. Since issuing NtM 98-91, foreign regulators have informed the NASD that persons associated with member firms are continuing to cold call and advertise in their jurisdictions in violation of local foreign laws. Accordingly, the NASD is publishing this Notice to remind members and persons associated with members of their obligations to comply with applicable U.S. laws and foreign laws when soliciting business in any foreign jurisdiction.

In considering their obligations under local foreign laws, member firms should keep in mind that the term “solicitation” generally has been viewed as an expansive, fact-specific, and variable concept.² Depending on the laws of the applicable foreign jurisdiction, a wide variety of firm activities may constitute solicitation of business for purposes of foreign local law. For instance, solicitation of business may occur through newspaper ads, Internet postings, e-mails, telephone calls, or facsimile transmissions. It is not the intent of this Notice to describe any specific foreign laws applicable to the solicitation of business in any foreign jurisdiction. Rather, NASD Regulation urges members proposing to solicit business in foreign jurisdictions to carefully review and comply with all applicable U.S. and foreign laws. The consequences of breaching applicable foreign laws can be far-reaching, and member firms in violation of particular foreign laws may be committing a criminal offense and be liable to prosecution.³

Endnotes

¹See NtM 98-91.
³See NtM 98-91.

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