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Banking 2000

“Do-Not-Call” Compliance For Securities Brokers

Securities brokers in the United States are subject to an array of Federal, State and Industry requirements regarding virtually every aspect of their professional activities. It is therefore no surprise that there are extensive rules regarding broker telephonic contact with potential, and current, customers. When it comes to making calls, brokers and their firms have to be forever vigilant to ensure that they are in compliance with these rules – failure in this regard can be costly. (See sidebar).

As an initial note, the U.S. Government, via the Telemarketing and Consumer Fraud and Abuse Prevention Act of 1995 (the “Act”), mandated that the SEC (or an appropriate securities regulatory body) enact regulations regarding telephonic solicitation that comply with all aspects of the Act. (The Act itself does not apply to the Securities Industry). In response, the NASD enacted its own set of solicitation rules (Rules 2211 and 3110(g)), which can be divided up into two general categories: “contact” rules, and “do-not-call” rules. Contact rules govern the time calls can be made, the disclosures that brokers must make during the call, as well as certain restrictions with regard to payment. The do-not-call rules mandate that each member firm maintain a list of all persons who request that they no longer be called. Above and beyond these rules are the telemarketing laws that have been passed by the individual states, which can entail additional, or different “contact” rules, as well as a state mandated do-not-call list.

NASD Disciplinary Actions

- Firm ABC and Broker B fined \$10,000 and ordered to pay \$18,240 in restitution for, among other things, failing to establish, maintain, and enforce proper written supervisory procedures concerning telephone solicitations.
- Broker X from Great Neck, NY, fined \$7,500 and suspended for two years because, during a telephone solicitation to a public customer, he gave false and misleading information and misrepresented his identity by using the name of another registered representative.
- Broker fined \$2,500 and suspended 10 business days for leaving an offensive/harassing message on a customer’s voice mail after the customer hung up on him when he placed a cold call.

Contact rules are addressed via training and supervision; the do-not-call rules, however, due to the sheer amount of information that needs to be managed, require a technological solution. One method is for the securities firm to take the do-not-call lists and merge and purge them against its internal lead database on an on-going basis, eliminating those leads that reside on any of the do-not-call lists that it solicits. This of course requires the firm to stay up-to-date with all lists as they are generated by the states (25 to date), as well as to develop the necessary in-house expertise to handle the necessary database processing. Adding to this complexity is the fact that many firms will generate calls from numerous offices; the data processing therefore needs to be coordinated across all of these offices in a centralized manner. Another route is to hire a “list scrubber” – an outside vendor that will perform the merging and purging of the list data. Beyond the additional cost, firms that use outside scrubbers are still responsible for keeping up to date with the state lists and managing the scrubbing process so that lists are deployed in a timely manner. The issue of data deployment across numerous offices also remains.

Adding the above elements together, it is clear that an individual firm acting on its own behalf to track legislation and manage all pertinent do-not-call lists faces a heightened risk of do-not-call list compliance breakdowns.

The TeleBlock® Solution

Another technological solution is TeleBlock®, the flagship product of Glen Cove, New York based Call Compliance, Inc. (www.callcompliance.com). TeleBlock® makes it possible for a securities firm to maintain compliance with do-not-call laws without having to merge and purge databases, and without any sort of hardware or software investments. Securities firms that use TeleBlock® continue making their outbound calls as usual. Once the TeleBlock® system is turned on, however, all outbound calls made by the firm are subjected to a screening process. If a call is made to a number appearing on a do-not-call list, it is automatically blocked. Securities firms obtain the TeleBlock® screening/blocking service directly from their telephone carrier, which makes it available as a value-added service to its standard voice offerings.

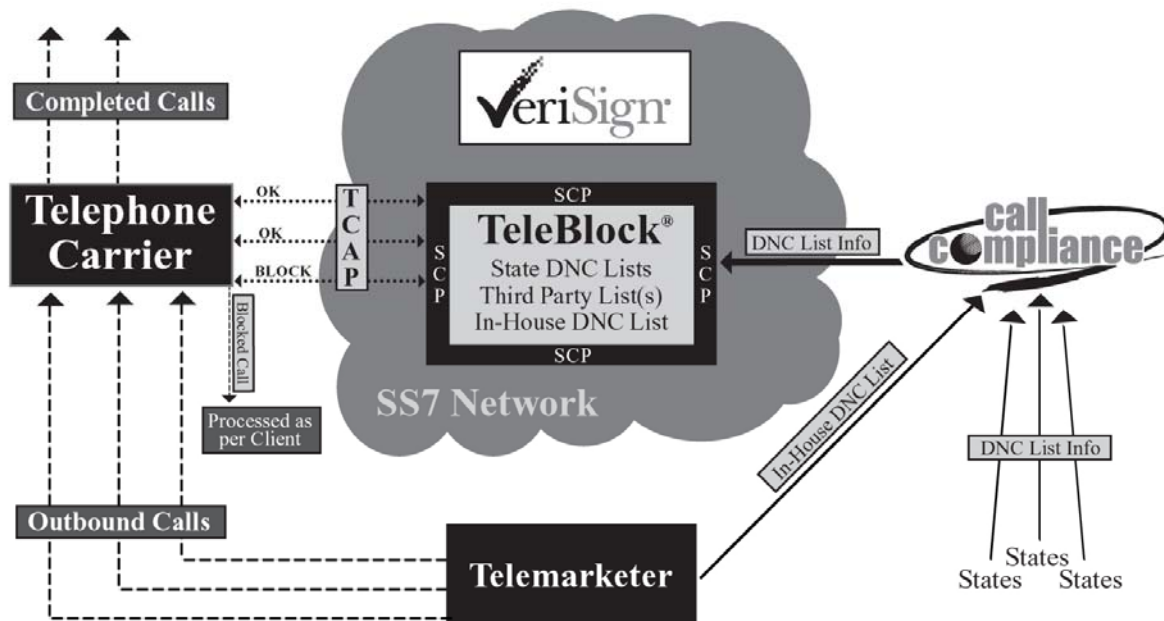
TeleBlock® screens outbound calls at the highest possible level of the telecommunications infrastructure of the United States (see discussion, below). Because of this, the TeleBlock® system is universally available, redundantly located, and accessible to all telephone carriers nationwide. The TeleBlock® service is unaffected by the size of a firm's organization, thus enabling trouble-free upward or downward scaling, and TeleBlock® enables coordination across multiple firm offices nationwide. TeleBlock® also operates independently of a securities firm's telephone equipment, so it makes no difference whether a firm uses standard phone lines, T-1's, or T-3's. The system is compatible with all types of calling equipment, including PBX's, key systems, and predictive dialers. In short, TeleBlock® enables telemarketers to efficiently, and cost-effectively, comply with the many do-not-call list laws that have been enacted (and will be enacted) across the United States. The TeleBlock® platform is a battle tested system that has been deployed for well over three years, and is used by many securities firms.

The TeleBlock® process (as diagrammed below) makes it possible for securities firms to subject their outbound calls to a screening (and blocking) process that occurs at the "SS7" network level. (See sidebar for term definitions.) The TeleBlock® process requires the aggregation by Call Compliance, Inc. of internal do-not-call lists from securities firms, state lists, as well as any applicable third-party lists. This information is then deployed via TeleBlock®, which is located on a Service Control Point (SCP) that resides on the SS7 network. (Call Compliance, Inc.'s alliance partner, VeriSign, Inc., is responsible for hosting and managing the TeleBlock® platform on the SS7 network.)

SS7: Signaling System 7 is a system that puts the information required to set up and manage telephone calls in a separate network rather than within the same network that the telephone call is made on. Using SS7, telephone calls can be set up more efficiently and with greater security. Special services such as call forwarding, toll-free service, and three-way service are easier to add and manage with SS7.

SCP: A Service Control Point provides the interface to local and remote databases that contain subscriber and routing information

TCAP: (Transaction Capabilities Application Part) The protocol used in an SS7 network for sending database queries to a service control point (SCP).



The TeleBlock® system includes a complete web-based graphical user administrative interface, which enables securities firms to choose which outbound calls will be screened, as well as which specific lists they will be screened against. (Other available administrative features include: number override (to allow certain numbers on lists to be called); full editing capabilities (additions/deletions/updates); searching capability; a reporting module with standard and customizable reports; administer created user accounts and passwords; and display of ANI/T1 authentication code tables). When a securities broker makes an outbound call, a query (in the form of a “TCAP” message) is sent from the originating Telephone Carrier to the SS7 network. The SS7 network carries the message to the SCP hosting TeleBlock®, where the screening process takes place to determine if the call should be completed or blocked. If the number dialed appears on the chosen do-not-call list(s), the call is not completed, and the caller receives a “restricted number” message. If the number dialed does not appear on the list, then the call is completed as normal. Call Compliance, Inc. also offers “firm-specific” customized messages, as well as the ability to transfer a “blocked” caller as necessary, thus enabling tracking of the blocked calls.

Of course, the ultimate purpose of a do-not-call compliance system is to prevent, to the extent possible, the imposition of fines and penalties by governmental authorities for failure of the securities firm to comply with these laws. Related to these fines is the potential for the firm to experience damage to its reputation, as very often information about these fines is made available to the media. In this regard, the TeleBlock® platform offers an unblemished record; no TeleBlock® customer has ever been fined for do-not-call list violations while making use of TeleBlock®. Firms that use TeleBlock® are able to reliably dictate the terms of compliance cross their entire organization, thereby removing the guesswork inherent in any other method of compliance.