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# "Actively markets" under section 115 of the SFO and section 53ZRB of the AMLO

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Q1 : What does "actively markets" mean under section 115 of the SFO and section 53ZRB of the AMLO?

A: This may include, for example, those who frequently call on Hong Kong investors and market their services (including offering products); running a mass media programme targeting at the investing public in Hong Kong; and Internet activities that target Hong Kong investors.

Generally speaking, no person may actively market, whether in Hong Kong or from a place outside Hong Kong, to the public of Hong Kong any services which would constitute a regulated activity and/or a VA service if provided in Hong Kong, unless that person is licensed by the SFC. In determining whether or not a person “actively markets” its services to the public, the SFC will consider the nature of the business activities as a whole and have regard to a number of factors, including (without limitation) the following:

- whether there is a detailed marketing plan to promote the services;

- whether the services are extensively advertised via marketing means such as direct mailing, advertisements in local newspapers, broadcasting or other “push” technology over the Internet;

- whether the related marketing is conducted in a concerted manner and executed in accordance with a plan or a schedule; and

- whether the services are packaged to target the public of Hong Kong, e.g. written in Chinese and denominated in Hong Kong dollars.

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