

HKEx Information Services Limited

(A wholly-owned member of the Hong Kong Exchanges and Clearing Limited Group)

Guiding Note on Non-Display Usage

Securities and Derivatives Market Data
(for real-time data vendors & licensed end-users)

PURPOSE

HKEx announced a new policy for Non-Display Usage of HKEx real-time market data (**the Policy**) and posted it on HKEx website in July 2012. The Policy will take effect from January 2013. Under the Policy, all parties who access and use HKEx real-time market data for non-display usage will be subject to a new type of **Subscriber Fees** (or *Individual User Fees for Licensed End-Users*) (**the new Fees**). This Guiding Note aims to provide the details and reporting requirements of the Policy.

The current Subscriber Fees and Individual User Fees for Display Usage shall continue to be valid and not be affected by this Policy.

DETAILS

1. Please note that (i) **Licensed Information Vendors** (IVs) who receive HKEx market data directly from HKEx market data systems or indirectly from direct connection IVs; (ii) **Licensed End-Users** (EUs) who receive HKEx market data directly from HKEx market data system; (iii.) IV's **Subscribers** who receive HKEx market data from IVs; and (iv) **Exchange Participants** (EPs) who receive HKEx market data from Open Gateway (OG), will be subject to the new Fees when they access and use HKEx real-time market data for non-display usage in the following categories:
 - (i) **Automated Trading Application** - Any application that accesses HKEx *real-time* market data for automatic calculation, processing and analysis, and that application will determine the quantity, price *and* timing of order execution, will be regarded as an Automated Trading Application. The new Fees are HK\$20,000 and HK\$10,000 per firm per month for cash market data and derivatives market data respectively.
 - (ii) **Derived Data (with Tradable Products)** - Any work created using HKEx *real-time* market data to partly or wholly derive the price of a tradable product or value of the underlying instrument of a tradable product. The new Fees are HK\$20,000 and HK\$10,000 per firm per month for cash market data and derivatives market data respectively.
 - (iii) **Others** - Any other non-display *real-time* data usage that does not fall under category (i) & (ii) is subject to the new Fees of HK\$400 and HK\$150 per firm per month for cash market and derivatives market respectively. **EPs are exempted from this "Others" fee category.**

Unit of count – per firm

2. The new Fees will be charged at per firm level. IVs, EUs, IVs' Subscribers and EPs are liable to pay the new Fees based on the non-display usage of different Categories. For example, if an IV's Subscriber uses both 1.(i) and 1.(iii) of the cash market, this IV's Subscriber should pay HK\$20,400 per month. (HK\$20,000 + HK\$400). If this IV's Subscriber is also an EP, the fee would be HK\$20,000. For the avoidance of doubt, the new Fees are not applicable to natural person therefore individual Subscriber of the IVs would not be subject to the new Fees.

Multiple data sources - Single fee for non-display usage

3. IVs, EUs, IVs' Subscribers and EPs who pay the respective new Fees for non-display usage are entitled to use multiple sources of datafeed services subscribed from HKEx or from different IVs. For example, if an EP accesses HKEx real-time market data from OG and also subscribes a datafeed service from an IV for non-display usage, or an IV's Subscriber accesses HKEx real-time market data from datafeed services of more than one IVs for non-display usage, it will be subject to pay the new Fees for the relevant category once.

Waivers for EPs for "Others" category

4. EPs are exempted from new Fees of category "1.(iii) Others" of non-display usage, regardless of whether they source the real-time data from OG, HKEx market data system or IVs. Most EPs are using real-time cash market datafeed services for 1.(iii), e.g. for margin calculation, mark-to-market, back office operations, settlement, surveillance etc. and those usages by EPs are exempted from this fee category. As such, IVs who are providing datafeed service to EPs will not be required to collect Subscriber Fees from the EPs for the above usage. However, IVs are still required to report such usage in their monthly Subscriber Report and mark "waivers for EPs".

Other conditions

5. The new Fees are only applicable to real-time data, 15-minutes delayed market data is not subject to new Fees for non-display usage.
6. Under the HKEx Orion Market Data Platform, a suite of market data product feeds will be provided. Regardless of the type of datafeed or level of content being used, the same new Fees will be charged on non-display usage.

Service Application*IVs with existing MOPP datafeed services for non-display usage*

7. IVs who are currently providing datafeed services to their Subscribers for non-display usage are required to submit Service Application (Form A3) to HKEx-IS to update the service details as stipulated in Schedule 4 – Memorandum of Permitted Purpose (MOPP) of the Market Data Vendor License Agreement (Vendor Agreement). IVs should submit Form A3 to HKEx-IS for consideration within one month from the launch date of the Policy.

IVs who plan to offer new datafeed services for non-display usage

8. IVs who wish to provide new datafeed services to their subscribers for non-display usage are required to submit Service Application (Form A3) to HKEx-IS for consideration.

EUs who use HKEx market data for non-display usage

9. EUs who use HKEx market data for non-display usage are required to submit Service Application (Form E3) to HKEx-IS to update the service details as stipulated in Schedule 4 – Memorandum of Permitted Purpose of the Market Data End-User Licence Agreement (End-User Agreement). EUs should submit Form E3 to HKEx-IS for consideration within one month from the launch date of the Policy. EUs with existing datafeed services for non-display usage are also required to submit Form E3 for MOPP updates.

Declaration and Reporting

Information Sheet for datafeed subscribers & users

10. All IVs, EUs and IVs' Subscribers who use datafeed / datafeed services are required to complete an Information Sheet (published on HKEx website) and provide details of their datafeed usages, including but not limited to declaration on datafeed usages for display or non-display purposes, datafeed providers details, and etc. The Information Sheet is a one-off declaration and IVs, EUs and IVs' Subscribers shall update the Information Sheet promptly should there be any subsequent changes.
11. IVs shall notify by way of written notice to their Subscribers that the Subscribers shall complete and submit the Information Sheet for HKEx-IS. IVs shall then submit all the Information Sheets collected together with the monthly Subscriber Report to HKEx-IS.
12. IVs, EUs and IVs' Subscribers who obtain datafeed services from more than one IVs for non-display usage are required to submit the Information Sheet via each of their data sourced IVs and should indicate on the Information Sheet which IV they intend to report the non-display usage and pay the Fees to HKEx-IS through this designated IV. All parties who have direct contract with HKEx-IS, i.e. IV, EU or EP (with BSS connection), should submit the Information Sheet and pay the respective new Fees directly to HKEx-IS.
13. For the avoidance of doubt, EPs who are also IVs, EUs or IVs' Subscribers are also required to submit the Information Sheet through IVs but the Fees shall be declared and paid under the applicable BSS Monthly/Quarterly Declaration Form. For those EPs who do not have OG-BSS connection should report and pay through their IVs. However, EPs who **only** source real-time HKEx data from OG-BSS connection for non-display usage do not need to submit the Information Sheet.
14. IVs shall ensure that each of their datafeed services Subscribers have submitted the Information Sheet to HKEx-IS; otherwise, IVs are required to report and pay the new Fees for their Subscribers.

15. HKEx-IS allows IVs, EUs and IVs' Subscribers claiming back over-paid Fees if they obtain multiple datafeed services and pay the Fees to different IVs. However, no refund shall be made if the IVs and IV's Subscribers fail to submit the Information Sheet within 3 months from the launch of the Policy or for new IVs' Subscribers or new EUs, within 3 months from the service start date.
16. HKEx-IS also reserves the right to request the IVs to cease the supply of datafeed/datafeed services to the Subscribers who fail to submit or to update the Information Sheet.

On-site Inspection

17. Please be reminded that HKEx-IS has the right to inspect the premises, internal systems and records of the IVs, EUs and any Subscribers who have subsisting contract with the IVs in order to establish that they are in full compliance with the Vendor/End-User Agreement. Further, HKEx-IS has the right to charge Subscriber Fees and Individual Fees together with interest if HKEx-IS establishes, by whatever means, the market data is being used outside of the permitted scope.

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HKEx-IS reserves the right to change any information in this Guiding Note at any time without prior notice.

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HKEx-IS