

Guiding Note on Non-Display Usage (for Real-time Licensed Information Vendors and End-Users)

PURPOSE

The policy for Non-Display Usage of HKEX real-time market data (**the Policy**) has taken 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 non-display usage fees as a type of **Subscriber Fees** (or *Individual User Fees for Licensed End-Users*) (**the NDU Fees**). This Guiding Note aims to provide the details and reporting requirements under 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 system or indirectly from direct connection IVs; (ii) **Licensed End-Users** (EUs) who receive HKEX market data directly from HKEX market data system or indirectly from Application Service Providers (ASPs); (iii) IV's **Subscribers** who receive HKEX market data from IVs, will be subject to the NDU 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 NDU Fees are HK\$20,000 and HK\$10,000 per firm¹ per month for securities 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 tradable product. The NDU Fees are HK\$20,000 and HK\$10,000 per firm¹ per month for securities market data and derivatives market data respectively.
 - (iii) **Others** - Any other *real-time* non-display data usage that does not fall under categories (i) & (ii) is subject to the NDU Fees of HK\$400 and HK\$150 per firm¹ per month for securities market data and derivatives market data respectively. **Exchange Participants (EPs) are exempted from this "Others" fee category as follows:**
 - EPs of The Stock Exchange of Hong Kong Limited (SEHK EPs) are exempted from this "Others" fee category for securities market data;
 - EPs of The Hong Kong Futures Exchange Limited (HKFE EPs) and/or EPs of The SEHK trading Stock Options (SEHK Options Trading EPs) are exempted from this "Others" fee category for derivatives market data.

¹ Per firm means per each individual company.

Unit of count – per firm

2. The NDU Fees will be charged at per firm level. IVs, EUs, IVs' Subscribers are liable to pay the NDU Fees based on the non-display usage category². For example, if an IV's Subscriber uses both 1.(i) and 1.(iii) of the securities market data, this IV's Subscriber should pay HK\$20,400 per month (HK\$20,000 + HK\$400). If this IV's Subscriber is also a SEHK EP, the fee would be HK\$20,000.

For the avoidance of doubt, the NDU Fees are not applicable to natural person therefore individuals would not be subject to the NDU Fees.

Multiple data sources - Single fee for non-display usage

3. IVs, EUs, IVs' Subscribers who pay the respective NDU Fees for non-display usage are entitled to use multiple sources of datafeed services subscribed from HKEX or from different IVs/ASPs. For example, if an EP accesses HKEX real-time market data from HKEX market data system 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 paying the NDU Fees for the relevant category once for the month.

Waivers for EPs for "Others" category

4. EPs are exempted from the NDU Fees of category "1.(iii) Others" of non-display usage as aforementioned, regardless of whether they source the real-time data from HKEX market data system or IVs/ASPs. Most EPs are using real-time securities 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 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 matters

5. The NDU Fees are only applicable to real-time data, 15-minutes delayed market data is not subject to NDU 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 datafeed³ or level of content being used, the same NDU Fees will be charged on non-display usage.
7. As the NDU Fees are charged per firm, for non-display usage by the related companies of the IVs, EUs, IVs' Subscribers, separate NDU Fees will be applicable.

Service Application

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

8. IVs who plan to provide 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 Licence Agreement (Vendor Agreement). IVs should submit Form A3 to HKEX-IS one month prior to the launch of the service for consideration. IVs with existing datafeed services for non-display usage are also required to submit Form A3 for MOPP updates.

² The firm accessing and using real-time market data for non-display usage would be charged on a firm level, regardless of the number of non-display applications involved.

³ Except for OMD D-Lite, where the monthly flat fee for D-Lite includes the NDU Fees.

EUs who plan to use HKEX market data for non-display usage

9. EUs who plan to 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 – MOPP of the Market Data End-User Licence Agreement (End-User Agreement). EUs should submit Form E3 to HKEX-IS one month prior to the launch of the service for consideration. 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 and/or non-display purposes, datafeed providers details 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 NDU Fees to HKEX-IS through this designated IV. All parties who have direct contract with HKEX-IS, i.e. IV or EU, should submit the Information Sheet and pay the respective NDU Fees directly to HKEX-IS.
13. 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 NDU Fees for their Subscribers.
14. IVs and EUs should report also the names of the firms which have accessed and used real-time market data for non-display usage in the monthly Detailed Subscriber/Individual User Report so as to differentiate the usage firms.
15. HKEX-IS allows IVs, EUs and IVs' Subscribers claiming back over-paid NDU Fees if they obtain multiple datafeed services and pay the NDU 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/ ASPs to cease the supply of datafeed/ datafeed services to the Subscribers/ ASPs' clients 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 User Fees together with interest if HKEX-IS establishes, by whatever means, the market data is being used outside of the permitted scope.

For more information, please send email to NonDisplay@hkex.com.hk.