

Business Issues Policy and Procedure Standardization (BIPPS)
Best Practice Recommendation - Version 1.1
Delay Intervals, Subscriber Agreement and Unit of Count
March 14, 2005 (terms and definitions updated November 2015)

Description of Issue and Initiative:

A recurring issue among the members of FISSD is the desirability of uniformity in Information Provider and Vendor administrative policies and procedures. The need to administer and comply with the policies and procedures for over 100 exchanges and numerous Vendors and other Information Providers constitutes a significant burden on the market data industry. Reduction of this “tax” can be beneficial for all the constituencies represented within FISSD. Increased uniformity would save resources for all parties and would reduce consumers’ and distributors’ exposure related to inadvertent non-compliance with the myriad of requirements and policies without undermining the commercial interests of Information Providers. In fact, a reduction in non-compliance would be welcomed by exchanges and other Information Providers as it would help ensure appropriate revenue recognition, augment cash flow, and reduce compliance costs (e.g., audits).

To encourage uniformity, FISSD membership has undertaken the development of best practice guidelines for Information Provider and Vendor market data policies in four key areas. This document is being promoted to Information Providers and Vendors globally, seeking their cooperation and buy-in, as well as providing them with an implementation path. While global adoption of these recommendations is the ultimate goal, an initial step is to have the BIPPS recommendations adopted by a substantial portion of the North American and European Information Providers and in place by June 2005.

The BIPPS activity focuses on three key policy areas:

- 1) Exchange data delay intervals – Many Information Providers specify a delay period after which their market data is not fee liable. These delay requirements vary across Information Providers. More uniformity in delay intervals will ease the technical and administrative burden on Vendors and their Subscribers.
- 2) Unit of Count – Uniform definitions of the reportable and billable units that Subscribers and Vendors must report to their Information Providers would streamline the administration process for Vendors and Information Providers and reduce the risk of inadvertent non-compliance with reporting and payment rules.
- 3) Subscriber Agreement streamlining – Many Information Providers require distributors to obtain Information Provider-specific subscriber agreements with each of their third-party Subscribers prior to initiating service. The proposal is that less burdensome standards be adopted across Information Providers.

These three areas constitute basic building blocks for Information Providers’ market data distribution policies and procedures. Once these fundamental recommendations have been widely promoted and accepted, the working group intends to develop best practice recommendations for other areas related to market data distribution.

General:

To the extent that Information Providers must amend their Vendor and Subscriber agreements in order to adopt these Best Practice Recommendations, it is recommended that neither Information Providers nor Vendors use the amendment as an opportunity to renegotiate the established distribution agreements.

Definition of Relevant Terms:

"End-user" - A natural person that a Subscriber, a Vendor, or a Sub-Vendor permits to receive Information.

“Subscriber” – An entity that receives Information from an Information Provider, either directly or via a Vendor, for the purposes of using it internally. Distribution of the Information within the Subscriber may be controlled by the Subscriber or a Vendor.

“Vendor” - An organization receiving the Information from an Information Provider for the purpose of redistributing the Information to third-parties as part of value-added services. Terms like “re-distributor: and “distributor” are also used to identify this type of organization although the usage and definitions may not be consistent across providers and vendors.

“Information Provider” - Any organization that creates and/or disseminates Information that can be redistributed. Examples include, but are not limited to, exchanges, news wires, analysis services, and credit ratings agencies.

Best Practice Recommendation - Exchange Delay Interval:

Information Providers that allow free access to their information if it has been systematically delayed should require a delay interval that is (1) 20 minutes or less and (2) a multiple of five minute intervals - i.e., either 5, 10, 15, or 20 minutes.

Working Group Comments:

The general sense of the working group is that the imposition of any significant systematic delay (five minutes or more) on real-time market data renders it an inadequate substitute for real-time data. As such, a majority of the group believes that even the vast majority of Information Providers that currently require delay intervals of 15 or 20 minutes could reduce those intervals without incurring any erosion of their real-time revenues. Nonetheless, the group recognizes that its views are not shared by all Information Providers and has chosen 20 minutes as an appropriate cap on the recommended delay intervals. It is hoped that, over time, Information Providers will come to agree that their delay intervals can be reduced without risk (reducing the number of distinct delay intervals) and subsequent versions of this best practice recommendation could reflect a lower cap. The working group does NOT recommend that Information Providers that have delay requirements less than 20 minutes raise their requirement to meet the 20 minute recommendation.

Best Practice Recommendation - Unit of Count:

The standard unit of count for the measurement, pricing, and reporting of traditional market data usage should be the End-user.

Information Providers are asked to support the recommendation in their pricing structures and policies and offer reporting, billing and administrative arrangements that permit traditional market data usage to be recorded, reported and paid for on an End-User basis.

Working Group Comments:

- Use of user ID/password combinations (or other biometric methods of uniquely identifying an End-user) as the basis for End-user reporting is recommended provided that the distributor does not permit simultaneous access by different End-users through a single user ID.
- Acceptable approaches to simultaneous access situations include (1) Denying the log-in attempt of a user ID that is already logged-in to the system on another device, (2) Terminating the earlier session for a user ID if that user ID opens a second session, (3) Recording, reporting, and paying for all logged-in sessions in instances where simultaneous access has occurred and (4) Demonstrating that End-users have strong business incentives not to share access information (e.g., corporate prohibitions against the behavior or User ID sharing would disclose proprietary information about the End-user's trading activity or holdings).
- If a distributor is only able to track and report its subscribers' usage on a display device basis, using display device as a surrogate for End-user is recommended.
- This recommendation applies to any given instance of a single market data distributor providing market data access to an End-user. It does not extend to situations where an End-user is receiving market data access from multiple distributors.

Best Practice Recommendation – Subscriber Agreements:

To reduce the administrative burden on themselves, Vendors, and Subscribers, Information Providers should offer simpler subscriber agreement requirements:

- 1) In lieu of a direct agreement between the Information Provider and the Subscriber, Information Providers should permit a Vendor's subscriber agreement to protect the Information Provider, provided that the subscriber agreement includes language that protects the Information Provider and its intellectual property to the same degree as it protects the Vendor and its intellectual property.

Recommendation #1 is considered to be optimal by the working group. The working group recognizes that some Information Providers, particularly those that bill subscribers directly for their market data usage, and some vendors may not be able to adopt the recommendation. As a result, the working group makes the following two recommendations for instances where the administration of a Information Provider-specific subscriber agreement is still required:

- 2) Information Providers that require subscriber agreements should develop or identify an existing consolidated subscriber agreement that can be executed once by each subscriber firm and covers all Information Providers and vendors. In instances where a Information Provider requires that a separate agreement be executed, the Information Provider should strive to make the language of that agreement as similar to industry standards as possible.

AND

- 3) Electronic execution (i.e., "click-through) of the consolidated subscriber agreement should be permitted for all types of subscribers. The process of electronic execution should be simple, consisting of the entry of (a) Subscriber's identifying information, (b) the execution date, and (c) a click or other action that indicates the subscriber's affirmation that they have read and agree to the terms of the agreement. Steps (a) and (b) could be pre-populated by the Vendor.

The Vendor must be able to maintain a legally-documentable historical record of which subscriber executed which version of the agreement, and when it was executed. The working group is not making any representation regarding the enforceability of an electronically executed agreement in any legal jurisdiction.

Working Group Comments:

- Adoption of any of these recommendations by a Information Provider should not trigger re-administration of subscriber agreements for existing subscribers taking data through their current Vendors.
- The adoption of Recommendation #1 is particularly emphasized for delayed data.
- Examples of potential models for standard subscriber agreement language are the U.S. futures exchanges Uniform Subscriber Agreement (USA) and the Securities Industry Association's Electronic Access and Trading Agreement.
- These recommendations apply to both professional and non-professional agreements.
- Full adoption of recommendation #2 may require the establishment of a central utility and repository that would support:
 - Electronic execution of consolidated subscriber agreements;
 - Submission of executed hardcopy consolidated subscriber agreements in instances where electronic execution may not be permitted;
 - Vendor and Information Provider queries on whether a Subscriber had executed a consolidated agreement
- A Subscriber should be provided with the option of executing a hardcopy agreement.