



FISD Best Practice Recommendation for Derived Data Version 2.1 – November 2015

Introduction:

A critical issue for Information Providers, data distributors, and data consumers is the policy treatment for Derived Data products that use Information Provider information. A Working Group comprised of FISD members representing all member constituencies, has created these definitions and Best Practice Recommendations (BPR) to assist the market data industry in addressing the issues associated with these types of usage. These definitions and recommendations leverage earlier work done by the FISD’s Business Issues Policy and Practice Standards (BIPPS) Group.

The Working Group recognizes differences of opinion regarding certain aspects of this issue. This BPR represents the collaborative work of the members of the working group. It should not be assumed that it represents the contractual or policy approach of any FISD-member Information Provider.

This document is an initiative sponsored by the Financial Information Services Association of the SIIA (FISD), whose members include leading participants in all segments of the global market data industry, to improve the creation, use and understanding of Derived Data among market participants.

Definition of Relevant Terms:

“Subscriber” is 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.

“Information” is the data that is made available by the Information Provider.

“Information Provider” is any organization that creates financial information content that can be redistributed. Examples include, but are not limited to, exchanges, news wires, analysis services, and credit ratings agencies.



"Derived Data" consists of pricing data or other information that is created in whole or in part from the Information and that cannot be (1) readily reverse-engineered to recreate the Information or (2) used to create other data that is a reasonable facsimile for the Information. While the Working Group recommends consistency in terminology whenever possible, it notes that "Derived Data" is also referred to by certain Information Providers as "New Original Works" and "Original Created Works".

"Vendor" is any 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.

Note that an entity may act in multiple roles among those defined above: Information Provider, Vendor, and Subscriber.

	Issue	Recommendation
1.	Policies for data of different levels of timeliness	It is appropriate for Information Providers to have different policies or commercial approaches for data of different levels of timeliness (i.e., real-time vs. delayed vs. end-of-day). Such policy differences could reflect the differences in value and administrative treatment among the different types of data.
2.	Direct contractual, administrative, and billing relationships between Information Providers and Subscribers	Information Providers that have policies for Derived Data, especially if those policies require judgment calls by the Information Provider, should implement direct contractual, administrative, and billing relationships with the Subscribers who are creating the Derived Data. Information Providers should work with Subscribers to ensure there is a clear understanding of their policies. While Vendors may still participate in the communications process, it is impractical to expect intermediaries, like Vendors, to apply Information Providers' policies in scores of diverse usage situations.



3.	Communication of Policies	<p>To the extent permitted under relevant law, Information Providers should consult with Subscribers and Vendors prior to introduction of new policies and consider their feedback in their final policies. New policies should be vetted with the FISD Consumer and Data Vendor Constituent Groups and other similar industry groups sufficiently in advance of introduction.</p> <p>To the extent permitted under relevant law, consultation periods should provide adequate time for Vendors and Subscribers to review and comment on the new policies, and for the Information Providers to consider any comments and potentially incorporate them into their final policies. The time elapsed during a consultation period should not be considered part of the notice period between final announcement of a new policy and its implementation.</p> <p>Information Provider policy documents, pricing schedules, and contracts should strive to be clear, consistent, complete, and easy to understand. Vendors, Subscribers, and other interested industry participants should have easy access to these materials via a mainstream source (e.g. Internet website access) including a history of prior policies. Where the creation of Derived Data (e.g., creation of financial products or indices) is subject to the Information Providers' separate approval, the administrative process, pricing, and contractual terms for obtaining such approval should be clear, transparent and non-discriminatory (to the extent permitted by law).</p> <p>Vendors and Subscribers receiving communications from Information Providers should be pro-active and timely in trying to understand the communication and its full implications. (continued)</p>
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		<p>Information Providers should work with Vendors to notify Subscribers of any policy change.</p> <p>When changing or introducing new policies for Derived Data, Information Providers should provide adequate notice periods by following suggested recommendations included in Section 9 of the FISD’s <i>“Best Practice Recommendations on Market Data Service Levels, Response Times and Communication Procedures”</i>.</p>
4.	Consistent and transparent policy interpretation by Information Providers	<p>Information Providers should be consistent and transparent in the judgments that they make regarding whether a particular type of data transformation creates Derived Data.</p> <p>Whenever an Information Provider makes a determination that a particular type of data transformation is (or is not) Derived Data, or what can (or cannot) be done with Derived Data, it should make this interpretation public through its website and other policy communications. This disclosure should use examples whenever possible without divulging any proprietary information about a particular Vendor or Subscriber.</p>



5.	Ownership of Derived Data	<p>The Vendor or Subscriber that creates the Derived Data should be acknowledged as the owner of the Derived Data although the Information Provider may require the Vendor or Subscriber to license the use of underlying Information to create and/or distribute the Derived Data. Intellectual Property rights on the Derived Data usage, storage and dissemination should be clearly defined in the contract.</p>
6.	Contractual Requirements on downstream recipients of Derived Data	<p>Vendors that create Derived Data from an Information Provider's Information should not be required to administer Information Provider-required Subscriber Agreements with the downstream third-parties to whom they provide the Derived Data.</p> <p>The third-party receiving the Derived Data should track and manage usage for its own purposes only. There should be no obligations or responsibilities for third-parties receiving Derived Data to adhere to terms in the contract of the original Information Provider. Vendors' and Subscribers' only obligations to the Information Provider should be those expressly stated in contract.</p>