

Audit Guideline to the Market Data Dissemination Agreement of Deutsche Börse AG

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1 Orientation Guide

1.1 Introduction

The Audit Guideline is binding part of the Market Data Dissemination Agreement and, therefore, basis for the Information Usage by Contracting Parties, Affiliated Companies, Sub-Vendors, Subscribers, Displaying Parties as well as Service Facilitators. In accordance with the provisions of the Market Data Dissemination Agreement the term Information Usage is to be construed broadly und shall include the unauthorized as well as the erroneous onward dissemination of or entitlement to Information.

By signing the Market Data Dissemination Agreement the Contracting Parties of Deutsche Börse AG have agreed to examinations of their Reporting and accounting documents as well as their technical equipment relevant to the Reporting. The Audit will be performed by an Audit Team which consists of employees of Deutsche Börse AG and/or third parties instructed by Deutsche Börse AG. The Contracting Parties of Deutsche Börse AG shall further inform their respective Subscribers and Affiliated Companies of Real-time Information as well as their Service Facilitators about the possibility of the performance of an Audit and commit them to cooperate during such an Audit.

This Audit Guideline informs about principles, procedure and conclusion of an Audit.

Regarding the defined terms used in this Audit Guideline the definitions in Section 2 of the "General Terms and Conditions to the Market Data Dissemination Agreement of Deutsche Börse AG" shall apply.

1.2 Target of an Audit

The purpose of an Audit is to examine the correct remuneration for the Information Usage by Contracting Parties, Affiliated Companies, Sub-Vendors, Subscribers, Displaying Parties as well as Service Facilitators. The aim is further to identify potential sources of error as well as to cure potential errors in order to ensure a correct and efficient Reporting in the future.

1.3 Performance of an Audit

During an Audit the following issues will be examined:

- § Product range;
- § Cooperation between the Contracting Party and Deutsche Börse AG;
- § the Entitlement Systems and all administrative and technical proceedings connected therewith, e.g. the creation and the storage of the Audit Trail and other Entitlement protocols;
- § the Information Usage by Subscriber as well as Service Facilitators and their cooperation with the Contracting Party of Deutsche Börse AG and Deutsche Börse AG itself;
- § Reporting procedure (Honesty Statement/Entitlement Protocols); and/or
- § Onward dissemination to further data providers (Sub-Vendors).

All systems and departments, which are incorporated into either the technical or the administrative implementation of the Information Usage, shall be analyzed in the course of the Audit under the aspect whether a correct Reporting in accordance with the provisions of the Market Data Dissemination Agreement is possible.

As a rule, the Audit takes place at the Contracting Party's place of business. However, an Audit may also be performed at a Subscriber of Real-time Information and/or a Service Facilitator.

Within the course of an Audit it may become necessary that documents and/or electronic data files are to be analyzed at Deutsche Börse AG's site or at the site of the third party that is instructed to conduct the Audit, as the case may be.

2 Audit Principles

2.1 Support by the Contracting Party

In order to enable an efficient performance of the Audit the Contracting Parties of Deutsche Börse AG are obliged to cooperate and to support the Audit.

This includes, in particular, that during the business and trading hours of Deutsche Börse AG the Audit Team has access to the internal data collection systems and any data files and documentation needed. This also includes, for example, the Audit Trails and further Entitlement Protocols in electronic form as well as the existing Honesty Statements. The Audit Team shall be entitled to analyze on site relevant electronic data files with its own computer programs and systems. Deutsche Börse AG may conduct the Audit either as an On-site Audit or, in whole or part, as a Remote Audit and shall for that purpose be entitled to request from the Contracting Party the delivery of the relevant documents and/or electronic data files for the purpose of a review and analysis at the site of Deutsche Börse AG or the third party instructed to conduct the Audit. After the analysis and the closing of the Audit concerned Deutsche Börse AG will upon request return such documents and electronic data files to the Contracting Party.

2.2 Frequency

If possible every Location of the Contracting Party shall be audited approximately every two years on a routine basis (Regular Audit); however, this shall not exclude more frequent Regular Audits. Moreover, Extraordinary Audits can be performed. The necessity of an Extraordinary Audit shall be in the reasonable discretion of Deutsche Börse AG, taking the legitimate interests of the Contracting Party into account. Reasons for an Extraordinary Audit are, for instance, inaccurate information on the Information Usage, discrepancies in Reporting, delayed or incomplete reports, or the material deterioration of the Contracting Party's asset situation.

2.3 Timeframe

An Audit will generally be conducted 30 days after it has been announced. The Contracting Party can refuse for justifiable reasons to have the Audit conducted on the announced Audit Date within 15 calendar days after receiving notification. Such a refusal may only be made a maximum of two occasions. The third Audit Date announced by Deutsche Börse AG must be accepted by the Contracting Party.

If the Contracting Party refuses to permit the Audit to be carried out on the Audit Date announced after the 15-calendar-day deadline, it shall reimburse Deutsche Börse AG in full for any costs (in particular travel and accommodation costs as well as expenses and the remuneration of the Auditors which cannot be cancelled) incurred due to the late cancellation. Deutsche Börse AG reserves the right to later on assert further claims in accordance with the Market Data Dissemination Agreement.

In the case of Extraordinary Audits, Deutsche Börse AG can shorten the lead time and/or reject a refusal of the Audit Date by the Contracting Party for justifiable reasons.

After the announcement of an Remote Audit Deutsche Börse AG may for justified reasons switch to an On-site Audit at any time without the need for a new Audit announcement. In the event of the announcement of an On-site Audit Deutsche Börse AG may switch in whole or part to a Remote Audit at any time.

2.4 Costs

The costs of an Audit will generally be borne by Deutsche Börse AG.

If an Extraordinary Audit is being carried out for an important reason, the Contracting Party shall, contrary to the first sentence of this clause, be obliged to bear the costs of the Audit (in particular travel and accommodation costs, additional expenses as well as the remuneration of the Auditors).

Should an Audit reveal that the fees which actually have to be paid for the period audited exceed the fees for this period calculated from the Reporting or other notifications submitted by the Contracting Party by more than 10 percent, all the costs of the Audit shall also be borne by the Contracting Party of Deutsche Börse AG.

The Contracting Party of Deutsche Börse AG shall also bear additional costs, if any, which Deutsche Börse AG has to incur within the frame of an Audit because the Contracting Party is not duly complying with its cooperation duties and has, for instance, not made the necessary preparations for the Audit provided for in Sections 3.1 and 3.2 or has delayed the provision of further documents, information or data files requested by the Audit Team.

2.5 Confidentiality

All books, records and systems inspected in the course of an Audit and all necessary Audit Work Papers will be treated by Deutsche Börse AG and the Auditors instructed by Deutsche Börse AG as strictly confidential. Deutsche Börse AG hereby warrants that the external Auditors whom it instructs have signed a declaration enjoining them to the same confidentiality obligations as Deutsche Börse AG is subject to in accordance with the Market Data Dissemination Agreement.

2.6 Audits at Subscribers of Real-time Information or Service Facilitators

Under the Market Data Dissemination Agreement, the Contracting Parties shall commit their Subscribers of Real-time Information and their Service Facilitators to grant the Audit Team access to all documents and technical equipment relevant for the Reporting.

The stipulations of this Audit Guideline apply to Audits at Subscribers of Real-time Information or Service Facilitators mutatis mutandis. However, the following special rules shall apply:

- § The Contracting Party shall bear those costs of an Audit at an Affiliated Company, a Subscriber of Real-time Information or a Service Facilitator, as the case may be, which are to be reimbursed according to Section 2.4 if the latter are not prepared to bear the costs by themselves.
- § In the course of an Audit at a Subscriber of Real-time Information or a Service Facilitator, as the case may be, Deutsche Börse AG shall be obliged to maintain confidentiality in accordance with Section 2.5 even vis à vis the Contracting Party. However, Deutsche Börse AG shall be released from this confidentiality obligation as far as this release is necessary for an assertion of payment and other claims against the Contracting Party.

The Contracting Party shall take care that its Subscribers of Real-time Information or Service Facilitators, as the case may be, comply with the cooperation duties vis à vis Deutsche Börse AG which derive from the application of this Audit Guideline.

3 Audit Procedure

3.1 Preparation

As soon as an Audit has been announced by Deutsche Börse AG to the party to be audited, the following issues are to be arranged by the latter:

- § The party to be audited shall make available for the entire Audit Period at least one competent employee for all Audit related matters. That employee shall be available for the Auditors during normal business hours;
- § The party to be audited shall at the beginning of the Audit make available all documents relevant for the period audited;
- § Sufficient logistic resources, e.g. offices, staff, records and equipment, shall be made available for the duration of the Audit;
- § The Audit Team shall have sufficient access to relevant staff of the party to be audited in order to analyze, discuss and clarify varying interpretations of the Market Data Dissemination Agreement on site;
- § The party to be audited shall ensure access to all Locations and rooms affected by the Audit as well as to the technical equipment, in particular the electronic Entitlement Systems and the data stored therein.

3.2 Relevant Documentation and Data Files

The documentation and data files relevant for the Audit shall, in particular, include:

General:

- § The agreements which the Contracting Party is using for its contractual relationship with its customers (agreements with Sub-Vendors, Vendor Service Agreements, order forms and other forms, Honesty Statements, etc.);
- § Description of the technical and administrative measures for the compliance with the Reporting obligation under Section 14.1 of the "General Terms and Conditions to the Market Data Dissemination Agreement of Deutsche Börse AG";
- § Description of the systems used for the onward dissemination of Information;
- § Description of Non-Display Information Usage;
- § The latest business report of the Contracting Party (as far as available).

Regarding the onward dissemination of Information to Subscribers:

- § Technical specifications of the Entitlement Systems employed;
- § Documents regarding the electronic Entitlement;
- § Vendor Service Agreements, Click-on-Agreements;
- § Honesty Statements and the documentation regarding the checks of their correctness;
- § Complete electronic excerpt from the Entitlement Systems for the Audit Period announced.

Regarding the onward dissemination of Information to Sub-Vendors or Displaying Parties:

- § Description of the technical and administrative measure for the Entitlement, including the activation and deactivation of Information Products of Deutsche Börse AG;
- § Applications "Sub-Vendor Application Form to the Market Data Dissemination Agreement of Deutsche Börse AG"/"Declaration of Displaying Party Form to the Market Data Dissemination Agreement of Deutsche Börse AG" approved by Deutsche Börse AG;
- § Agreements with Sub-Vendors/Displaying Parties;
- § Complete electronic excerpt from the Entitlement Systems for the Audit Period announced.
- § Complete list of all URLs (own ones as well as Displaying Party URLs) and Information Products entitled per each URL.

In case of Audits of Subscribers of Real-time Information or Service Facilitators, as the case may be:

- § Description of the technical and administrative measures for the tracking of the Information Usage by Users as well as the processes for the reporting of that Information Usage to the Contracting Party of Deutsche Börse AG;
- § Description of the Entitlement of Users;
- § Description of all kind of Information Usages applied by the Subscriber of Real-time Information or Service Facilitator concerned;
- § Agreements with Service Facilitators;
- § Description of Non-Display Information Usage;
- § Description of the use of back-up systems and the consideration thereof in the Reporting of the Contracting Party of Deutsche Börse AG;
- § Honesty Statements and description of the process implemented thereto;
- § Complete electronic excerpt from the Entitlement Systems for the Audit Period announced.

The party to be audited should promptly cooperate with Deutsche Börse AG in order to enable the Audit to be planned and conducted in an efficient manner. This enables both parties to save resources.

4 Closing of the Audit

4.1 Closing Statement

In a Closing Statement, the Audit Team shall inform the party audited about the preliminary results of the Audit and the issues which still need to be clarified. If necessary the Audit Team will provide the party audited with a to-do list regarding the issues to be clarified which is to be settled by the party audited. The Audit Team may set a deadline for the settlement of the to-do list. In case of a failure to comply with this deadline without a valid excuse the Audit Report will be prepared on the basis of the information and documents available until the deadline. Regarding the issues outstanding upon expiry of the deadline Deutsche Börse AG will have the rights according to Section 14.1 third and fourth sentence of the "General Terms and Conditions to the Market Data Dissemination Agreement of Deutsche Börse AG".

4.2 Audit Report

The Audit Team will record in a written Audit Report the results of the Audit as well as the requirements and recommendations resulting from the Audit. The Contracting Party may give feedback on the Audit Report within a deadline of 30 days which can be extended upon well-founded reasons. Should the Contracting Party not provide feedback within this deadline, the results of the Audit as set down in the Audit Report shall be considered to be undisputed facts and shall be used as the basis for the Audit Settlement. If the Contracting Party raises objections to the Audit Report at a later date, the Contracting Party shall have the full burden of proof.

Missing documents or electronic data files, as the case may be, by which the Reporting data provided to Deutsche Börse AG could be evidenced as well as a lack of cooperation by the Contracting Party will also be noted in the Audit Report. Subject to further sanctions under the Market Data Dissemination Agreement both can lead to Extraordinary Audits and/or Audits of further locations of the Contracting Party of Deutsche Börse AG as well as of Subscribers of Real-time Information and/or Service Facilitators.

If the Contracting Party makes a statement on the Audit Report, Deutsche Börse AG shall take justified comments into account for the Audit Settlement.

4.3 Follow-up

If the Audit reveals material shortcomings of the Reporting which result in an incorrect assessment of the remuneration for the Information Usage and which cannot be remedied immediately those shortcomings will be addressed in the Audit Report. In addition thereto, the Contracting Party will set a deadline within which the shortcomings are to be remedied. The Audit Team of Deutsche Börse AG will examine the timely remedy of the shortcomings within the following Audit at the latest. The rights of Deutsche Börse AG in case of an incorrect Reporting (e.g. in Sections 14.1 and 14.8 of the "General Terms and Conditions to the Market Data Dissemination Agreement of Deutsche Börse AG") shall remain unaffected by the setting of the deadline.

4.4 Audit Settlement

A potential claim for additional remuneration deriving from the Audit Report will be invoiced to the Contracting Party by Deutsche Börse AG. Upon complete payment of that invoice Deutsche Börse AG will certify the completion of the Audit in a Closing Letter. The completion of the Audit refers the period audited and the Locations audited during the Audit. In case of outstanding follow-ups within the meaning of Section 4.3 at the time of issuing the Closing Letter the completion of the Audit will be made subject to the settlement of all outstanding follow-ups.

4.5 Closing of Audits at Subscribers of Real-time Information or Service Facilitators

In the Closing Discussion the Audit Team will discuss with the audited Subscriber of Real-time Information or Service Facilitator, as the case may be, whether it agrees to a direct settlement of the Audit. If so the Audit Report will be issued to the Subscriber of Real-time Information or the Service Facilitator, as the case may be, and the provisions for the closing of the Audit in Sections 4.2 to 4.4 shall apply mutatis mutandis. If the Subscriber of Real-time Information or the Service Facilitator, as the case may be, does not agree to a direct settlement or does not completely settle a claim for additional remuneration the Audit Report will be provided to the Contracting Party with a 30-days-deadline for comments thereon and a claim for additional remuneration, if any, will be invoiced to the Contracting Party.

In the event of material deviations between the reported and the actual Information Usage by a Subscriber of Real-time Information or a Service Facilitator, as the case may be, Deutsche Börse AG shall be entitled to make the further supply of Information to the relevant Subscriber of Real-time Information or Service Facilitator, as the case may be, depended on the conclusion of a direct Market Data Dissemination Agreement with the relevant Subscriber of Real-time Information or Service Facilitator, as the case may be.