



## Cboe Data Services, LLC ("CDS") Index Data - Market Data Policies

Reference ID: C2021021200

Unless otherwise stated, these Market Data Policies ("Policies") supplement and explain all versions of agreements (each hereinafter, the "Agreement") in which CDS or one of its affiliates grants rights to receive, use and/or distribute index values ("Data"), including without limitation, the following:

- *Customer Agreement - Index Values*
- *Customer Agreement - Index Values (For Television Display Only)*

Capitalized terms not defined in these Policies are defined in the Customer Agreement or Fee Schedule. The Customer Agreement signed by a Customer (as amended from time to time) shall govern any conflict with these Policies, except that a provision in these Policies or any viable contract document that grants new Customer rights or reduces Customer obligations shall prevail over other contract documents until it is terminated or the provision is expressly amended.

### Definitions

The following defined terms are hereby incorporated into the Agreement:

"Affiliate" or "affiliate" means, with respect to an entity, another entity that, directly or indirectly controls, is controlled by, or is under common control with it, where control means the power to direct or cause the direction of the management or policies of an entity, whether through the ownership of voting securities, by contract, or otherwise.

"Non-Professional" or "non-professional" means a natural person that uses Data only for non-commercial personal purposes, that is NOT: (i) registered or qualified in any capacity with the Securities and Exchange Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, any commodities or futures contract market or association, or registered or qualified with an equivalent foreign regulatory entity or trading market; (ii) engaged as an "investment adviser" as that term is defined in Section 202(a)(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act), or engaged in similar activities outside the United States; or (iii) employed by a bank or other organization exempt from registration under Federal, state or foreign securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt.

"Professional" or "professional" means all other persons or entities who do not meet the definition of Non-Professional.

## **Data Privacy (This Section 2 shall be effective May 15, 2021)**

This Section 2 incorporates into the Agreement, standard contractual clauses and related information pursuant to Directive 95/46/EC (as implemented by Commission Decision 2004/915/EC), applicable to the transfer of personal data by a Subscriber acting as a controller in the European Economic Area (“EEA”) to CDS acting as a controller outside the EEA. For purposes of this Section 2, the “**standard contractual clauses**” are as stated in the Annex to Commission Decision 2004/915/EC, as may be amended, supplemented, or replaced from time to time by the European Commission. The terms “**data subject,**” “**personal data,**” “**sensitive data,**” “**controller,**” “**data exporter,**” “**data importer**” and “**processing**” each have the meanings given in the standard contractual clauses.

In order for CDS to perform its obligations in accordance with agreements with providers of Data distributed by CDS under the Agreement, Subscriber may be required to provide CDS with personal data concerning natural person representatives and users of Data. To the extent that personal data includes information about individuals who are located in the EEA, and CDS stores or otherwise processes such personal data outside of the EEA (other than in a country which is deemed by the European Commission to have an adequate level of protection by reason of its domestic law or of the international commitments it has entered into), the parties agree that the provisions in the standard contractual clauses shall apply and are hereby incorporated into the Agreement.

Pursuant to the standard contractual clauses, CDS and Subscriber are each acting as a controller when processing for its own purposes, personal data of Subscriber’s representatives and natural person users of Data located in the EEA. Further, Subscriber and each of its Affiliates are acting as a data exporter when transferring such personal data from inside the EEA to CDS for processing outside of the EEA, and in this circumstance CDS is acting as a data importer.

As a data importer, CDS will process personal data of Subscriber’s natural person representatives and users of Data located in the EEA in accordance with the [Cboe Privacy Notice and Policy](http://www.cboe.com/legal/privacy) (<http://www.cboe.com/legal/privacy>) and the Data Processing Principles set forth in Annex A of the standard contractual clauses. In connection with its processing of such personal data, CDS provides the following related information as required by Annex B of the standard contractual clauses:

- 1. Data subjects** The personal data transferred concern the following categories of data subjects:  
Subscriber’s natural person users of Data located in the EEA
  
- 2. Purposes of the transfer(s)** The transfer is made for the following purposes:
  - a. To permit CDS to fulfill reporting and other obligations required by agreements with providers of Data distributed by CDS;
  - b. To permit CDS to process, implement and administer Agreements with Subscribers;
  - c. To permit CDS to exercise audit, review, and other rights pursuant to Agreements with Subscribers; and
  - d. To comply with regulatory requirements.

**3. Categories of data** The personal data transferred concern the following categories of data:

Contact information provided by Subscriber for its representatives and users of Data, such as name, title, mailing address, e-mail address, phone number; and information provided by Subscriber and/or obtained from public sources, such as employer name, nature of employment, professional licenses and/or certifications and other information regarding whether Data is used for personal or business purposes, to be used to classify a Data user for billing purposes.

**4. Recipients** The personal data transferred may be disclosed only to the following recipients or categories of recipients:

CDS and/or its affiliates' personnel and authorized service providers.

**5. Sensitive data** (if appropriate) The personal data transferred concern the following categories of sensitive data: N/A

**6. Data protection registration information of data exporter** (where applicable): N/A

**7. Additional useful information** (storage limits and other relevant information): N/A

Pursuant to the standard contractual clauses, Subscriber may conduct one audit of CDS's records in any rolling twelve-month period without charge by CDS. To the extent Subscriber conducts additional audits in the same twelve-month period, Subscriber shall reimburse CDS for any reasonable costs that are incurred by CDS in connection with such additional audits.

The terms of the standard contractual clauses shall supersede any conflicting terms in the Agreement. The standard contractual clauses shall terminate if and when the Agreement expires, is terminated, or CDS offers an alternative transfer mechanism for transfers of personal data.

Any inquiries concerning CDS's processing of personal data may be sent to [dataprotection@cboe.com](mailto:dataprotection@cboe.com).

### **Distribution of Data to Print News Publishers**

A Customer that has a standard Customer Agreement in place with CDS may, if it has secured CDS's prior approval, distribute Data to a "Print News Publisher" for publication in "Print News Media" without paying Quotation Services Fees. Print News Publishers are not considered Subscribers under the Customer Agreement, so a Subscriber Agreement (as described in the Customer Agreement) between the Customer and a Print News Publisher is not required. Distribution to approved Print News Publishers should be omitted from monthly reporting, however a Customer must identify Print News Publishers to which it provided Data upon request. "Print News Media" means a bona fide newspaper, newsmagazine or other news publication of general circulation that is published on a regular schedule solely in paper form, and a "Print News Publisher" is a publisher of Print News Media. Print News Publishers are not permitted to distribute Data in electronic form pursuant to this Section 3.

## **Distribution of Data via Password-Protected Websites**

A Customer that has a standard Customer Agreement in place with CDS may provide access to current Data to internal and/or external individual users via a password-protected website if: (a) access is controlled by a system that limits access to authenticated Authorized Users (such as granting access only to users who enter a unique ID and password combination recognized by the system); (b) each external user enters into a Subscriber Agreement with the Customer; and (c) the Customer treats each individual who has access to its website at any point during a given monthly period as an Authorized User for purposes of reporting and payment of fees. Monthly reporting must include a count of all Authorized Users who had credentials to access the website (a valid ID and password or other means of access) during the subject month. No other means of website distribution of current Data is permitted.

## **Distribution of Data via Elevator Display Devices**

A Customer that has a standard Customer Agreement in place with CDS may distribute delayed Data via electronic display devices located in elevators, provided: (a) Data is accompanied by a note that Data is delayed; (b) the Customer tracks, reports and pays applicable fees to CDS for the number of elevators that display the delayed Data. Distribution of Data via display devices that are not located inside of an elevator enclosure serving two or more floors of a building is not distribution of Data via an elevator display Devices permitted pursuant to this Section 5. A display located in an elevator is considered a Mobile Device receiving a Delayed Quote Service for purposes of reporting (see Section 10) and fees.

## **Distribution of Data via Automobile Display Devices**

A Customer that has a standard Customer Agreement in place with CDS may distribute delayed Data via electronic display devices located inside automobiles intended for passenger use, including automobiles for hire. Distribution of delayed Data via screens located in buses, trains or other means of mass transit is not permitted pursuant to this Section 6. A display located in an automobile is considered a Mobile Device receiving a Delayed Quote Service for purposes of reporting (see Section 10) and fees.

## **Requirements for Use of Service Facilitators**

A third-party service company that interacts with Subscribers or prospective Subscribers while assisting a Customer and/or its Affiliates (as defined below) in the sale, administration or distribution of current Data (regardless of access to Data) is acting as a Service Facilitator and must be identified and authorized in a Service Facilitator Rider to an CDS Customer Agreement. Customers using Service Facilitators are subject to the annual Service Facilitator Fee (per Service Facilitator) specified by CDS from time to time. A Service Facilitator may not make any use of Data for its own business purposes and is only permitted to sell, administer and/or distribute Data on behalf of Customer to the same extent as a Customer is permitted pursuant to its CDS Customer Agreement.

A third-party service company is not a Service Facilitator if it provides services to a Customer and/or its Affiliates in connection with their internal use or distribution of Data but does not interact with any Subscribers or prospective Subscribers. For example, a service company that develops or maintains Data distribution software that does not interact with Subscribers is not a Service Facilitator. A natural person

independent contractor retained by a Customer to assist in conducting its business is also not a Service Facilitator. A service company or independent contractor that is not a Service Facilitator may be given limited access to Data to the extent reasonably required to provide the subject services without notifying or seeking permission from CDS, but in no event may a Data feed be directed to the offices of any such service company or independent contractor.

CDS's determination as to whether or not a third-party service company is acting as a Service Facilitator shall be conclusive to the extent it is not inconsistent with the terms of the CDS Customer Agreement and such CDS policies and procedures as may exist from time to time. Contact CDS with any questions.

For purposes of these Policies and the Customer Agreement, the terms "Affiliate" or "Affiliates" means, with respect to an entity, another entity that controls, is controlled by, or is under common control with it, where control means the direct or indirect power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities (or other ownership interest), by contract, or otherwise.

### **Uses for Which Quotation Service Fees are Waived.**

Devices used by Customer and its Affiliates and their Subscribers solely for business continuity/disaster recovery, record retention/back-up/archiving, employee surveillance/monitoring, and to entitle or transmit Data to Devices/Authorized Users within a Subscriber computer network are not subject to the Quotation Service Fees as described the Fee Schedule. In addition, Devices used by a Customer and its Affiliates solely to conduct the business of distributing the Data (including without limitation, Devices that are used for product development and product demonstration purposes) are not subject to the fees described in the Fee Schedule. Devices and Authorized Users should not be included in monthly reporting due to involvement in the foregoing uses, but Customers must provide counts and information about these uses upon request.

With the prior approval of CDS on a case by case basis, a Customer and its Affiliates may provide current and/or delayed Data to a Subscriber on a trial basis for a period of up to thirty (30) days. Approved trials are not subject to Quotation Service Fees and should not be included in monthly reporting. A reduced or waived fee arrangement is not available for educational purposes.

### **Enterprise Fee Arrangement**

Any entity within an affiliated group of entities may enter into a Customer Agreement as an Enterprise Fee Customer, but use and distribution under an Enterprise Fee arrangement is limited to registered broker-dealers, investment advisers, investment banks and similar financial services providers ("Enterprise Entities"). Use by all Affiliates qualifying as Retail Enterprise Entities and their brokerage and advisory clients is covered under a Retail Enterprise Entity Fee and use by all affiliated Institutional Enterprise Entities and their brokerage and advisory clients is covered under a separate Institutional Enterprise Fee. The requirements of the Options Price Reporting Authority (OPRA) must be used in determining whether the accounts of each Enterprise Entity are for Professional or Non-Professional clients. Enterprise Fee Customers must report each Affiliate receiving Data as either a Retail Enterprise Entity, an Institutional Enterprise Entity or a non-Enterprise Entity as described below in Section 10.

### **Authorized User/Device Count, and Other Reporting**

Customers must provide information regarding use and distribution of current and delayed Data to enable CDS to determine applicable fees and verify compliance with the Customer Agreement. Some information must be provided on a periodic basis and other information must be provided upon request. Reports must be made for each month (or part thereof) during which a Customer or one of its Affiliates had access to current or delayed Data, within 15 days after the end of the month. Reports should be made using the online reporting system or other method approved by CDS. Contact CDS for instructions and information.

Monthly reports must account for all Authorized Users and/or Devices of the Customer and its Affiliates (internal), and Authorized Users and/or Devices of Subscribers of the Customer and its Affiliates (external) that had access to current and delayed Data during the subject month. Monthly Customer reporting should not cover Sub-Vendors or Extranet Service Providers to whom a Customer distributes Data, since these parties must have a market data distribution agreement directly with CDS and will have corresponding reporting and fee obligations directly to CDS.

Reporting requirements vary based on the type of CDS Data service being provided to/by the Customer and/or its Affiliates, and on the manner by which the Customer desires to have fees calculated. Most fees that apply to internal use or external distribution are billed monthly based on Customer reports, however annual fees apply to each Customer that distributes Data externally to Subscribers or other third parties, that distributes delayed Data via an open website, or that employs Service Facilitators. Use of Service Facilitators and distribution of delayed Data via an open website must be reported to CDS annually in advance.

Customers that provide individual index value quotations via a current Quotation Service (sometimes referred to as "Snapshot Quotes") can be billed based on the total number of quotes provided during the month (sometimes referred to as "Usage-based") or on a fixed monthly fee based on Authorized User/Device count. Monthly reporting for Usage-based billing must show the total number of current quotes. The fees applicable to a delayed Quotation Service are based on the number and type of Devices that had access, so monthly reports must show Device counts with a separate total for Mobile Devices (smart phones, tablets and portable computers) and Terminals (all other types of Devices).

Monthly reporting for current Quotation Service billing based on Authorized User/Device count must indicate the total number of Authorized Users/Devices which had access to Data. Fixed monthly fee reporting for a current Quotation Service must be based on number of Devices (not Authorized Users) that had access to Data during the subject month unless the relevant entitlement system satisfies the requirements stated below in Section 11. Reports can include a mixture of Usage-based and Authorized User/Device count information, as long as all use is accounted for. Customers should not include nonfee liable Authorized Users or Devices in monthly reporting but must provide counts and information about these uses upon request.

In addition to monthly reporting, all Customers must provide relevant information upon request. Commonly requested information will include the names and addresses or other unique identifiers of Subscribers and third-parties to which Customer has distributed Data, and the names and addresses of Authorized Users that received current Data (no address information is needed for Customer employees).

On January 1 of each year beginning in 2018, Enterprise Fee Customers must report the name and address of each Retail Enterprise Entity, Institutional Enterprise Entity and non-Enterprise Entity with which Data will be shared. Enterprise Fee Customers must provide an updated Report in advance of sharing Data with new Affiliates and upon CDS's reasonable request. No monthly reporting is required regarding Authorized Users and/or Devices covered by an Enterprise Fee (notwithstanding anything to the contrary in this Section 10), however Enterprise Fee Customers who provide information about the number and percentage of accounts that traded S&P 500 Index options and VIX Index options ("SPX and VIX Trade

Reporting") may be entitled to use and share Data with clients for a reduced Enterprise Fee.

Customers that distribute Data for display in automobiles or elevators must provide monthly reports showing the number of display screens authorized to display Data at any time during the subject month, and upon request provide information to allow CDS to verify the accuracy of reported information and compliance with the Agreement (such as the location and owner of reported displays). The requirements described in this Section 10 also apply to Customers providing Data via Hosted Solutions, subject to the further requirements in Section 13 of these Policies.

### **Datafeed Controls Required for Authorized User or Usage-Based Reporting**

Customers may only report Authorized User/Device counts to CDS based on a count of Authorized Users (for purposes of determining applicable Quotation Service Fees) if the subject Customer and/or Subscriber Datafeed Controls include a computerized system that: (a) limits access to authenticated Authorized Users (such as granting access only to users who enter a unique ID and password combination recognized by the system); (b) maintains records showing which Authorized Users were entitled to access Data during any given time period; and (c) is configured to preclude simultaneous access to Data by the same Authorized User on more than one Device.

Customers may only report Usage-based counts to CDS (for purposes of determining applicable Quotation Service Fees) if the subject Customer and/or Subscriber Datafeed Controls include a computerized system that maintains a verifiable record of each time a Snapshot Quote is provided to an Authorized User or Device.

Where access to Snapshot Quotes is not controlled by a computerized system meeting the requirements for Authorized User counts or Usage-based reporting, a Customer must provide monthly reporting based on all Devices that had access to Data during the subject monthly period.

### **Refunds and Credits**

Any potential billing errors relating to fees assessed by CDS must be brought to the attention of the Accounting Department within 90 days from the invoice date. After 90 days, all fees assessed shall be deemed final and non-refundable. CDS is not precluded from assessing fees more than 90 days after they were incurred if those fees were required to be paid pursuant to the CDS Fee Schedule in effect at the time the fees were incurred.

### **Distribution of Data via Hosted Solutions**

A Customer that has a standard Customer Agreement in place with CDS may operate a service that displays current or delayed Data on a "per quote" or "per inquiry" basis. If the service is administered by the Customer on behalf of a third-party sponsoring entity (a customer of Customer) and it clearly and prominently identifies the Customer, it is considered a "Hosted Solution" and no contract between the sponsoring entity and CDS is required (even if the service is directed to non-employees of the sponsoring entity). A Hosted Solution can be directed to employees and/or non-employees of the sponsoring entity. A framed page (administered by the Customer) that is included in a sponsoring entity's website is an example of a Hosted Solution.

Customers must obtain CDS's approval before providing a Hosted Solution to each new sponsoring entity. Customers are responsible for all CDS reporting and fees. In addition to the reporting required for purposes of determining Quotation Service Fees (as described in Section 10 of these Policies), the monthly reporting of Customers providing Hosted Solutions must include the total number of sponsoring entities that received a Hosted Solution service. Where current Data is provided, Customer must maintain records identifying each Authorized User. Upon request, Customers must provide the name and address or other unique identifier of all sponsoring entities, and the names and addresses for individuals who received current Data quotes (no address need be provided for employees of a sponsoring entity).

Hosted Solution fees apply, per sponsored entity, to distribution of current and delayed Data. Hosted Solution services that provide access to current Data must be controlled by a computerized entitlement system that satisfies the requirements of Section 11 of these Policies. The Customer must require that each third-party user with access to current Data has a Subscriber Agreement in place.

The operation of a system for external distribution of Data on behalf of an entity that does not qualify as a Hosted Solution is considered Data distribution by the sponsoring entity (i.e., the party who is legally responsible to Data recipients), and a Customer must confirm that such entity has a market data distribution agreement in place with CDS prior to operating such a system for the entity.

### **Fees Applicable to TV Display of Current Data**

A Customer that has a Television Display Customer Agreement in place with CDS may distribute current and/or delayed Data via a passive scrolling or ticker display on cable, satellite or television broadcast, for which it must pay the Annual Administrative Fee (payable by all Customers that distribute Data to third parties) and the Current Data Display Fee (payable per "broadcast feed"). A broadcast feed is news programming that is produced for television display. The same or substantially the same broadcast feed (i.e., the same or substantially similar content) is considered to be a single broadcast feed for purposes of calculating the Current Data Display Fees due, regardless of whether it is distributed via multiple technologies (cable, satellite, on-air, etc.) or made available on multiple television channels. The Annual Administrative Fee is charged once regardless of the number of broadcast feeds on which current Data is displayed. For example, if a Customer displays current Data on three broadcast feeds (as defined above) the Customer would pay an annual amount based on one (1) Annual Administrative Fee, plus three times (3x) the Current Data Display Fee. An Annual Administrative Fee paid pursuant to standard Customer Agreement will also cover the Annual Administrative Fee due under the Television Display Customer Agreement, and vice versa.

### **Extranet Service Providers are Customers**

Extranet Service Providers, like all persons and entities that distribute Data outside their organizations, are Customers of CDS and must have an Agreement in place, and among other obligations are subject to reporting requirements and applicable fees.

### **Underlying Data Providers Included in Customer Indemnification**



Service providers that assist in the calculation and/or distribution of index Data, providers of data used to calculate index Data and providers of index values or other information included in index Data are hereby added to paragraph 11(a) of the *Customer Agreement – Index Values* and paragraph 10(a) of the *Customer Agreement – Index Values (For Television Display Only)* in order that such providers are protected to the same extent as CDS.

## **Additional Information**

Please contact the Cboe Operations Support Center (“OSC”) for technical questions. Market data questions can be directed to the Cboe Index Data Group.

We appreciate your business. Our trading community inspires and drives our mission of defining markets.

### **Cboe Operations Support Center**

312.786.7642

[indexsupport@cboe.com](mailto:indexsupport@cboe.com)

### **Cboe Index Data Group**

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