

Best Practice Recommendations on the Market Data Audit Process

and [Appendix A](#) *Letter of Engagement*

A. Overview

The Best Practice Recommendations are intended to set out in general terms a minimum standard of good practice and cooperation between the parties to an audit. The Best Practice Recommendations outlines the obligations, responsibilities and expected behaviors of both the Audited Party and the Content Provider. They are based largely on the practical experience of exchange, vendor, and consumer representatives. For experienced audit teams, they contain nothing new. However, observance of the practices set out in the document would significantly increase the confidence in the audit process and set a basic standard of consistency and efficiency for the industry.

This document was produced by the FISD Audit Working Group. The FISD Audit Working Group is composed of individuals representing a diverse spectrum of FISD member firms including exchanges, vendors, consultants and consumers. The document and particularly the recommendations contained in the document represent a consensus resulting from significant discussion and debate among the Working Group members. It should not be inferred that all FISD members (nor even all FISD Audit Working Group members) are in agreement with all recommendations nor should it be inferred that any particular FISD member is currently employing each of these recommendations in its policies and/or contracts. The Audit Best Practice Recommendations, including the Appendices A and B will not infringe or override any existing rights or obligations. The Best Practice Recommendations recognize that contractual terms relating to data audits may vary considerably.

The Audit Best Practice Recommendations are entirely voluntary, and Content Providers and Audited Parties reserve all rights available to them under existing contracts.

References or correspondence relating to the process of audit set out in this document shall not be represented or construed as any form of statutory audit opinion or regulatory activity on the part of the Auditing Party.

It is important to note that the Best Practice Recommendations apply across an extremely wide spectrum of audits from international Vendors to single site consumer firms. They are not intended to be a detailed prescription or audit program. In some cases Auditing Parties/Auditors and Audited Parties may wish to plan greater levels of detail or tighter time frames than the document contains. They may also wish to record their agreement via some form of Service Level Agreement. This would be entirely consistent with the aims of the Best Practice Recommendations. In other cases the level of detail contained in this document, or its suggested reports, may be deemed inappropriate. Where this is the case,

the underlying principles on which the Best Practice Recommendations are based should still apply.

In the context of this document, best practice means that the contractual purpose of the audit is achieved with reasonable care, maximum efficiency and minimum disruption to all parties.

The Best Practice Recommendations shall also apply to any third parties involved in the audit process.

B. Glossary of Terms

Auditor - The organization or individual that conducts an audit – either the **Content Provider** or a **Third-Party Auditor** acting on its behalf.

Audited Party - The organization or individual that contracts or subscribes to receive the Information and is being reviewed by the **Auditor**.

Content Provider - Any organization that disseminates **Information** that can be redistributed. Examples include, but are not limited to, exchanges, newswires, analysis services, and credit ratings agencies.

Information -The data that is disseminated by the **Content Provider**.

Third-Party Auditor - An organization or individual that conducts an audit on behalf of a **Content Provider**.

C. Principles of Best Practice

1. Overall Audit Approach

All audit process participants should provide adequate support and co-operation to enable the audit to be conducted efficiently, in a timely manner and with reasonable care to ensure full compliance with the contractual obligations.

2. Confidentiality

Confidentiality should extend to each and ALL parties involved in the audit process. All books, records and systems inspected in the course of an audit and all audit work papers should be regarded by ALL parties as strictly confidential.

Content and discoveries from an audit SHOULD NOT:

- be used by the Content Provider or designated representative for any purpose other than the purpose of the audit,

- be circulated within the Content Provider except for audit review and administrative purposes,
- be disclosed to any third-party (unless they are parties to the contract or their consultants), including the audit representatives of any other Content Provider, nor
- be disclosed by a Third-Party Auditor to any other Content Provider represented by the same Auditor, without the prior written permission of the other party concerned.

3. Audit Purpose

The audit purpose is to verify compliance with contract obligations and policies. In particular, the examination of the correct remuneration for the Information entitled and the identification of potential sources of error as well as the cure of potential errors. This involves verification and assessment of controls over Information at client sites.

4. Audit Frequency

An Audited Party should not be audited by the Content Provider more frequently than once per year unless there is cause as determined by the Content Provider in accordance with the contractual provisions between the parties. More frequent audits may be performed at the reasonable discretion of the Content Provider taking into account the legitimate interests of the Audited Party.

5. Audit Period

Typically, the audit period covers three years but this may differ depending on the contractual rights of the Content Provider. Depending on the contractual rights of the Content Provider, the Audited Party may be expected to make available all documents relevant for the audit period.

In the course of an audit the Auditor should not review any prior audit period, as defined in a previous audit report issued by the Content Provider, unless extraordinary circumstances apply.

6. Audit Policy Publication

The Content Provider should have an audit policy and should have a contractual basis to maintain transparency. The audit policy of the Content Provider should be:

1. publicly available, i.e. on a website;
2. simple, clear and unambiguous; and
3. communicated to customers that hold direct agreements, notifying them of changes.

Prior to an audit, the Content Provider should provide the Audited Party with a summary of the contractually-supported policy changes that have occurred since

the last audit of the Audited Party.

7. Audit Consolidation

A Content Provider may combine audit activities to reduce the burden on Audited Parties. This may be accomplished through:

1. standardizing pre-audit and onsite activities;
2. shared usage of Third-Party Auditors provided confidentiality is observed.

8. Audit Training and Preparedness

All participants involved with the audit process should be well trained, knowledgeable and well prepared in handling their respective roles in a timely fashion.

9. Third-Party Audits

Content Providers may employ Third-Party Auditors to conduct the audit on their behalf. Content Providers should provide ready and reasonable access to its own personnel before, during, and after the audit so that issues related to policy and contract interpretation can be resolved.

10. Audit of Vendor's Redistribution

Where the right exists contractually, the Content Provider may exercise the right to conduct audits of a Vendor's redistribution to downstream customers in accordance with the contract.

Review of access declarations or Vendor reporting documents may assist in selection of these client sites for audit visits. Any sites selected for visits by the Content Provider should be notified in advance, where possible. The Vendor should assist with identification of the appropriate contact(s) at each client site. In addition, the Vendor should assist with communication between Content Provider and Vendor's downstream customer when no direct contract exists between these latter two parties.

D. Preparation

1. Prior Notice

Content Providers reserve the right to audit at the minimum notice periods as specified per contract, but Best Practice Recommendations may require longer notice periods to allow for effective audit planning and preparation.

Typically advance notice for audits is 30 days. A longer notice period for example up to 120 days may be considered in extenuating circumstances. Content Providers may audit at shorter notice where there is reason to suspect material non-compliance or by agreement between the parties.

The Content Provider should consider reasonable concerns expressed by the Audited Party over specific firms and/or individuals engaged or employed by the

Content Provider. In extenuating circumstances, a Content Provider should be prepared to enter discussions and reasonably consider the requests of an Audited Party regarding firms and/or individuals proposed to conduct the audit.

2. Audit Planning

All participants to the audit should co-operate in a planning process (e.g. by exchange of correspondence and/or meetings) to ensure that:

- the period, timing, product(s) scope and location(s) subject to audit are identified on a best endeavors basis and reasonable;
- all records necessary for the audit are identified and made available for inspection;
- adequate resources and time are allowed for the audit by both the Audited Party and the Auditors;
- the Auditors will consider the operating needs and requirements of the Audited Party during the planning process;
- the Letter of Engagement (see sample in Appendix A) should communicate to the Audited Party a copy of the latest contract or policy;
- the location of relevant records and systems is identified;
- the Auditors has sufficient access to relevant staff of the Audited Party and any necessary data;
- audit enquiries and pre-audit information requests are promptly addressed;
- procedures for closing the audit are communicated.

The pre-audit information collected should be analyzed prior to the audit providing this was received in a timely fashion.

Appendix A provides additional guidance and suggestions regarding pre-planning for the audit.

E. On Site

1. Cooperation

All Participants to the audit should co-operate in the on site audit to ensure that:

- all records necessary for the audit are identified and made available for inspection;
- adequate resources and time are allowed for the audit by both the Audited Party and the Auditors;
- the Auditors will consider the operating needs and requirements of the Audited Party during the audit process;
- any further work identified in the course of the audit as necessary to investigate areas of potential exposure is discussed and arranged as soon as possible;
- areas of possible contract interpretation differences are identified and discussed.

2. Audit Queries

The Auditor and the Audited Party should attempt to resolve audit queries on site. Unresolved queries or resulting follow up items may be dealt with as described in Section F-1 below.

3. Audit Findings

The Auditor should present audit findings with supporting documentation. The lack of documentation may not indicate a reporting error, but may constitute a failure to comply with the terms of the Content Provider's agreement.

The Auditor should disclose and include the following:

- documentation to support audit findings;
- if applicable, lack of cooperation or documentation by the Audited Party;
- preliminary estimation of the audit findings.

If an Audited Party fails to cooperate or does not provide adequate documentation, the Auditor may request:

- additional information,
- validation tests,
- client site visits,
- termination of the contract, and/or
- impose further sanctions pursuant to the contract.

The Auditor and the Audited Party should work together in good faith to resolve any differences in opinion arising from the audit and in any cases where there is evidence of non-compliance but the loss to the Content Provider cannot be clearly quantified. Any liabilities and/or credits calculated as a result of an audit should be in accordance with the contract.

4. Exit Meeting

The Auditor and the Audited Party should discuss the audit findings to:

- summarize preliminary findings and current issues outstanding;
- provide a preliminary view of audit recommendations;
- obtain feedback from the Audited Party on audit findings and recommendations;
- establish an approach and time-frame for resolving outstanding issues;
- propose a time-frame in which audit results are communicated.

The auditor should provide the Audited Party with the following:

- a list of outstanding items;
- source of the documents that support audit findings.

The Auditor may set a deadline for the settlement of the to-do list. In case of failure to comply with this deadline without valid reason(s) the audit findings report may be prepared on the basis of the information and documents available

at the deadline.

F. Audit Results and Reports

1. Audit Follow-up Process

The audit follow-up is typically a multi-step process. Generally the Auditors will follow an on-site visit with questions and requests for additional information and verification from the Audited Party.

2. Audit Report

Assuming all issues outstanding at the exit meeting are resolved in a timely fashion, it may be possible to issue an audit report within three months of the site exit meeting. This report should typically include the following:

- audit findings, deliverables, and recommendations;
- deviations from the terms of the agreement and policies;
- responses or summary responses from representatives of the Audited Party.

The Audited Party may give feedback on the audit report within a deadline as agreed between the parties. Should the Audited Party not provide feedback within the agreed deadline, the results of the audit as set down in the audit report may be considered to be undisputed facts and can be used as the basis for the audit settlement.

3. Audit Settlements

Fee liable audit findings settled by the Audited Party should be regarded as the final settlement for the Content Provider for the agreed audit period, locations and applications as defined in the audit report.

Where a Content Provider has reason to believe there are discrepancies in reporting and requests an additional audit, this should be supported by an indication of material discrepancies and / or contract violations. This may include the audited party failing to provide sufficient access to or demonstration of applications and / or relevant requested documentation for example permissioning reports. This should, where possible, be included in an audit findings report.

- **Audited Party under reporting**

The period of liability for under payments discovered during an audit should be equal to the period as agreed between the Audited Party and Content Provider prior to the commencement of the audit.

- **Audited Party over reporting**

When an audit identifies that the Audited Party has been over-reporting its usage of a Content Provider's information across the agreed audit period, the Content Provider may take into consideration any and all relevant information from the Audited Party in conjunction with its own contractual and policy provisions regarding over-reporting and retro-active reporting changes.

4. Closure

The Content Provider and the Audited Party should exchange communication to signify that the audit is closed.

APPENDIX A

SAMPLE-Announcement or Letter of Engagement

Dear [consumer contact],

As provided for in our contract with you and defined by our audit policy (see: link) please accept this as notification of your market data audit review.

The audit review will cover the period beginning XX/XX/XXXX and ending YY/YY/YYYY and will cover all users supplied with our data by [consumer] or any subsidiaries of [consumer]. The audit will include review of the following systems and products:

We have provided a description of our Unit of Count methodology... [auditor attaches relevant documentation, includes reference to relevant documentation, or link to web site].

The following reports are requested to be submitted:

A listing of substantive changes incorporated in your market data systems since our most recent audit on mm/dd/yy

During our time onsite, we will require discussions with personnel who can explain:

- your company background, specifically in relation to market data
- how your company uses our data
- the system from which users and third-party distributors are supplied with our data
- the systems utilized to report users supplied with our data, including technical schematic/diagram of these systems, if available

We may need to view documents and screen prints to verify the outcome of the above discussions, and will also need access to a computer fully permissioned with your products. A demonstration of your entitlement system, with the opportunity to carry out appropriate permissioning tests [auditor insert sample list of tests] will also be required.

We will need to see:

- a full listing of all users supplied with our data (including all external customers, internal users and any free trials), differentiated by product, covering the entire audit period and identifying any users excluded from this listing
- a list of re-vendors of our data
- a list of subsidiaries and any third-party software developers supplied with our data
- a copy of the most recent report(s) that you sent to us stating the users that you are supplying with our data
- a copy of any datafeed access declarations produced for market data vendors over the audit period (if applicable)
- a relevant sample of your customer invoices and/or billing reports

- details of all products carrying our data (e.g. terminals, datafeeds, hand held devices, alert system, etc.), with demonstrations where possible, showing how our data is displayed/utilized

- any diagrams/schematics you can provide showing, for example, departmental overview, system architecture, etc. (electronically if possible), with relevant contact details and company annual report if available

The above list of reports, systems, and products is not intended to be exhaustive. Variations to the list of requested reports will reflect the audit undertaken.

It would be helpful if as much of this information as possible is prepared in advance of the audit and the current user list(s) can be run close to [final period of the audit], in Excel if possible.

I will be accompanied by the following individual(s): and would anticipate being with you at 09.30 on the morning of [date]. Your designated point of contact within the exchange is

_____.

Please do not hesitate to contact me if you have any queries concerning the above or any other aspect of the audit.

Regards.