



# Non-Display Information Usage 2022

Guidance Note for Customers V1\_1

7 September 2021



## New Non-Display price model based on entitled devices to distinguish low usage (entry) versus broad utilization in large institutions (unlimited)

### Non-Display Model 2022

Deutsche Börse AG (DBAG) has adjusted the licence model for Non-Display Information Usage (NDIU) within its Market Data Dissemination Agreement and Non-Display Agreement **effective 1 January 2022**

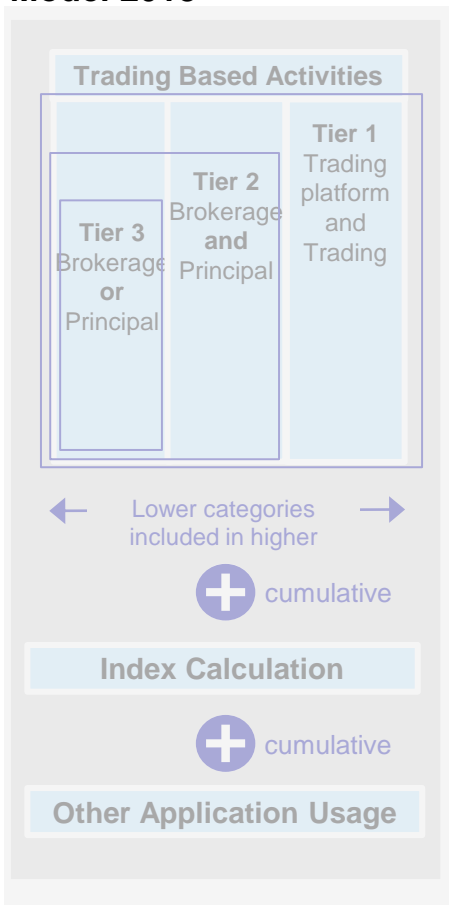
### Customer Guidance Note

- **This document gives further guidance for customers** relating to the licensing categories for NDIU
- This **document** does not form part of the Market Data Dissemination or Non-Display Agreements of **Deutsche Börse AG**
- The **examples listed for the different categories are not exhaustive** and the fact that a specific example is not listed does not automatically mean that it is not subject to the NDIU licensing requirements
- Where a customer is unsure about licensing requirements or where a specific use case is not listed in this document, **customers should contact Deutsche Börse AG to clarify any questions**

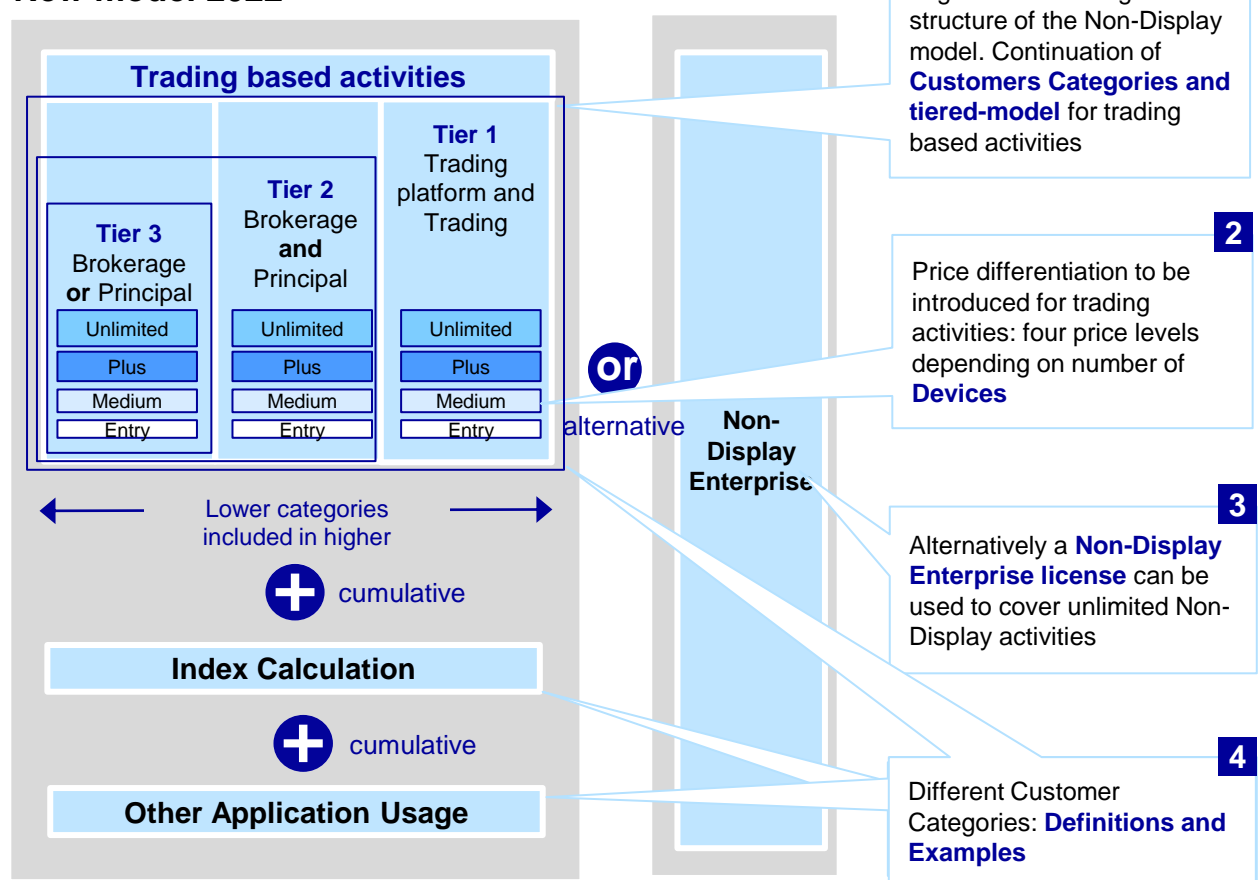
# New Non-Display price model based on entitled devices to distinguish low usage (entry) versus broad utilization in large institutions (unlimited)

## Non-Display Information (NDIU) Licence

### Model 2018



### New model 2022



# The Non-Display Licence Fees are billed on the basis of Customer Categories which are determined through the intended scope of use



Non-Display Usage	Customer Categories with intended scope of use	Non-Display Fees
<p><b>1.1</b></p> <p><b>Trading Activities</b></p>	<ul style="list-style-type: none"> <li>▪ <b>(i)</b> Trading as Principal or Brokerage (Tier 3, lowest level)</li> <li>▪ <b>(ii)</b> Trading as Principal and Brokerage (Tier 2) and</li> <li>▪ <b>(iii)</b> operating one or more Trading Platform(s) (Tier 1, highest level)</li> </ul> <p>Fees for trading based activities are determined by a tiered model: Each higher level includes the Usage of the previous level and billing will be rendered based on the relevant tier.</p>	<p>Non-Display Licence Fees apply:</p> <ul style="list-style-type: none"> <li>▪ <b>once per Contracting Party and its affiliates</b></li> <li>▪ <b>per licensed Information Product</b></li> <li>▪ <b>per Customer Category</b></li> <li>▪ <b>in € per month</b></li> </ul>
<p><b>1.2</b></p> <p><b>Other Activities</b></p>	<ul style="list-style-type: none"> <li>▪ <b>(iv)</b> Index Calculation</li> <li>▪ <b>(v)</b> Other Application Usage</li> </ul>	

# The remuneration of the Non-Display Licences applicable for trading based activities depends on the number of Devices



**New Unit of Count**      **Unit of Count Device counts the scope of Non-Display usage**      **Number of Devices**

<p><b>2.1</b></p>	<p><b>Definition “Device”</b></p>	<ul style="list-style-type: none"> <li>▪ Device means any terminal, application, platform and/or other system or device capable of accessing, receiving, processing, displaying and/or otherwise using the Information.</li> <li>▪ Each set of login credentials (e.g. Access ID) that enables a Device access to the Information, is regarded as one Device.</li> <li>▪ If a Device has the ability to access the Information multiple times simultaneously, each instance, i.e. each simultaneous access possible, should be counted as a Device.</li> </ul>	<p>Remuneration</p> <ul style="list-style-type: none"> <li>• for Trading based activities <b>depends on the number of Devices</b></li> <li>• For other activities <b>an unlimited usage is offered, regardless of the number of Devices</b></li> </ul>
<p><b>2.2</b></p>	<p><b>Categories Devices</b></p>	<p>Number of Devices are subdivided in four price levels:</p> <ul style="list-style-type: none"> <li>▪ <b>(i)</b> Entry: 1-5 Devices</li> <li>▪ <b>(ii)</b> Medium: 6-10 Devices</li> <li>▪ <b>(iii)</b> Plus: 11-30 Devices</li> <li>▪ <b>(iv)</b> Unlimited: more than 30 Devices</li> </ul>	

# Alternatively to fees based on Devices a lump-sum is available, which comprises all Customer Categories



Lump Sum	Non-Display Enterprise Licence	Fee Model
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<p><b>3.1</b></p>	<p><b>Usage Scope</b></p>	<p>The lump-sum licence fee 'Non-Display Enterprise' comprises the Non-Display Information Usage of all Customer Categories for the Information Products listed below with unlimited scope of use.</p>	<p>Remuneration:</p> <ul style="list-style-type: none"> <li>• <b>Declaration of the number of Devices is not required.</b></li> </ul>
<p><b>3.2</b></p>	<p><b>Non-Display Enterprise License</b></p>	<p>Non-Display Enterprise Licence is offered for:</p> <ul style="list-style-type: none"> <li>▪ Xetra®</li> <li>▪ Eurex®</li> <li>▪ STOXX®-Indices</li> <li>▪ Deutsche Börse Indices and Xetra® ETF</li> <li>▪ Volatility Indices</li> <li>▪ EEX® Power &amp; Others</li> <li>▪ EEX® Gas</li> <li>▪ BSE India Sport Market</li> <li>▪ BSE India Currency and Interest Rate Derivatives</li> <li>▪ BSE India Debt Market</li> </ul>	

# Description of all Non-Display activities to identify relevant Licences



Non-Display Usage	Trading based and other activities	Guidance
4.1	<b>Tier 3: Trading as Principal or Brokerage</b>	This Customer Category addresses Trading as Principal (proprietary trading activities) or Brokerage (customers facilitation activities)
4.2	<b>Tier 2: Trading as Principal and Brokerage</b>	This Customer Category addresses Trading as Principal (proprietary trading activities) and Brokerage (customers facilitation activities)
4.3	<b>Tier 1: Trading Platform</b>	Non-Display Information Usage for the purpose of the operation of trading platforms and/or systematic internalization, including but not limited to multilateral trading facilities (MTF), organised trading facilities (OTFs) or comparable alternative trading systems.
4.4	<b>Index Calculation</b>	The Customer Category Index Calculation refers to the Non-Display Information Usage for the purpose of administration including calculation and dissemination of indices / benchmarks.
4.5	<b>Other Application Usage</b>	When licensing this category, Contracting Party is entitled for Non-Display Information Usage for other purposes than trading based activities and/or Index Calculation.

Upcoming pages provide

- additional **clarity and transparency** on different Non-Display activities
- **Examples** listed for each Non-Display Customer Category
- **Questions** of borderline with other Non-Display areas



## Trading based activities: Tier 3 - Trading as Principal or Brokerage

### Definition

4.1

Tier 3 of the Non-Display Licence Fee applicable for Trading Based Activities requires the selection of either Trading as Principal or Brokerage as a licence:

a) Internal Non-Display Information Usage is for the **sole purpose of trading-based activities as principal** and with no customer business facilitation, i.e. acting in one's own name and for one's own account (Trading Firms/ Proprietary Trading)

**or**

b) Internal Non-Display Information Usage is for the **sole purpose of trading-based activities to facilitate customer business**, i.e. acting on behalf of another person's name and for another person's account or acting in one's own name and for another person's account (Brokerage Firms)

### Guidance

- **Trading as principal means** acting in one's own name and for one's own account i.e. trading against proprietary capital resulting in the conclusion of transactions
- **Brokerage means** acting on behalf of another person's name and for another person's account or acting in one's own name and for another person's account i.e. trading to execute orders on behalf of customers
- **Related activities typically include** e.g. automated or semi-automated order/quote generation, algorithmic/program/"black-box" trading, market making, smart order routing and automated execution, order management or automated quoting and trading of financial derivatives
- **Market making** is considered to be trading as principal
- **Smart Order Routing** is considered to facilitate customer business
- **Other trading based activities** might be used for both purposes, trading as principal and brokerage

DBAG Information **used for automated trading activities for only one purpose – Trading as Principal or Brokerage**

### What is not covered?

- Non-Display Information Usage which is not trading-based activity (see Index Calculation or Other Application Usage)
- Non-Display Information Usage by trading platforms such as exchanges, MTFs, OTFs, alternative trading systems and systematic internalization systems (see Tier 1)
- Trading based activities for both purposes – Trading as Principal and Brokerage (see Tier 2)



## Trading based activities: Tier 2 - Trading as Principal and Brokerage

### Definition

4.2

The Customer Category Trading as Principal refers to proprietary trading activities (i.e. trading in own name and for own account; “Trading as Principal”). The Customer Category Brokerage refers to brokerage activities (i.e. trading in another’s name for the account of others or trading in own name for the account of others (brokerage business); “Brokerage”). Tier 2 of the Non-Display Licence Fee applicable for Trading Based Activities includes the licence for both, Trading as Principal and Brokerage.

The Non-Display Licence Fees for Tier 2 include the fees for Tier 3.

### Guidance

- **Trading as principal means** acting in one’s own name and for one’s own account i.e. trading against proprietary capital resulting in the conclusion of transactions
- **Brokerage means** acting on behalf of another person’s name and for another person’s account or acting in one’s own name and for another person’s account i.e. trading to execute orders on behalf of customers
- **Related activities typically include** e.g. automated or semi-automated order/quote generation, algorithmic/program/“black-box“ trading, market making, smart order routing and automated execution, order management or automated quoting and trading of financial derivatives
- **Market making** is considered to be trading as principal
- **Smart Order Routing** is considered to facilitate customer business
- **Other trading based activities** might be used for both purposes, trading as principal and brokerage

DBAG Information **used for automated trading activities for both purposes**  
– **Trading as Principal and Brokerage**

### What is not covered?

- Non-Display Information Usage which is not trading-based activity (see Index Calculation or Other Application Usage)
- Non-Display Information Usage by trading platforms such as exchanges, MTFs, OTFs, alternative trading systems and systematic internalization systems (see Tier 1)
- If the trading based activities are solely for the purpose of trading as principal or solely for the purpose of brokerage (see Tier 3)

## Trading based activities: Tier 1 - Trading Platforms

### Definition

4.3

The operation of a trading platform (i.e. organising a market (irrespective of whether buy-side and sell-side interests are brought together on a bilateral or multilateral basis) establishes a single Customer Category (“Trading Platform”). In particular, this includes operating an exchange, a “MTF”, an “OTF” or comparable ATS, performing “SI” as well as the offering of so-called Broker Crossing Networks or Dark Pools. For the avoidance of doubt, the operation of a Trading Platform according to third country provisions (e. g. based on the US Regulation NMS or Regulation ATS) is also subject to this provision.

The Non-Display Licence Fees for Tier 1 include the fees for Tier 2 and 3.

### Guidance

- **‘Multilateral trading facility’ (MTF) means** a multilateral system, operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments – in the system and in accordance with non-discretionary rules – in a way that results in a contract<sup>1)</sup>
- **‘Organised trading facility’ (OTF) means** a multilateral system which is not a regulated market or an MTF and in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that results in a contract<sup>1)</sup>
- **‘Systematic internalization’ (SI) means** dealing on an organised, frequent systematic and substantial basis on own account when executing customer orders outside a regulated market, an MTF or an OTF without operating a multilateral system<sup>1)</sup>
- **‘Alternative trading systems’ (ATS) means** any organization, association, person, group of persons, or system that constitutes, maintains, or provides a market place or facilities for bringing together purchasers and sellers of securities or for otherwise performing with respect to securities the functions commonly performed by a stock exchange<sup>2)</sup>
- **Broker crossing networks and dark pools are** types of ‘alternative trading systems’

DBAG Information **typically used by these trading platforms as reference price to match buy and sell orders, for order pegging or mid point trading**

### What is not covered?

- Non-Display Information Usage which is not trading-based activity (see Index Calculation or Other Application Usage)
- The automated generation of own quotes/orders by an investment firm that are not used to internally match buy and sell orders
- Automated trading activity as principal and/or broker (see Tier 2 & Tier 3) if that trading activity is not for the purpose of internally matching buy and sell orders

1) Based on definitions used in EU directive 2014/65/EU of 15 May 2014 („MiFID II“)

2) Based on rule 300a) of the SEC regulation on ATS

## Other activities: Index Calculation

### Definition

4.4

The Customer Category Index Calculation refers to the Non-Display Information Usage for the purpose administration including calculation and dissemination of an index / a benchmark or several indices / benchmarks (“Index Calculation”). This Non-Display Customer Category addresses the administrator who has control over the provision of the benchmark. It does not include the execution of Non-Display Information Usage by the Contracting Party as a vicarious agent (Erfüllungsgehilfe) on behalf of a third party.

#### Guidance

- **An ‘index’<sup>1)</sup> means** any figure that is published or made available to the public and is regularly determined, either by applying a formula or other calculation or making an assessment on the basis of the value of one or more underlying assets/prices (including estimated prices, actual or estimated interest rates, quotes and committed quotes, or other values or surveys)
- **An index becomes a ‘benchmark’<sup>1)</sup> where** it is used to determine the amount payable under a financial instrument or financial contract, or the value of a financial instrument, or it is used to measure the performance of an investment fund for the purpose of tracking the return, defining the asset allocation or a portfolio, or computing the performance fees.
- **The category addresses the ,administrator’<sup>1)</sup> that has control over the provision of the benchmark** i.e.
  - the administration of arrangements for determining the benchmark,
  - the collection, analysis and processing of input data and
  - the determination of the benchmark through the application of a formula or other method of calculation or by an assessment of input data provided for that purpose

The category **addresses the creation of indices for the purpose of using them as benchmark**

#### What is not covered?

- Customer calculates index based on DBAG Information and uses index only internally as trading signal for “trading-based activities”  
→ **Licence for trading-based activities Tier 1-3 required**
- Customer calculates index indication based on DBAG information and publishes the index free of charge on a public domain and not for the purpose of becoming a benchmark  
→ **Licence for Other Application Usage required**
- Customer calculates index based on DBAG information and uses index internally, but not for trading-based activities (e.g. calculation of board compensation)  
→ **Licence for Other Application Usage required**

1) Based on definitions used in EU regulation 2016/1011 of 8 June 2016 („EU Benchmark Regulation“)

## Other activities: Other Application Usage

### Definition

4.5

When licensing this category, Contracting Party is entitled for Non-Display Information Usage for other purposes than trading based activities and/or Index Calculation. This includes but is not limited to the following usages: risk management, profit and loss calculation, portfolio valuation, quantitative analysis, fund administration, fund accounting, portfolio management or instrument pricing. It does not include the execution of Non-Display Information Usage by the Contracting Party as a vicarious agent (Erfüllungsgehilfe) on behalf of a third party.

### Guidance

- Covers **any Non-Display Information Usage that is not trading-based activity** (see Tier 1-3) **or Index Calculation**
- **Includes Non-Display Information Usage by middle and back office functions** for the calculation of ‚derived data‘ (e.g. risk figures, profit and loss calculations, automated valuations, etc.)
- **Includes the calculation of ‚derived data‘** that is not used for trading-based activities or index calculation. The ‚derived data‘ may be used internally or disseminated externally (e.g. ETF creation, calculation of analytics).
- **Includes the calculation of an index that is used only internally** e.g. for the calculation of an amount payable for a financial instrument (e.g. certificate) or to determine the board compensation
- **Includes the creation of evaluated pricing data** that may be disseminated externally
- **Includes the creation of trading analytics** that are not directly used for trading-based activities and may be distributed externally

### What is not covered?

- Trading based activities (see Tier 1-3)
- Index Calculation
- Conducting Non-Display Information Usage as vicarious agent (“Erfüllungsgehilfe”) on behalf of a third party



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