

Non-Display Data Usage

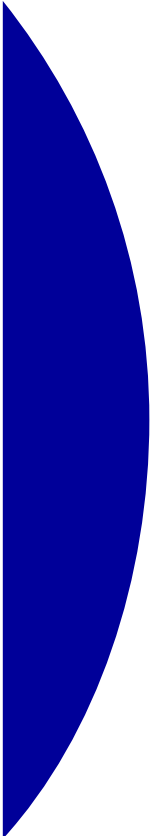
Guidance Note for Customers V3_0
22 August 2023



DEUTSCHE BÖRSE
GROUP

Non-Display Data Usage

Customer Guidance Note

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- This document gives further guidance for Customers related to the licensing categories for Non-Display Data Usage (NDDU)
 - 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 NDDU licensing requirements
 - Please do not hesitate to contact Deutsche Börse for any questions regarding licensing requirements and specific use cases
 - Non-Display Licence Fees apply:
 - once per Customer (contracting party) and its Affiliates
 - per licensed Information Product
 - per Customer Category / Tier (for trading based activities dependent on the number of Devices used)
 - in € per month
 - Upcoming pages provide
 - additional clarity and transparency on different Non-Display activities
 - examples listed for each Non-Display Customer Category

Non-Display Data Usage – Overview

1 Customer Categories ¹⁾	2 Devices ²⁾ & Price Level	3 Tiered Model
<p>Five different Customer Categories (i) to (v):</p> <p>(i) Trading as Principal</p> <p>(ii) Brokerage</p> <p>(iii) Trading Platform</p> <p>The term '<u>trading based activities</u>' comprises of the Customer Categories (i) to (iii).</p>	<p>The Market Data Fees for the Non-Display Data Licences applicable to <u>trading based activities</u> depend on the number of Devices, subdivided in four price levels:</p> <p>Entry: 1–5 Devices, Medium: 6–10 Devices, Plus: 11–30 Devices, Unlimited: if > 30 Devices or the number of Devices cannot be controlled or specified or only the unlimited price level is available.</p>	<p>Fees for <u>trading based activities</u> are determined by a tiered model:</p> <p>Tier 3 (lowest level): Trading as Principal or Brokerage</p> <p>Tier 2: Trading as Principal and Brokerage</p> <p>Tier 1 (highest level): Trading Platform</p> <p>Each higher level includes the Information Usage of the lower levels. For each tier the price levels depend on the number of Devices. Billing will be rendered based on the relevant tier and price level whereas the total number of Devices for each Customer Category included shall be aggregated. Details are described below.</p>
<p>(iv) Index Calculation</p> <p>(v) Other Application Usage</p> <p>The term "<u>other activities</u>" comprises of the Customer Categories (iv) and (v).</p>	<p>Fees for <u>other activities</u> are used without differentiation regarding the number of Devices. Price level "Unlimited" applies in all cases.</p>	

¹⁾ For General Provisions Non-Display Data Licence Fees, Customer Categories and Unit-of-Count Devices and tiered fee model please refer to Price List at <https://www.mds.deutsche-boerse.com/mds-en/real-time-data/agreements>

²⁾ For definition „Device“: please refer to General Terms and Conditions (GTC) to the Market Data Dissemination Agreement (MDDA) at <https://www.mds.deutsche-boerse.com/mds-en/real-time-data/agreements> 1)

Customer Categories (1/5) - Trading as Principal

1

Trading as Principal

The Customer Category Trading as Principal refers to proprietary trading activities (i. e. trading in own name and for own account; “Trading as Principal”). It includes algorithmic and/or automated and/or semi-automated order generation, automated execution management and/or automated quoting as part of market making and instrument pricing (e. g. as part of derivatives issuance and trading) for the purpose of trading in one’s own name. Trading as Principle does not include the completion of trades on behalf of Customer’s clients even if Customer is using its own inventory. Such usage is included in Customer Category “Brokerage”. E. g. the Customer Category Trading as Principal does not entitle Customers to grant third parties access for activating algorithmic orders and/or accessing APIs capable of receiving order messages from third parties. Non-Display Licence Fees are charged on a per Information Product basis according to the total number of Devices which have access to Information. Whenever a Device has the possibility to access Information simultaneously for the Customer Category “Trading as Principal”, each possible access shall be counted as a Device.

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
- **Related activities typically include** e. g. automated or semi-automated order/quote generation, algorithmic/program/“black-box“ trading, market making, automated execution, order management, smart order routing (for proprietary orders), automated pricing, quoting and trading of financial derivatives (including but not limited to futures, options, warrants and certificates linked to the respective underlying market data)
- **Market making** is considered to be Trading as Principal

What is not covered?

- Non-Display Data Usage which is not trading-based activity (see Customer Categories Index Calculation or Other Application Usage)
- Non-Display Data Usage for risk management, independent valuation of trading books and other usage in non-trading departments (see Customer Category Other Application Usage)
- Non-Display Data Usage for the purpose of brokerage or facilitation of 3rd parties trading activities (e. g. execution management for clients, provision of algorithmic trading functionalities to clients (see Customer Category Brokerage)
- Non-Display Data Usage by trading platforms such as exchanges, MTFs, OTFs, alternative trading systems and systematic internalization systems^{1) 2)} (see Customer Category Trading Platform)

¹⁾ Based on definitions used in Directive 2014/65/EU of the European Parliament and of the Council of May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014L0065-20230323>

²⁾ Based on rule 300a) of the SEC regulation on ATS; https://www.sec.gov/tm/faq-regulation-ats-fair-access-rule#_edn2

Customer Categories (2/5) - Brokerage

1

Brokerage

The Customer Category Brokerage refers to brokerage activities and the facilitation of client trading 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"). It includes but is not limited to automated order generation and execution management for clients (e. g. smart order routing) as well as the provision of access for clients to functions augmenting the user's trading activities and/or algorithmic trading tools (e. g. generation of child orders based on parent orders). Non-Display Licence Fees are charged on a per Information Product basis according to the total number of Devices which have access to Information. Whenever a Device has the possibility to access Information simultaneously for the Customer Category "Trading as Brokerage", each possible access shall be counted as a Device. This includes every technical or manual access (including trade message access point) for clients who can activate algorithmic orders and/or access APIs capable of receiving order messages from third parties. Each of these accesses shall be counted separately as an additional Device.

Guidance

- **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 for clients, algorithmic/program/"black-box" trading in the name or on account of 3rd parties, automated execution for clients, other order/ execution management for clients, provision of algorithmic trading functionalities or other Non-Display Data Usage to facilitate 3rd parties trading activities
- **Smart Order Routing** is considered to as facilitation of customer business and falls under the Customer Category Brokerage

What is not covered?

- Non-Display Data Usage which is not trading-based activity (→ see Customer Categories Index Calculation or Other Application Usage)
- Non-Display Data Usage for risk management, independent valuation of trading books and other usage in non-trading departments (→ see Customer Category Other Application Usage)
- Non-Display Data Usage for the purpose of trading as principal, e. g. trading in one's own name (→ see Customer Category Trading as Principal)
- Non-Display Data Usage by trading platforms such as exchanges, MTFs, OTFs, alternative trading systems and systematic internalization systems ^{1) 2)} (→ see Customer Category Trading Platform)

¹⁾ Based on definitions used in Directive 2014/65/EU of the European Parliament and of the Council of May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014L0065-20230323>

²⁾ Based on rule 300a) of the SEC regulation on ATS; https://www.sec.gov/tm/faq-regulation-ats-fair-access-rule#_edn2

Customer Categories (3/5) – Trading Platform

1

Trading Platform

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 multilateral trading facility (“MTF”), an organized trading facility (“OTF”) or comparable alternative trading system, performing systematic internalization (“SI”) as well as the offering of so-called broker crossing networks, multi-dealer platforms 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. Non-Display Licence Fees are charged on a per Information Product basis according to the total number of Devices which have access to Information. Whenever a Device has the possibility to access Information simultaneously for the Customer Category “Trading Platform”, each possible access shall be counted as a Device.

Guidance

- **Related activities typically include** reference pricing, order pegging, mid point trading or other Non-Display Data Usage to match buy and sell orders by a 3rd and 4th party
- **‘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 instruments¹⁾
- **‘Organised trading facility’ (OTF) means** a multilateral system (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 contract¹⁾
- **‘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 OTF¹⁾
- **‘Alternative trading systems’ (ATS) means** any organization, association, person, group of persons, or system that constitutes, maintains, or provides a marketplace or facilities for bringing together purchasers and sellers of²⁾
- **Broker crossing networks, multi-dealer platforms and dark pools are** types of ‘alternative trading systems’

What is not covered?

- Non-Display Data Usage which is not trading-based activity (→ see Customer Categories Index Calculation or Other Application Usage)
- Non-Display Data Usage for risk management, independent valuation of trading books and other usage in non-trading departments (→ see Customer Category 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 or automated trading activity as principal and/or broker if that trading activity is not for the purpose of (internally) matching buy and sell orders (→ see Customer Categories Trading as Principal or Brokerage)
- Other Non-Display Data Usage for the purpose of trading as principal (see Customer Category Trading as Principal) or brokerage (→ see Customer Category Brokerage)

¹⁾ Based on definitions used in Directive 2014/65/EU of the European Parliament and of the Council of May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014L0065-20230323>

²⁾ Based on rule 300a) of the SEC regulation on ATS; https://www.sec.gov/tm/faq-regulation-ats-fair-access-rule#_edn2

Customer Categories (4/5) - Index Calculation

1

Index Calculation

The Customer Category Index Calculation refers to the Non-Display Data Usage for the purpose of 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 index or benchmark. It does not address Non-Display Data Usage on behalf of a third party, such as the index calculation as a calculation agent with or without being the administrator for such an index or benchmark. In cases where an index or benchmark is being calculated on behalf of a third party that third party is subject to the licensing requirement.

Deutsche Börse AG determines whether an index or benchmark is calculated on behalf of a third party by taking into consideration the specific circumstances of the case, e.g., whether

- Some or all intellectual property rights of the index or benchmark belong to the third party, and/or
- The calculation agent is commissioned by a third party for the calculation of an index or benchmark, and/or
- The third party delivers the index methodology which needs to be applied by the calculation agent.

Guidance

- **Related activities typically include Non-Display Data Usage to create and calculate index levels for the purpose of providing, disseminating and licensing the resulting index data**
- **An 'index'¹⁾ 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'¹⁾ 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
- **This category addresses the administrator of the benchmark and as well 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" (→ see Customer Categories Trading as Principal, Brokerage or Trading Platform)
- 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 (→ see Customer Category Other Application Usage)
- Customer calculates index based on DBAG Information and uses index internally, but not for trading-based activities e.g. calculation of board compensation (→ see Customer Category Other Application Usage)

¹⁾ Based on definitions used in EU regulation 2016/1011 of 8 June 2016 („EU Benchmark Regulation"); <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02016R1011-20220101>

Customer Categories (5/5) - Other Application Usage

1

Other Application Usage

When licensing this category, Customer is entitled for Non-Display Data Usage for purposes other 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, instrument pricing or (advanced) analytics (studies) for e. g. the purpose of technical or portfolio analysis. It does not include the execution of Non-Display Data Usage by the Customer as a calculating agent on behalf of a third party. This means where derived data (e. g. iNAV's) are calculated on behalf of a third party and some or all of the intellectual property rights in the underlying product (e. g. an ETF) will vest in that third party, the third party is subject to a Non-Display Data Usage licence for Other Application Usage.

Guidance

- Covers **any Non-Display Data Usage that is not trading-based activity or Index Calculation**
- **Includes Non-Display Data 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?

- Non-Display Licence for trading based activities (→ see Customer Categories Trading as Principal, Brokerage or Trading Platform)
- Non-Display Licence for Index Calculation in terms of creation and calculation of benchmarks (→ see Customer Category Index Calculation)
- Conducting Non-Display Data Usage as calculating agent on behalf of a third party. Third party requires an additional license for creation of indices (→ see Customer Category Index Calculation)

Number of Devices & Price Level determine the relevant Licence Fee

2

Unit of Count “Device”

Unit of Count “Device” counts the scope of Non-Display Data Usage

Definition:

- Device means any terminal, application, platform and/or other system or device capable of accessing, receiving, processing, displaying and/or otherwise using the Information.
- Each set of login credentials (e.g. Access ID) that enables a Device access to the Information, is regarded as one Device.
- 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.

2

Price Level

The Non-Display price model is based on entitled Devices categorized into four Price Levels to distinguish low usage (entry) versus broad utilization in large institutions (unlimited)

- Entry: 1-5 Devices
- Medium: 6-10 Devices
- Plus: 11-30 Devices
- Unlimited: if > 30 Devices or the number of Devices cannot be controlled or specified or only the unlimited price level is available.



Remuneration

- The Market Data Fees for the Non-Display Data **Licences applicable to trading based activities depend on the number of Devices**, which according to the definition in Section 2 of the General Terms and Conditions of Deutsche Börse AG use Information for Non-Display purposes. This is subdivided in four price levels
- For **other activities** an unlimited usage is offered, regardless of the number of Devices

Tiered fee model for trading based activities

3

**Tiered
model**

Details of the tiered model that determines the Non-Display Licence

Tier 3 - Trading as Principal or Brokerage - of the Non-Display Data Licence Fee applicable for trading based activities requires the selection of a licence for either the Customer Category

Trading as Principal, or
Brokerage.

The licence and the total number of Devices refers only to the selected activity.

Tier 2 - Trading as Principal and Brokerage - of the Non-Display Data Licence Fee applicable for trading based activities includes the licence for the Customer Categories

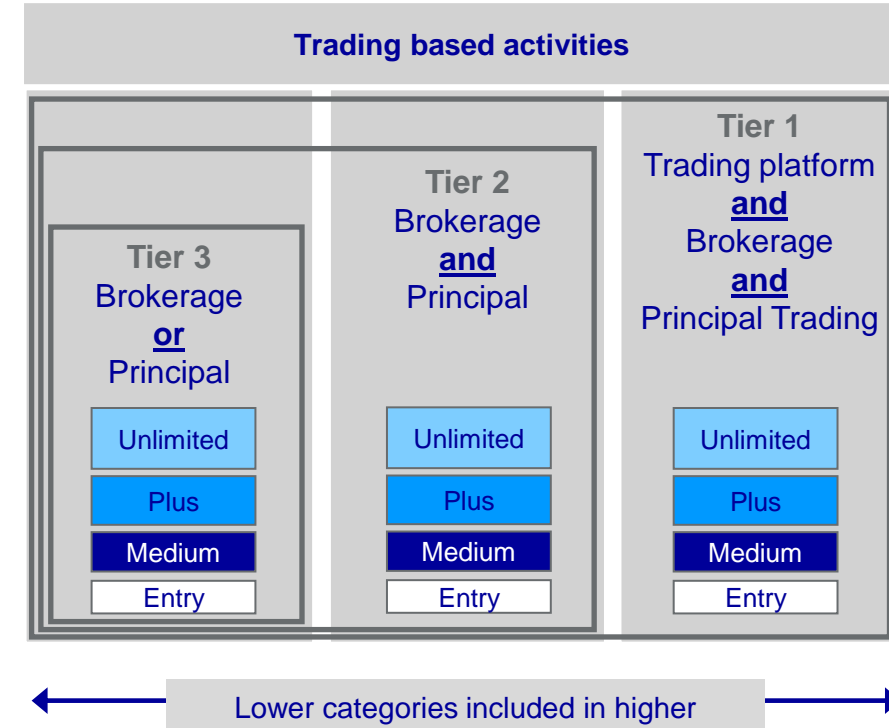
Trading as Principal, and
Brokerage.

Thus, the total number of Devices for each Customer Category included shall be aggregated. Non-Display Data License Fees for Tier 3 do not apply if Non-Display Data License Fees for Tier 2 are paid.

Tier 1 - Trading Platform - includes Non-Display Data Usage for the Customer Categories

Trading Platform, and
Trading as Principal, and
Brokerage.

Thus, the total number of Devices for each Customer Category included shall be aggregated. Additional Non-Display Data License Fees for Tier 2 and Tier 3 do not apply if Non-Display Data License Fees for Tier 1 are paid.



Each higher level includes the Usage of the lower levels. For each Tier the price levels depend on the number of Devices used (Entry, Medium, Plus, Unlimited). Billing will be rendered based on the relevant Tier and price level whereas the total number of Devices for each Customer Category included shall be aggregated.

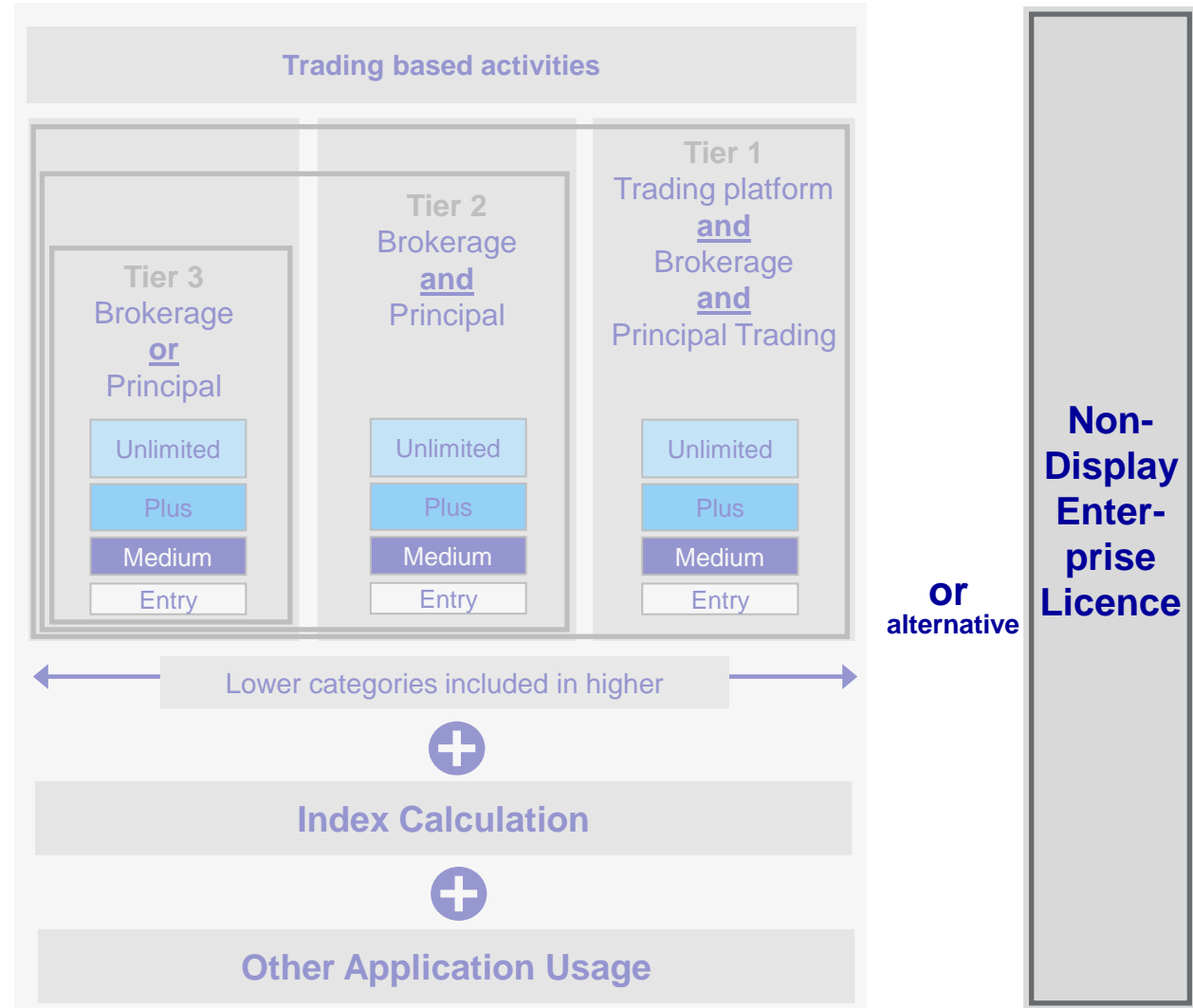
Non-Display Enterprise Licence

3

Enterprise Licence

Lump-sum licence fee 'Non-Display Enterprise' comprises all Customer Categories

- Alternatively to a billing based on different Customer Categories, Tiers or number of Devices, also a lump sum (Enterprise Licence) is available, which comprises all available Customer Categories for one Information Product with unlimited scope of use regarding the number of Devices used (see Section D.3 Non-Display Enterprise Licence Fees).
- Declaration of the number of Devices is not required.
- Non-Display Enterprise Licence is offered for:
 - Xetra®
 - Eurex®
 - EEX® Power & Others
 - EEX® Gas Spot Market
 - EEX® Gas Derivatives Market
 - BSE India Sport Market
 - BSE India Currency and Interest Rate Derivatives
 - BSE India Debt Market
 - PSX® Spot and Derivatives Market
 - PSX® Indices



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