Proposed Rule Change by Philadelphia Stock Exchange

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

<table>
<thead>
<tr>
<th>Initial</th>
<th>Amendment</th>
<th>Withdrawal</th>
<th>Section 19(b)(2)</th>
<th>Section 19(b)(3)(A)</th>
<th>Section 19(b)(3)(B)</th>
<th>Rule</th>
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<td></td>
<td>Extension of Time Period for Commission Action</td>
<td>Date Expires</td>
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</tbody>
</table>

Description

Provide a brief description of the proposed rule change (limit 250 characters).

Amend Market Data Distribution Network Fees

Contact Information

Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name | Carla
Title | Director
E-mail | carla.behnfeldt@phlx.com
Telephone | (215) 496-5208
Fax | 

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date | 09/27/2007
By | Carla Behnfeldt
(Name)

(Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.
If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission’s permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e., partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.
1. **Text of the Proposed Rule Change**

The Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")\(^1\) and Rule 19b-4 thereunder,\(^2\) proposes to eliminate a fee assessed by the Exchange's wholly owned subsidiary, the Philadelphia Board of Trade ("PBOT"), on market data vendors for certain equity index values that subscribers receive over PBOT's Market Data Distribution Network ("MDDN").

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1. The MDDN fees, as proposed to be amended in this proposed rule change, are set forth in table format as Exhibit 5.

2. **Procedures of the Self-Regulatory Organization**

The Executive Committee, pursuant to delegated authority, approved the proposal for filing with the Securities and Exchange Commission ("SEC" or "Commission") on August 10, 2007.

Questions and comments on the proposed rule change may be directed to Carla Behnfeldt, Director and Counsel, at (215) 496-5208 or Edith Hallahan, Senior Vice President and Deputy General Counsel, at (215) 496-5179.

3. **Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**


a. **Purpose**

The purpose of the proposed rule change is to eliminate, effective January 1, 2008, one of the alternative fees charged by the PBOT for certain index market data disseminated over the MDDN. Specifically, the Phlx has licensed the current and closing index values underlying most of the Phlx's proprietary indexes to PBOT for the purpose of selling, reproducing, and distributing the index values over PBOT's MDDN. Similarly, Hapoalim Securities USA, Inc. has licensed the current and closing Hapoalim American Israeli Index™ (HAI™) values PBOT for the purpose of selling, reproducing, and distributing those values over the MDDN. On each trading day, the Exchange or its third party designee calculates and makes available to PBOT a real-time index value every 15 seconds and a closing index value at the end of the day. In exchange for subscriber fees paid to PBOT, market data vendors (“Vendors” or “Market Data Vendors”) are allowed to widely disseminate this market data for all the values of Phlx's proprietary indexes and of HAI to their subscribers.4

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3 The MDDN is an internet protocol multicast network developed by PBOT and SAVVIS Communications.

4 The PBOT has contracted with several major Market Data Vendors to receive real-time and closing index values over the MDDN and promptly redistribute such values. Approximately 96 Market Data Vendors, including for example Reuters Limited, Charles Schwab & Co., Bloomberg L.P., Telekurs Financial Information Ltd. and Thomson Financial, have entered into such market data agreements with PBOT. The fees described in this proposed rule change cover values of all the indexes disseminated over the MDDN.
As approved by the Commission, the market data fees charged by PBOT currently include a monthly fee of $1.00 per "Device,"\(^5\) used by Vendors and their subscribers to receive and re-transmit Market Data on a real-time basis ("device fee") and also a $.0025 per request fee for "snapshot data," which is essentially market data that is refreshed no more frequently than once every 60 seconds, or $1,500 per month for unlimited snapshot data requests.\(^6\) Additionally, eligible Vendors may pay an Enterprise License Fee of $10,000 per year or $850 per month for unlimited real-time data as an alternative to the device fee.\(^7\)

\(^5\) The agreements provide that "Device" shall mean, in case of each Subscriber and in such Subscriber's discretion, either any Terminal or any End User. A Subscriber's Device may be exclusively Terminals, exclusively End Users or a combination of Terminals or End Users and shall be reported in a manner that is consistent with the way the Vendor identifies such Subscriber's access to Vendor's data. An "End User" is defined as an individual authorized or allowed by a Vendor to access and display real-time market data that is distributed by PBOT over the MDDN; and a "Terminal" is any type of equipment (fixed or portable) that accesses and displays such market data. Market data vendors which provide market data to 200,000 or more Devices in any month qualify for a 15% Administrative Fee credit for that month, to be deducted from the monthly Subscriber Fees that they collect and are obligated to pay PBOT under the Vendor/Subvendor Agreement.

\(^6\) See Securities Exchange Act Release Nos. 53790 (May 11, 2006), 71 FR 28738 (May 17, 2006) (SR-Phlx-2006-04) and 55111 (January 16, 2007), 72 FR 3188 (January 24, 2007) (SR-Phlx-2006-59). The subscriber fees are set out in agreements that PBOT executed with various market data vendors for the right to receive, store, and retransmit the current and closing index values transmitted over the MDDN. In its original proposal, the Exchange stated that, under these vendor agreements PBOT may change any of the fees enumerated in the agreement by giving the Vendor or subvendor advance written notice of such changes. The Commission conditioned any such fee change on the submission by Phlx of a proposed rule change under Section 19(b) of the Act, and approval of such proposal. See 71 FR at 28740.

\(^7\) A Vendor is eligible for the Enterprise License Fee if it is a firm acting as a retail broker-dealer conducting a material portion of its business via one or more proprietary Internet Web sites by which the firm distributes Market Data to predominately non-professional Market Data users with whom the firm has a brokerage relationship ("Eligible Firm"). An Eligible Firm may also distribute Market Data to professional users
Of these alternatives, the Exchange is now proposing to eliminate the ability to access the market data on a “snapshot” basis and consequently will eliminate the snapshot data fee, effective January 1, 2008. The purpose for the change is to reduce PBOT’s operational and accounting expenses of administering the snapshot data fee, given the extremely limited number of Vendors making use of the snapshot data fee. Vendors of Market Data will continue to be able to access Market Data by paying the monthly fee of $1.00 per "Device". Additionally, eligible Vendors may pay the Enterprise License Fee of $10,000 per year or $850 per month for unlimited real-time data as an alternative to the device fee. The Exchange anticipates that firms that currently receive and re-transmit snapshot data will qualify for the Enterprise License Fee for unlimited real-time Market Data.

Finally, as noted above, Market data vendors which provide market data to 200,000 or more Devices in any month qualify for a 15% Administrative Fee credit for that month, to be deducted from the monthly Subscriber Fees that they collect and are obligated to pay PBOT under the Vendor/Subvendor Agreement. The Exchange proposes to eliminate the applicability of the 15% Administrative Fee credit to the Enterprise License Fee because Vendors electing to receive Market Data pursuant to the Enterprise License Fee, unlike Vendors electing to receive Market Data pursuant to the Device fee, are not required to bear the ongoing administrative expense of reporting the number of Devices to PBOT.

with whom such firm has a brokerage relationship, provided such Market Data distribution is predominantly to non-professional users. The Eligible Firm's Market Data distribution to professional users cannot exceed 10%.

This proposed rule change also would correct an incorrect reference to the Commodity Futures Trading Commission in the table of MDDN fees set forth as Exhibit 5.
b. **Statutory Basis**

The Exchange believes that its proposal is consistent with Section 6(b) of the Act\(^9\) in general, and furthers the objectives of Section 6(b)(5) of the Act\(^{10}\) in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, in that it will permit the MDDN to operate with greater efficiency while still permitting investors access to market data under the remaining alternative fee structures from which qualified Market Data Vendors will be permitted to choose. For the same reasons the Exchange also believes that the proposal is consistent with Section 6(b)(4) of the Act\(^{11}\) in that the proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and issuers and other persons using its facilities. The Exchange believes that the proposed fee changes are also consistent with Rule 603 under the Act\(^{12}\).

4. **Self-Regulatory Organization's Statement on Burden on Competition**

The Phlx does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

5. **Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others**

No written comments were either solicited or received.

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\(^12\) 17 CFR 242.603.
6. **Extension of Time Period for Commission Action**

   The Exchange does not consent to an extension of the time period for Commission action.

7. **Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

   Not applicable.

8. **Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

   The proposed rule change is not based on the rules of another self-regulatory organization or of the Commission.

9. **Exhibits**

   1. Notice of proposed rule for publication in the Federal Register.

   5. MDDN Fees.
Exhibit 1

SECURITIES AND EXCHANGE COMMISSION
(Release No.                  ; File No. SR-Phlx-2007-75)

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Market Data Distribution Network Fees

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")\(^1\), and Rule 19b-4\(^2\) thereunder, notice is hereby given that on ______________________ 2007, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. **Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Phlx, pursuant to Section 19(b)(1) of the Act\(^3\) and Rule 19b-4 thereunder,\(^4\) proposes to eliminate a fee assessed by the Exchange's wholly owned subsidiary, the Philadelphia Board of Trade ("PBOT"), on market data vendors for certain equity index values that subscribers receive over PBOT's Market Data Distribution Network ("MDDN").

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The MDDN fees, as proposed to be amended in this proposed rule change, are set forth in table format as Exhibit 5.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to eliminate, effective January 1, 2008, one of the alternative fees charged by the PBOT for certain index market data disseminated over the MDDN. Specifically, the Phlx has licensed the current and closing index values underlying most of the Phlx's proprietary indexes to PBOT for the purpose of selling, reproducing, and distributing the index values over PBOT's MDDN. Similarly, Hapoalim Securities USA, Inc. has licensed the current and closing Hapoalim American Israeli Index™ (HAI™) values PBOT for the purpose of selling, reproducing, and distributing those values over the MDDN. On each trading day, the Exchange or its third party designee calculates and makes available to PBOT a real-time index value every 15 seconds and a closing index value at the end of the day. In exchange for

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5 The MDDN is an internet protocol multicast network developed by PBOT and SAVVIS Communications.
subscriber fees paid to PBOT, market data vendors (“Vendors” or “Market Data Vendors”) are allowed to widely disseminate this market data for all the values of Phlx's proprietary indexes and of HAI to their subscribers.6

As approved by the Commission, the market data fees charged by PBOT currently include a monthly fee of $1.00 per "Device,"7 used by Vendors and their subscribers to receive and re-transmit Market Data on a real-time basis ("device fee") and also a $.0025 per request fee for "snapshot data," which is essentially market data that is refreshed no more frequently than once every 60 seconds, or $1,500 per month for unlimited snapshot data requests.8 Additionally, eligible Vendors may pay an Enterprise License Fee of

6 The PBOT has contracted with several major Market Data Vendors to receive real-time and closing index values over the MDDN and promptly redistribute such values. Approximately 96 Market Data Vendors, including for example Reuters Limited, Charles Schwab & Co., Bloomberg L.P., Telekurs Financial Information Ltd. and Thomson Financial, have entered into such market data agreements with PBOT. The fees described in this proposed rule change cover values of all the indexes disseminated over the MDDN.

7 The agreements provide that "Device" shall mean, in case of each Subscriber and in such Subscriber's discretion, either any Terminal or any End User. A Subscriber's Device may be exclusively Terminals, exclusively End Users or a combination of Terminals or End Users and shall be reported in a manner that is consistent with the way the Vendor identifies such Subscriber's access to Vendor's data. An "End User" is defined as an individual authorized or allowed by a Vendor to access and display real-time market data that is distributed by PBOT over the MDDN; and a "Terminal" is any type of equipment (fixed or portable) that accesses and displays such market data. Market data vendors which provide market data to 200,000 or more Devices in any month qualify for a 15% Administrative Fee credit for that month, to be deducted from the monthly Subscriber Fees that they collect and are obligated to pay PBOT under the Vendor/Subvendor Agreement.

8 See Securities Exchange Act Release Nos. 53790 (May 11, 2006), 71 FR 28738 (May 17, 2006) (SR-Phlx-2006-04) and 55111 (January 16, 2007), 72 FR 3188 (January 24, 2007) (SR-Phlx-2006-59). The subscriber fees are set out in agreements that PBOT executed with various market data vendors for the right to receive, store, and retransmit the current and closing index values transmitted over the MDDN. In its original proposal, the Exchange stated that, under these vendor agreements PBOT may change any of the
$10,000 per year or $850 per month for unlimited real-time data as an alternative to the device fee.\(^9\)

Of these alternatives, the Exchange is now proposing to eliminate the ability to access the market data on a “snapshot” basis and consequently will eliminate the snapshot data fee, effective January 1, 2008.\(^{10}\) The purpose for the change is to reduce PBOT’s operational and accounting expenses of administering the snapshot data fee, given the extremely limited number of Vendors making use of the snapshot data fee. Vendors of Market Data will continue to be able to access Market Data by paying the monthly fee of $1.00 per "Device". Additionally, eligible Vendors may pay the Enterprise License Fee of $10,000 per year or $850 per month for unlimited real-time data as an alternative to the device fee. The Exchange anticipates that firms that currently receive and re-transmit snapshot data will qualify for the Enterprise License Fee for unlimited real-time Market Data.

Finally, as noted above, Market data vendors which provide market data to 200,000 or more Devices in any month qualify for a 15% Administrative Fee credit for fees enumerated in the agreement by giving the Vendor or subvendor advance written notice of such changes. The Commission conditioned any such fee change on the submission by Phlx of a proposed rule change under Section 19(b) of the Act, and approval of such proposal. See 71 FR at 28740.

\(^9\) A Vendor is eligible for the Enterprise License Fee if it is a firm acting as a retail broker-dealer conducting a material portion of its business via one or more proprietary Internet Web sites by which the firm distributes Market Data to predominately non-professional Market Data users with whom the firm has a brokerage relationship ("Eligible Firm"). An Eligible Firm may also distribute Market Data to professional users with whom such firm has a brokerage relationship, provided such Market Data distribution is predominantly to non-professional users. The Eligible Firm's Market Data distribution to professional users cannot exceed 10%.

\(^{10}\) This proposed rule change also would correct an incorrect reference to the Commodity Futures Trading Commission in the table of MDDN fees set forth as Exhibit 5.
that month, to be deducted from the monthly Subscriber Fees that they collect and are obligated to pay PBOT under the Vendor/Subvendor Agreement. The Exchange proposes to eliminate the applicability of the 15% Administrative Fee credit to the Enterprise License Fee because Vendors electing to receive Market Data pursuant to the Enterprise License Fee, unlike Vendors electing to receive Market Data pursuant to the Device fee, are not required to bear the ongoing administrative expense of reporting the number of Devices to PBOT.

2. **Statutory Basis**

The Exchange believes that its proposal is consistent with Section 6(b) of the Act\textsuperscript{11} in general, and furthers the objectives of Section 6(b)(5) of the Act\textsuperscript{12} in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, in that it will permit the MDDN to operate with greater efficiency while still permitting investors access to market data under the remaining alternative fee structures from which qualified Market Data Vendors will be permitted to choose. For the same reasons the Exchange also believes that the proposal is consistent with Section 6(b)(4) of the Act,\textsuperscript{13} in that the proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and issuers and other persons using its

\begin{itemize}
  \item \textsuperscript{11} 15 U.S.C. 78f(b).
  \item \textsuperscript{12} 15 U.S.C. 78f(b)(5).
  \item \textsuperscript{13} 15 U.S.C. 78f(b)(4).
\end{itemize}
facilities. The Exchange believes that the proposed fee changes are also consistent with Rule 603 under the Act.\textsuperscript{14}

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which Phlx consents, the Commission shall: (a) by order approve such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

\textsuperscript{14} 17 CFR 242.603.
• Use the Commission’s Internet comment form
  (http://www.sec.gov/rules/sro.shtml); or

• Send an e-mail to rule-comments@sec.gov. Please include File Number SR-
  Phlx-2007-75 on the subject line.

Paper comments:

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and
  Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2007-75. This file number should
be included on the subject line if e-mail is used. To help the Commission process and
review your comments more efficiently, please use only one method. The Commission
will post all comments on the Commission’s Internet Web site
amendments, all written statements with respect to the proposed rule change that are filed
with the Commission, and all written communications relating to the proposed rule
change between the Commission and any person, other than those that may be withheld
from the public in accordance with the provisions of 5 U.S.C. 552, will be available for
inspection and copying in the Commission’s Public Reference Room. Copies of the
filing also will be available for inspection and copying at the principal office of the Phlx.

All comments received will be posted without change; the Commission does not edit
personal identifying information from submissions. You should submit only information
that you wish to make available publicly. All submissions should refer to File Number
SR-Phlx-2007-75 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.\textsuperscript{15}

Nancy M. Morris  
Secretary

\textsuperscript{15} 17 CFR 200.30-3(a)(12).
**Exhibit 5**

New language is underlined; Brackets indicate deletions.

**MARKET DATA FEES (Per Month)**

A: Proprietary Sector Index Spot and Settlement Values (“Index Data”)

<table>
<thead>
<tr>
<th>Fee (per month)</th>
<th>Real-Time Continuous Market Data</th>
<th>Delayed Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Per Device/User ID/Terminal ID</td>
<td>$1.00 per Device</td>
<td>None</td>
</tr>
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<table>
<thead>
<tr>
<th>Fee (per month)</th>
<th>[Real-Time Snapshot Market Data]</th>
<th>[Delayed Only]</th>
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<tbody>
<tr>
<td>[Vendor/Subvendor]</td>
<td>[$0.0025 per snapshot request</td>
<td>[None]</td>
</tr>
<tr>
<td></td>
<td>OR</td>
<td></td>
</tr>
<tr>
<td></td>
<td>$1,500 per month for unlimited snapshot requests</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fee (per month)</th>
<th>Real-Time Continuous and Real-Time Snapshot Market Data</th>
<th>Delayed Only</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Enterprise License Fee</strong></td>
<td>$10,000 per year</td>
<td>None</td>
</tr>
<tr>
<td>(see eligibility criteria)*</td>
<td>OR</td>
<td></td>
</tr>
<tr>
<td></td>
<td>$850 per month,</td>
<td></td>
</tr>
</tbody>
</table>

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1 Vendors which provide market data to 200,000 or more Devices in any month qualify for a 15% Administrative Fee deduction for that month. This discount only applies to the Index Data, and does not apply to the Enterprise License Fees.
* Enterprise License Fee Eligibility Criteria

A Vendor or Subvendor eligible for the Index Data Enterprise License Fee is a firm that acts as retail broker-dealer conducting a material portion of its business via proprietary Internet web sites by which such firm distributes Market Data to predominately non-professional Market Data users with whom such firm has a brokerage relationship (“Eligible Firm”). An Eligible Firm will be considered to conduct a material portion of its business via one or more Internet Web sites if at least twenty percent (20%) of the firm’s business were conducted via the Internet. An Eligible Firm may also distribute Market Data to professional users with whom the firm has a brokerage relationship, provided such Market Data distribution is predominantly to non-professional users.²

Enterprise License Fee Certification

To be eligible for the Enterprise License Fee, an Eligible Firm shall certify to PBOT that it meets the Enterprise License Fee Eligibility Criteria, including that Market Data distribution is predominantly to non-professional users, and shall immediately notify PBOT if it can no longer so certify.

² A non-professional user is any natural person who is not: (a) registered or qualified in any capacity with the Securities and Exchange Commission, the [Commodities] Commodity Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (b) engaged as an "investment advisor" as that term is defined in Section 201 (11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); nor, (c) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt. Moreover, Market Data distribution will be considered to be “predominantly to non-professional users” so long as the Eligible Firm’s total distribution to professional users does not exceed 10%.