

PROFESSIONAL USER DEFINITION

BACKGROUND

Most investors consider their trading and investment activity to be Non-Professional when its purpose is not related to a compensated activity (e.g., job, consultant, investment advisor, etc.). The NYSE and many US exchanges have a far more encompassing definition of what it means to be "Professional" when it comes to accessing their real-time market data.

For these exchanges, the Pro vs Non-Pro definition is tied to the person using the data more than the nature of the use itself, such that people who are employed in the financial industry-- even if not in a capacity relating to trading or other market-oriented activity- are classified as professionals simply because their employer is, for example, a bank. Similarly, if a person is registered with any financial regulatory body (e.g., FINRA), even if that registration is for activities not related to exchange or market functions, they are deemed to be "Professional".

The fees charged by data vendors and exchanges for professional use are generally substantially more expensive than fees for Non-Professional use.

It's important to note that these classifications are established by the exchanges and, while Fenix has no input into their definition, as intermediaries between data vendors and end users we are obliged to ensure that they are enforced.

CRITERIA FOR PROFESSIONAL USERS

The following list covers many of the criteria data vendors and exchanges consider when trying to determine if a user of their real-time market data is professional or can be qualified as Non-Professional. These definitions were compiled from a number of exchanges. Please note, a client's market data status is not exchange-specific. A client must meet the Non-Professional criteria of all exchanges in order to be Non-Professional.

A user will be marked as a Professional if any of the following definitions apply to the account/user:

- If the account is not in the name of a Natural Person
- If the account is an ORG account
- If the user is registered/qualified with any national or state exchange, regulatory authority, professional association or recognized professional body
- If the user is engaged in financial services business or employed as a financial/investment adviser as that term is defined in Section 202(a)(11) of the Investment Advisors Act of 1940
- If the user is 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
- If the user operates as a bank, financial services provider, or broker/dealer
- If the user uses data for commercial purpose
- If the user is acting on behalf of an institution that engages in brokerage, banking, investment or financial activities
- If the user is charging client fees.
- If the user or the account is an investment club that receives or does not receive compensation
- If the user is a subcontractor or independent contractor
- If the user uses data in any manner for benefit of third parties
- If the user is in contract for, receives, or uses Information for the purpose of Private Use on behalf of any other person or any corporation, partnership, limited liability company, trust, association or other form of entity
- If the user is in contract for, receives, or uses Information for the purpose of Private Use in any Service that is paid for by another person or any corporation, partnership, limited liability company, trust, association or other form of entity
- If the user is accessing/using information in course of employment or in connection with any form of trade or business
- If the account is a Trust and the Trustee is not a Natural Person. The Trustee must be a Natural Person and cannot be an ORG with a sole owner that is a Natural Person.
- If the account is a Trust that has beneficiaries that are not immediate family members or if the beneficiaries are not Natural Persons
- If the account is a Trust that is not a familial or family Trust.