VIA FEDEX & E-MAIL December 10, 2025

MSCI Equity Index Committee
c/o MSCI Inc.
7 World Trade Center
250 Greenwich Street
New York, NY 10007

Re: Consultation on Digital Asset Treasury Companies ("DATs")

To the Members of the MSCI Equity Index Committee,

Strategy Inc ("Strategy") writes in response to MSCI's invitation for feedback on its proposed eligibility test for MSCI's Global Investable Market Indexes, which would exclude all companies whose digital asset holdings represent 50% or more of total assets.

Strategy (formerly MicroStrategy) was founded in 1989 and today is the world's first and largest Bitcoin treasury company. Strategy's treasury operations are designed to provide investors with varying degrees of economic exposure to Bitcoin by offering a range of securities, including equity and fixed income instruments. Strategy believes its combination of operational excellence, strategic Bitcoin reserve, and focus on technological innovation positions the company as a leader in both the digital asset and enterprise-analytics sectors, offering a unique opportunity for long-term value creation.

Strategy understands and supports MSCI's efforts to implement consistent eligibility standards across its indices. But MSCI's proposal to exclude companies whose balance sheets consist of more than 50% digital assets is misguided and would have profoundly harmful consequences, as explained below.

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Executive Summary

DATs are operating companies, not investment funds. Most fundamentally, the proposal rests on a mischaracterization of the business models of DATs like Strategy. Strategy is not an investment fund and it does not passively hold Bitcoin. Strategy is an operating business that actively *uses* the Bitcoin it holds to create returns for shareholders. Today, Strategy provides novel Bitcoin-backed digital credit instruments analogous to those historically offered by banks and insurance companies. And Strategy, unlike an investment fund, retains the operational flexibility to adapt its value-creation strategies as the revolutionary technology underlying Bitcoin evolves. That operational flexibility is what Strategy's investors value and is what distinguishes Strategy (and other DATs) from digital asset investment funds. That Strategy and other DATs invest in a single asset class makes them no different from REITs or oil companies. MSCI does *not* classify those businesses as investment funds, and DATs should be treated no differently.

The proposal's digital-asset-specific 50% threshold is discriminatory, arbitrary, and unworkable. The proposal's 50% rule arbitrarily singles out digital asset businesses for uniquely unfavorable treatment, while leaving untouched businesses in other industries (such as oil, timber, gold, media and entertainment, and real estate) that have similarly concentrated holdings in a single asset type. And there is no way to implement the proposed 50% rule consistently or fairly. Asset price swings, changes in the application of accounting principles, and other factors relevant to balance sheet accounting would lead to index instability as DATs whipsaw on and off MSCI's indices. MSCI would need to develop novel metrics and methods for measuring balance sheet concentration and monitoring circumvention. Further, different accounting principles across asset classes and jurisdictions would lead to disparate indexing treatment based on the happenstance of what asset a company holds, what accounting principles apply to the asset, and where the company is located. MSCI should not implement a rule that will lead it to be constantly auditing companies under arbitrary, inconsistent, and evolving standards.

The proposal improperly injects policy considerations into indexing. The proposal is inconsistent with MSCI's role as a standard-setting organization. MSCI holds itself out to the market and to regulators as a neutral provider of "exhaustive" indices that reflect "the evolution of the underlying equity markets" and do not pass judgment on "whether any market, company, strategy or investment is good or bad." If implemented, however, the proposal would raise concerns about the neutrality of MSCI's indices by creating a novel, digital asset-specific eligibility criterion that has no sound basis in MSCI's historical indexing practices. By discriminating against one asset type, the proposal would transform MSCI into an arbiter of investment decisions—creating confusion and undermining the representativeness and reliability of its indices.

The proposal conflicts with U.S. policy and would stifle innovation. If implemented, the proposal also would risk stifling investment across the rapidly growing digital asset industry, in direct conflict with the pro-innovation policies of the current administration. Digital assets, like Bitcoin, represent a technological innovation that can serve as the potential future bedrock of global financial systems and an engine for economic growth. That is why the United States is currently vying for global leadership in digital asset technologies. This is precisely the wrong moment to take steps that undermine this innovative technology.

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For all these reasons, as discussed in more detail below, MSCI should decline to implement the proposal. A rushed and reactionary exclusion of DATs will have adverse consequences based on insufficient information and mistaken assumptions about the continued development and evolution of DATs. MSCI instead should adopt the deliberative approach it used when creating the "Communication Services" sector: after 19 years of industry evolution and extensive consultation, MSCI reorganized existing telecom, media, and internet companies into a new sector. Likewise, digital asset treasury strategies have developed over the past several years, with a sharp increase in adoption more recently. MSCI should allow this market to continue to mature—and solicit public input and conduct a thorough review over time—before deciding whether to make any changes to the classification of DATs.

Discussion

I. Bitcoin and Other Digital Assets Are Foundational Technologies

Bitcoin was created a mere 16 years ago by its pseudonymous inventor, Satoshi Nakamoto. In the years since, Bitcoin and other digital assets have rapidly become a critical component of the global economy. Bitcoin alone now has a total market capitalization of approximately $1.85 trillion as of December 9, 2025.

The reason for this explosive growth is that Bitcoin and other digital assets are far more than financial assets—they are a revolutionary financial *technology* that promises to fundamentally rework the global financial economy.[1] Bitcoin not only created a first-of-its-kind scarce digital commodity, but also established the technological infrastructure—blockchain technology—that allows anyone, anywhere in the world to transfer that commodity (or, in the case of other blockchains, other digital assets) over the Internet without the permission of a bank or other centralized intermediary.

The implications of Bitcoin's technological leaps are profound. Bitcoin democratizes finance by creating a new, global asset class and infrastructure that cannot be controlled by any individual, company, or government. And Bitcoin allows for the creation of an entirely new financial system on top of that asset and infrastructure that has the potential to usher in novel industries and massive economic growth by unleashing productive forces that are hindered by our current, outdated systems. Moreover, as noted by the Digital Chamber of Commerce, digital assets can be used as productive capital, securing decentralized networks, facilitating on-chain services, enabling customer transactions, and supporting essential business operations.[2]

Bitcoin's novel technology is already supporting the development of multiple adjacent industries that interact in meaningful ways with the broader financial system. Bitcoin mining businesses like Marathon Digital Holdings, Bitfarms, CleanSpark, and Cipher Mining, for example, invest in and operate energy and computing infrastructure around Bitcoin. Exchanges like Coinbase, Robinhood, and CME provide liquidity and price discovery for Bitcoin and other digital assets. Custodians like Anchorage, Bakkt, and Fidelity have developed standards for safekeeping,

[1] *See, e.g.*, CFTC, Digital Assets (available here) ("Today, fintech is driving innovation in financial markets across the globe.").

[2] Digital Chamber of Commerce, Letter to Committee on Banking, Housing, and Urban Affairs, U.S. Senate; Committee on Financial Services, U.S. House of Representatives (Dec. 3, 2025) (available here).

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cybersecurity, and governance of Bitcoin and other digital assets. These companies and others are creating wallets, payment and settlement mechanisms, compliance and analytics, and infrastructure development. And many companies, like Strategy, are developing new and innovative financial instruments backed by Bitcoin. These companies are not just investing in Bitcoin—they are building a new financial system on top of it.

This investment pattern is not new. Years ago, companies like Standard Oil and AT&T invested in drilling for oil or building a national telephone network at a time when whale oil and telegraphs dominated the economy. Some may have thought then that those companies were investing too heavily in a single, then-novel asset class.[3] Yet today, we regard those companies as visionary leaders that generated foundational economic infrastructures—in turn unlocking transformative economic development that few could have foreseen at the time. So too, companies like Intel or NVIDIA may have been chided by some for putting all of their investments into semiconductors or GPUs at a time when few would have thought that computers or artificial intelligence would one day become ubiquitous.[4] Yet again, those companies built the infrastructure that our digital economy relies on today and that powers our nation's modern economic growth.

II. DATs Are Building an Emerging Financial System

DATs fit squarely within the tradition of visionary companies making bold, concentrated investments in then-novel assets and technologies. And among DATs, Strategy is the chief example. Strategy was founded in 1989 and is the world's first and largest Bitcoin treasury company. It is publicly traded with a market capitalization of approximately $57 billion as of December 9, 2025, and aggregate Bitcoin holdings of ₿660,624 as of December 7, 2025.

But Strategy does not simply buy and hold Bitcoin. Rather, it operates a Bitcoin-backed corporate treasury and capital-markets program that allows it to innovate in both capital markets and software. Strategy uses proceeds from equity and debt financings driven by its Bitcoin treasury strategy to offer investors a range of digital credit and innovative securities, including both equity and fixed-income instruments, that provide varying degrees of economic exposure to Bitcoin. In parallel, Strategy provides industry-leading, AI-powered enterprise analytics software.

In May 2024, when MSCI determined that Strategy met the Global Investable Market Indexes methodology for developed markets, Strategy had already spent several years pursuing its Bitcoin treasury strategy. In the year and a half since joining MSCI's indices, Strategy has continued to serve as a dynamic leader in the digital asset and

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[3] *See* D. Hounshell, *Two Paths to the Telephone*, SCIENTIFIC AMERICAN, at 162 (1980) (leading telegraph developer Elisha Gray "wrote to his patent attorney [in 1875]: 'Bell seems to be spending all his energies in [the] talking telegraph. While this is very interesting scientifically, it has no commercial value at present.'").

[4] *See* D. King-Hele, The End of the Twentieth Century? 71 (1970) ("Most computers [in the future] will probably still occupy a large room, however, because of the space needed for the ancillary software – the tapes and cards to be fed in, the operating staff, and the huge piles of paper for printing out the results."); Jensen Huang's 2023 National Taiwan University Commencement Speech (May 26, 2023) (transcript available here) ("Our shareholders were skeptical of CUDA, and preferred we focus on improving profitability . . . . Then, in 2012, AI researchers discovered CUDA.").

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enterprise-analytics sectors, including by introducing five listed preferred securities in 2025 alone to provide Bitcoin-backed digital credit to investors.

In recent years, following Strategy's lead, hundreds of other companies have launched DATs and are pursuing a variety of capital markets (and other) strategies backed by Bitcoin and other digital assets. Trump Media & Technology Group Corp., for example, has become one of the largest Bitcoin treasury companies.[5] And BitMine's treasury operations have allowed it to become the single largest holder of Ethereum, the world's second-largest digital asset.[6]

III. The U.S. Is Poised to Lead the Next Era of Digital-Asset-Driven Growth

Due in part to the tireless work of domestic companies like Strategy, the United States has become a leader in the digital asset industry. Within the first week of his presidency, President Trump signed an executive order to promote the growth of digital financial technology.[7] As that executive order recognized, "[t]he digital asset industry plays a crucial role in innovation and economic development in the United States, as well as our Nation's international leadership."[8]

The Administration has thus undertaken multiple initiatives—including establishing a Strategic Bitcoin Reserve and promoting the inclusion of digital assets in 401(k)s—that promote the growth and adoption of digital assets.[9] The Administration has also recognized that some other countries have promoted central bank digital currencies, such as the digital yuan, that would "consolidate government control of personal financial information, severely compromising individual economic and privacy rights."[10] The Administration has responded by promoting innovative, free-market digital asset solutions—rooted in the same technology that is being targeted by MSCI's proposal.

In addition, the federal government has taken steps to end the hostile and discriminatory treatment of the digital asset industry by financial regulators under the prior Administration. The SEC has dismissed numerous misguided enforcement actions against digital asset companies.[11] Federal banking regulators have ended and condemned

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[5] *Top 100 Public Bitcoin Treasury Companies*, Bitcoin Treasuries.Net (available here).

[6] *See* A. Ayan, *BitMine Adds $113 Million in Ethereum to Corporate Treasury, Onchain Data Shows*, YAHOO! FINANCE (Oct. 29, 2025) (available here).

[7] Executive Order 14178, Strengthening American Leadership in Digital Financial Technology (Jan. 23, 2025) (available here).

[8] *Id.*

[9] *See* Executive Order 14330, Democratizing Access to Alternative Assets for 401(k) Investors (Aug. 7, 2025) (available here); THE WHITE HOUSE, *Fact Sheet: President Donald J. Trump Establishes the Strategic Bitcoin Reserve and U.S. Digital Asset Stockpile* (Mar. 6, 2025) (available here); P. Atkins, *The SEC's Approach to Digital Assets: Inside 'Project Crypto'* (Nov. 12, 2025) (available here).

[10] The President's Working Group on Digital Asset Markets, *Strengthening American Leadership in Digital Financial Technology*, at 95 (Jan. 23, 2025) (available here).

[11] *See, e.g.*, Joint Stipulation to Dismiss, *SEC v. Coinbase, Inc.*, No. 1:23-cv-04738 (S.D.N.Y. Feb. 28, 2025), Dkt. 177 (voluntary dismissal with prejudice); *cf. Coinbase, Inc. v. SEC*, 126 F.4th 175, 182 (3d Cir. 2025) (SEC's denial of Coinbase's petition seeking

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their prior "coordinated effort to debank digital assets" through "the politicization of banking."[12] And the White House has urged federal financial regulators to adopt "technology-neutral" approaches that "do not discriminate against lawful businesses solely due to their industry."[13] At every turn, the Administration is treating digital assets as a matter of critical importance to the economy and national security, not as an ominous, disfavored technology.

IV. Why MSCI Should Keep DATs in its Global Investable Market Indexes

MSCI should decline to implement its proposal to exclude from its Global Investable Market Indexes all companies whose digital asset holdings represent 50% or more of total assets. That proposal rests on an incorrect understanding of the business model of DATs like Strategy. It reflects an arbitrary and unworkable policy choice that would erode the integrity of MSCI's indices. And it would undermine the federal government's goal of promoting digital assets while stifling innovation, impeding economic development, and harming national security.

A. DATs Are Operating Businesses, Not Investment Funds

MSCI's sole articulated justification for excluding DATs from its indices is that, according to "some market participants," some DATs "may exhibit characteristics similar to investment funds."[14] That conception of DATs is fundamentally mistaken, and by itself demonstrates that MSCI's proposal is hasty and ill-informed.

DATs like Strategy are operating companies, not investment funds or mere equity "wrappers" for Bitcoin. Whereas investment funds passively hold assets, DATs actively manage and build products and services on top of those assets. Strategy is a prime example. Although Strategy holds over 600,000 Bitcoins, its core value proposition lies in how it *uses* its Bitcoin to create returns for shareholders. It does so primarily by designing and offering unique "digital credit" instruments—including preferred stock instruments with fixed and variable dividend rates, varying seniorities and credit protections, and more. And Strategy uses proceeds from the sales of those instruments to buy Bitcoin. So long as Bitcoin's returns exceed Strategy's dollar-denominated financing costs over time, Strategy's shareholders and customers will benefit. That approach—capturing the spread

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rulemaking on digital assets under the prior Administration "was conclusory and insufficiently reasoned, and thus arbitrary and capricious"); *SEC v. Digital Licensing Inc.*, No. 2:23-cv-00482, 2024 WL 1157832, at *1 (D. Utah Mar. 18, 2024) (court "impose[d] sanctions against the [SEC] for bad faith conduct in obtaining, maintaining, and defending [a] TRO" against DebtBox, a digital asset company).

[12] News Release 2025-114, *Comptroller Issues Statement on Congressional Debanking Report, Office of the Comptroller of the Currency* (Dec. 1, 2025) (available here); *see* Press Release, Chairman Hill, *Oversight Chair Meuser Issue Final Staff Report on Biden's Debanking of Digital Assets* (Dec. 1, 2025) (available here) (Acting FDIC Chair Travis Hill: "Under the leadership of President Trump, we've ushered in a new era for digital assets and look forward to reversing the damage done by the Biden Administration to prevent unlawful debanking.").

[13] *See* The President's Working Group on Digital Asset Markets, *Strengthening American Leadership in Digital Financial Technology*, at 7 (July 2025) (available here).

[14] MSCI, Announcement for Oct. 10, 2025 (available here).

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between the cost of capital and return on an underlying asset—is comparable to the centuries-old business models of banks and insurance companies.

Nor is Strategy *limited* to its current business model. Strategy's management team continually monitors market conditions to evaluate new business opportunities and maximize investors' returns. Unlike an investment fund, Strategy has operational flexibility to leverage its Bitcoin reserves for any number of other productive uses, such as by issuing Bitcoin-backed derivatives or loans. In other words, as Bitcoin continues to develop and the industry around it continues to evolve, Strategy is well-positioned to adapt its business to take advantage of new opportunities.

The upshot is that investors who buy Strategy's class A common stock are not solely buying exposure to Bitcoin. They can accomplish that by acquiring Bitcoin directly or purchasing shares of Bitcoin ETPs. Rather, Strategy investors are buying *Strategy*—they are investing in Strategy's management team, financial acumen, and ability to capitalize on the future technological innovations that Bitcoin promises. The proof is in Strategy's share price, which historically has *not* been tethered to the value of the Bitcoin that Strategy holds—and has at times traded at multiples higher.[15] The reason is that Strategy's investors believe that Strategy's management will *use* the Bitcoin it holds to generate higher returns than the Bitcoin itself. In other words, they are investing in Strategy as an *operating business*, not as a pass-through entity.

The fact that DATs like Strategy invest heavily—and sometimes nearly exclusively—in a single type of asset does not transform them into investment funds. Many operating companies included in MSCI's indices invest heavily in a single asset class. Oil and timber companies like ExxonMobil and Weyerhaeuser have a significant portion of their assets in oil and timber reserves. REITs like Simon Property Group invest almost exclusively in real estate. Many financial institutions primarily hold certain types of assets and then package and sell derivatives backed by those assets (like residential mortgage-backed securities). And even many companies that are not overtly focused on a single asset have significant asset concentration on their balance sheet, including MSCI itself. DATs like Strategy are no different—except that they hold digital, rather than traditional, assets.

That Strategy is an operating company, not an investment fund, is confirmed by its corporate structure and regulatory treatment. Whereas investment funds are subject to specific regulatory, tax, and accounting regimes, Strategy is treated in every respect like any other operating company in the MSCI indices:

- ***Strategy is organized as a conventional operating company.*** Strategy is organized as a Delaware corporation. Investors access its class A common stock, the security included in MSCI indices, through the equity markets, consistent with standard investability criteria. Its governance, investor protections, and capital allocations are provided through a standard corporate framework. For example, Strategy has a shareholder-elected board, and its management team has discretionary capital-allocation authority. Strategy is also subject to corporate-level taxation as an operating company.

[15] *See, e.g.*, T. Kilgore & J. Rogers, *MicroStrategy's Stock Surges as Bitcoin Purchases Resume, Lifting Holdings to above 600,000*, MarketWatch (July 14, 2025) (available here) ("MicroStrategy's stock ha[d] soared 55% in 2025 [through July], while bitcoin ha[d] run up 28.5%").

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- ***Strategy has no fund- or ETP-like structure or obligations***. Strategy does not operate pursuant to a trust or other agreement that mandates any particular asset allocation or investment strategy. It does not offer redemption rights, does not charge a fund-style management fee, and does not provide investment advisory services. Strategy has no mandate to hold Bitcoin, to offer securities that track the price of Bitcoin or any market index, nor to design or manage its securities to replicate any benchmark.

- ***Strategy is not an investment company under applicable laws.*** Bitcoin is a commodity, not a security. Strategy therefore is not registered as, and is not required to register as, an investment company under the Investment Company Act of 1940. Strategy also is not required to register as a commodity pool under the Commodity Exchange Act.

- ***No fund-like tax consequences.*** From a tax perspective, purchasing Strategy stock is no different than purchasing the stock of any other publicly traded corporation on MSCI's indices. Investors in Strategy do not have the same differential tax consequences as, for example, investors in ETFs, MLPs, or commodities.

- ***Long history as an operating company.*** Strategy was founded more than 35 years ago as an innovative software company, and today conducts a global software business that generates hundreds of millions of dollars of revenue annually. Its origins and history further illustrate that an investment in Strategy is an investment not merely in Bitcoin, but in an organization and management team with a record of visionary entrepreneurialism and commercial success.

In all relevant respects, then, DATs like Strategy resemble financial institutions, energy producers, or real-estate enterprises: they acquire long-lived assets, convert those assets into products and cash flows, and manage them through active capital-allocation strategies. They are operating companies, not investment funds. Treating DATs as if they *were* investment funds (like Bitcoin ETPs) within MSCI indices, despite their fundamental differences, would be unprecedented and would risk misleading investors and MSCI's customers about how DATs actually operate—while also distorting MSCI's own role in the financial marketplace. DATs should remain in the MSCI indices.

B. A Digital-Asset-Specific 50% Threshold Is Discriminatory, Arbitrary, and Unworkable

The proposal to treat *only* DATs and other digital asset-concentrated businesses as investment funds also arbitrarily discriminates against digital assets. Again, *swaths* of major companies invest heavily—and sometimes nearly exclusively—in a single type of asset. For example, oil and gas companies like ExxonMobil and BP often have their assets invested in oil and gas reserves. The same goes for mining companies like Newmont and Barrick (gold), real-estate companies like American Tower (digital communications infrastructure) and Simon Property Group (retail real estate), timber and land companies like Weyerhaeuser and Rayonier (timberlands), energy-infrastructure companies like Dominion Energy, NextEra Energy, and Duke Energy (utility plants), intellectual-property companies like Disney and Universal Music Group (content catalogues), and litigation-finance companies like Burford Capital (litigation assets).

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All of those companies—and more—could share the same key characteristic that MSCI focused on here. Yet the proposal arbitrarily singles out one type of asset for inferior treatment from the constellation of assets that power the economy. That makes no sense. Investors who purchase *any* of those companies' stock are not buying the assets themselves or a passive fund that merely provides 1:1 exposure to the assets the company holds. Rather, investors are purchasing what the companies *do* or *could do* with their assets—just like investors buy Strategy stock because of what Strategy *does* or *could do* with Bitcoin. There is no sound basis for treating only DATs like investment funds for indexing purposes. And doing so would resurrect the same arbitrary regulatory treatment of digital assets that has been abandoned and reversed by the current Administration.

The proposal would also be wholly unworkable. Digital asset prices have been historically volatile, so the proposal would result in companies moving in and out of MSCI's indices on a regular basis. Companies might have purchased digital assets that represented 25% of their portfolio—and then suddenly need to be de-listed if the value of those digital assets increases significantly. Conversely, companies might be de-listed because they strategically purchased digital assets—and then need to be re-listed if they decide to sell those assets or strategically acquire other assets as well. This whiplash would be detrimental to companies, investors, and MSCI's reputation.

Meanwhile, MSCI would need to somehow develop reasonable metrics and methods to continually measure the asset holdings of companies potentially eligible for its indices. That will be no easy task. Among other things, the fair value and book value of a company's assets might differ; a company might have invested in other companies that themselves have varying degrees of exposure to digital assets; and companies' investment contracts might present innumerable questions regarding whether the company is holding an *asset* or some other form of financial instrument. Some companies might start to structure their asset holdings in ways to avoid MSCI's wooden rule (particularly since application of different accounting standards can result in different accounting outcomes), and MSCI would need to establish additional protocols and monitoring to ensure that its standards are applied fairly and without disparate treatment. The result would be chaos and confusion for MSCI, investors, and the companies included in its indices.

Nor would MSCI's proposal even succeed on its own terms. Under U.S. GAAP standards, Bitcoin is subject to fair value accounting principles. Yet many international DATs book their digital assets at cost under IFRS standards, which would allow DATs that hold Bitcoin to stay under a 50% threshold even as similar GAAP-subject DATs could not do so. The proposal thus might result only in companies migrating onto MSCI's international indices, a nonsensical result that could invite further MSCI oversight and investor confusion. Additionally, even under GAAP, the accounting rules could potentially treat different DATs differently, as not all tokens (e.g., non-fungible tokens) are subject to fair value accounting. MSCI should avoid all of these problems by rejecting the proposal.

C. The Proposal Inappropriately Injects Policy Judgments into Index Construction

MSCI also should reject the proposal because it compromises the perceived neutrality of MSCI's indices. MSCI has consistently held itself out as providing indices that "accurately and objectively measure [the] performance of a

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market or economic reality."[16] MSCI's indices thus "are intended to provide" "[e]xhaustive coverage of the investable opportunity" "with the objective of reflecting the evolution of the underlying equity markets."[17] What index providers are *not* meant to do, as MSCI has told the SEC, is adopt positions "as to whether any market, company, strategy or investment is good or bad, or appropriate or inappropriate."[18] MSCI's success—just like that of any other index provider—therefore depends on the market's perception that its indices capture the equity universe without bias, and are based on neutral, traditional indexing criteria.

Yet the proposal's unique treatment of digital assets is anything but neutral, and it is certainly not based on traditional indexing criteria. The proposal therefore appears to reflect a policy position on digital assets and DATs, treating them as inferior to other asset types and businesses. Neither MSCI nor any other index provider should put itself in the position of excluding—or even appearing to exclude—companies from its indices based on a policy judgment about the merits of their business models. Like any other innovative business model, DATs' business models may succeed or they may fail. But it should be the market, not a standard-setting organization, that passes judgment and determines value.

And far from reflecting the market, such a policy position would be *contrary* to market trends. Digital assets are increasingly important to the economy, with Bitcoin alone having a market cap of around $1.85 trillion, making it one of the world's largest assets. The proposal thus would introduce a structural under-representation of important economic activities (corporate adoption of digital assets) in its broad benchmarks, contrary to MSCI's stated goals of providing "[e]xhaustive coverage" of equity markets that "reflec[t] the[ir] evolution."[19]

Worse, the proposal would raise questions about MSCI's motives at a time when leading financial institutions and regulators are moving *away* from requiring policy-laden considerations—like ESG—to influence investment decisions. As many others have already learned through real-world experience, trying to mix social policy with sound finance creates a combustible solution. Fiduciaries that represent investors need to know that they are making investment decisions based exclusively on financial considerations—taking appropriate risks to maximize returns for reasonable fees. But if an index that purports to provide neutral, accurate exposure to the "performance of a market" as a whole suddenly injects subjective value judgments about particular lines of business or assets into its metrics, then fiduciaries cannot be confident that investments in the index (direct or indirect) are consistent with their fiduciary duties.[20]

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[16] MSCI Index Policies at 5 (Dec. 2024) (available here).

[17] MSCI Global Investable Market Indexes Methodology at 12, 35 (Nov. 2025) (available here).

[18] *See* MSCI's Response to the U.S. Securities and Exchange Commission's Request for Comment on Certain Information Providers Acting as Investment Advisers (Aug. 15, 2022) (available here).

[19] MSCI Global Investable Market Indexes Methodology at 12, 35 (Nov. 2025) (available here).

[20] *Cf. Spence v. American Airlines*, 775 F.Supp.3d 963, 972-73 (N.D. Tex. 2025) ("Defendants breached their fiduciary duty by failing to loyally act solely in the retirement plan's best financial interests by allowing their corporate interests, as well as BlackRock's ESG interests, to influence management of the plan."); Ropes & Gray, *Trump DOL Withdraws Biden-Era ESG Rule and Crypto Guidance for ERISA Plans* (May 30, 2025) (available here) (recent U.S. Department of Labor actions regarding the role of ESG and digital assets in retirement plans).

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The prior Administration waged a whole-of-government campaign against digital assets that was brought to a halt less than a year ago.[21] The digital asset industry, and other observers of financial markets and regulation, will naturally be concerned by any attempt to resume the campaign against digital assets through the influence of non-governmental financial institutions. MSCI should not thrust its respected indices into the midst of these acrimonious policy-laden debates.

D. The Proposal Conflicts with Federal Strategy and Chills Innovation

The proposal also runs counter to the national strategies of the federal government. As detailed above, the Trump Administration has made digital assets a centerpiece of its economic and geopolitical initiatives. As the Administration has repeatedly said, it wants to "position[] the United States as a leader among nations" with respect to digital asset technologies and secure Americans' economic liberty against the central bank digital currencies promoted by other countries.[22] Part of that strategy is promoting access to investments in digital assets for pension plans, 401(k)s, and other defined-contribution retirement plans.[23] Yet MSCI's proposal would effectively *deny* those plans access to companies investing in digital assets—automatically moving billions in capital away from the sector and directly undermining one of the Trump Administration's key economic and geopolitical goals.

In doing so, the proposal would also chill the rapidly growing digital asset industry. By de-listing companies that are invested heavily in digital assets, the proposal would shut DATs out of the ~$15 trillion passive-investment universe, drastically weakening their competitive position for untenable reasons. Analysts have estimated that Strategy alone could see up to $2.8 billion of its stock liquidated by MSCI's proposal—just a year after MSCI determined that Strategy was eligible for its indices.[24] And DATs would not be alone. At a minimum, MSCI's proposal would result in the de-listing of Bitcoin miners that choose to hold large quantities of their mined Bitcoin on their balance sheets, which would distort markets by incentivizing miners to sell their Bitcoin immediately. And more broadly, the proposal could affect *any* nascent business that may use digital assets as operational capital or collateral—effectively excluding whole sectors from the investable universe before they have fully emerged.

That will not only hamstring companies like Strategy, but also restrain the development of digital asset technologies themselves and the broader economic revolution they promise. MSCI should not take such an

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[21] *See supra* 5-6; *see also, e.g.*, *Coinbase, Inc. v. SEC*, 126 F.4th 175, 215 (3d Cir. 2025) (Bibas, J., concurring) ("[S]poradically enforcing ill-fitting rules against crypto companies that are trying to follow the law goes way beyond fighting fraud. It targets a whole industry and risks de facto banning it.").

[22] THE WHITE HOUSE, *Fact Sheet: President Trump Establishes the Strategic Bitcoin Reserve and U.S. Digital Asset Stockpile*, (Mar. 6, 2025) (available here); M. Poteriaieva, *3 Ways Bitcoin Could Impact the U.S. Economy*, FORBES (Sept. 18, 2024) (available here).

[23] *See* Executive Order 14330, Democratizing Access to Alternative Assets for 401(k) Investors (Aug. 7, 2025) (available here).

[24] Y. Khatri, *JP Morgan Says Strategy Could Face Billions In Outflows if MSCI and Other Major Indices Remove It*, THE BLOCK (Nov. 20, 2025) (available here).

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economically damaging action—particularly at a time when the country faces so many other macroeconomic headwinds.

E. If Still Inclined to Treat DATs Differently, MSCI Should Extend the Consultation

Putting aside the proposal's merits, there can be no doubt that the proposal, if implemented, would have significant consequences for DATs, their investors, and digital asset markets more broadly. MSCI should allow time for the digital asset industry and DATs to evolve and gain their footing before proposing broad-stroke rules and criteria. At a minimum, MSCI should not take such a consequential step without engaging in further consultation. When it announced the proposal, MSCI offered a few terse sentences that provided almost no explanation of the basis for the proposal. MSCI said, for example, that "some market participants noted that [DATs] may exhibit characteristics similar to investment funds"—but it did not explain *which* participants raised these concerns, or *what* characteristics they viewed as similar to investment funds. Nor did it explain why those characteristics were material, whether all DATs share them, or why other companies (such as mining, real-estate, and financial companies) do *not* share those characteristics. If, after reviewing comments it receives on the proposal, MSCI is still inclined to treat DATs differently from all the other companies in its indices, MSCI should at least provide a more comprehensive explanation to support its proposal and invite further comment.

Conclusion

We urge MSCI to reject the proposal. It rests on a broad mischaracterization of DATs and would impose arbitrary, unworkable conditions that would stifle innovation, damage the reputation of MSCI's indices, and conflict with national priorities. History shows that when foundational technologies have emerged, the institutions that prospered were those that let markets test them rather than throttling them in advance. The digital asset ecosystem now stands at a similar inflection point: MSCI can either succumb to the reactive short-sightedness that established institutions sometimes display toward innovation, or it can allow its indices to reflect, neutrally and faithfully, the next era of financial technology. The wiser course—for MSCI, for investors, and for the broader economy—is for MSCI to remain neutral and let the markets decide the course of DATs.

If the Committee has any questions or is interested in further information, we are available to discuss.

Sincerely,

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