

December 17, 2021

Gary Gensler
Chairman
U.S. Securities and Exchange Commission (SEC)
100 F Street NE
Washington, DC 20549

Re: Oversight of index providers and ETFs to protect Americans from material risk posed by certain Chinese companies

Dear Chairman Gensler,

We write to bring to your attention the serious human rights abuses and U.S. national security risks associated with certain Chinese companies contained in indices, Exchange-Traded Funds (ETFs), and other index funds provided by American index providers and asset managers. We ask that the SEC bar these companies from inclusion in indices and ETFs in our capital markets.

The criteria used by index providers to evaluate companies listed in their products fails to consider material risks posed by U.S. national security threats, inclusion of companies subject to various official sanctions regimes, geopolitical and governmental factors of foreign-domiciled companies, and human rights violations – among others. These gaps in oversight and due diligence are afflicting index funds held by scores of millions of unwitting American retail investors – often through their pension funds – and elevating the material risks in a manner inconsistent with their proper fiduciary duty. Meanwhile, American retail investors are helping fund Chinese companies that are officially recognized as actively undermining U.S. security interests, our nation’s fundamental values, and American companies and workers.

By purchasing shares in ETFs, American retail and institutional investors are exposed to a wide range of publicly traded Chinese companies that are involved in activities that are contrary to U.S. national and economic security interests and fundamental human rights. A number of these companies are also already under U.S. economic sanctions and export controls (e.g. the Entity List, Military End-User List etc.) because they pose a direct risk to U.S. national security and are facilitating the strategic agenda of the Chinese Communist Party (CCP), including the modernization of the People’s Liberation Army and Navy, and China’s ongoing genocide against the Uyghurs and other Muslim minorities in Xinjiang.

Our review of the holdings (as of October 31, 2021) of four of the largest iShares ETFs with exposure to Chinese securities found that these funds (and, consequently, the MSCI indexes that they track) are currently holding the securities of eight companies that have been placed on the U.S. Department of Commerce’s Entity List for egregious human rights abuses, as well as three companies that are on the U.S. Department of the Treasury’s Non-SDN Chinese Military Industrial Complex Companies (CMIC) List for their involvement in China’s military and surveillance sectors. We have highlighted the risk profiles of four of these companies in the attached Appendix.

Congress and the SEC have begun to take action to address the risk posed by publicly traded securities of Chinese firms which fail to comply with the Public Companies Accounting Oversight Board's (PCAOB) rules for transparency and disclosure by passing and, in the case of the SEC, observing the requirements of Holding Foreign Companies Accountable Act (HFCAA). This legislation, however, only affects Chinese companies listed directly on U.S. exchanges. It neglects to address more than 4,200 "A-Share" securities of companies that are presently in the investment portfolios of as many as 100 million or more U.S. investors through indexes and associated passive index funds (not to mention the 900 Chinese companies in the OTC market).

Both the Trump and Biden administrations have issued Executive Orders banning U.S. investment in securities of Chinese companies found to present a national security threat to the United States. Indeed, the scope of these restrictions continues to expand, with the inclusion of certain human rights abuses (e.g. surveillance technology companies) in President Biden's Executive Order 14032 and the commitment to continue to add Chinese companies to the Non-SDN Chinese Military Industrial Complex Companies (CMIC) List, most recently on display this week with the addition of nine companies to this latter list.

We strongly urge the SEC to prohibit index providers from including the securities of Chinese companies (particularly non-regulated "A-share" enterprises) in their benchmarks that are not fully compliant with U.S. securities laws and which have been identified by any U.S. government agency as contributing to China's military modernization or egregious human rights abuses. The SEC must require that A-shares be covered with the same regulatory requirements of all other U.S. issuers – and not continue to be given the preferential treatment granted to them by the May, 2013 bilateral MOU concluded with the Obama administration. Indeed, index providers should be immediately required to disclose all national security- and human rights-related risks associated with their constituent companies to investors as well as in their environmental, social and governance reporting procedures.

Sincerely,



Zach Mottl, Chairman
Coalition for a Prosperous America



Michael Stumo, CEO
Coalition for a Prosperous America

Enclosures: Appendix

APPENDIX.

Inspur Group Co., Ltd.

Listed Subsidiaries: Inspur Software Co., Ltd. 600756.SS, Inspur International 000977.SZ, 0596.HK

Inspur is a high-tech company that has significant connections to the Chinese government, and to Chinese military and security services. According to a report from Defense One, the People's Liberation Army (PLA) uses Inspur equipment and computers, mapping technology, and communications equipment.

Inspur also famously worked from 2013-2015 with China's National University of Defense Technology to build the world's fastest supercomputer, China's Tianhe-2, on an 863 grant. The supercomputer was reportedly used for government security and military applications. The 863 Program has been accused of serving as the Chinese military's vehicle for espionage, intellectual property theft. According to a 2011 report from the U.S. Office of the National Counterintelligence Executive, the 863 program "provides funding and guidance for efforts to clandestinely acquire U.S. technology and sensitive economic information."

In April 2015, the U.S. government Department of Commerce imposed export controls on Inspur prohibiting the use of U.S. equipment and technology in Inspur's supercomputer program due to military and security concerns.

China State Shipbuilding Corporation (CSSC)

Listed Subsidiary: China CSSC Holdings Ltd. 600150.SS

CSSC is involved in the Chinese government's efforts to reclaim and militarize disputed areas of the South China Sea. In May 2014, a research institute under China State Shipbuilding Corporation (CSSC) released plans on its website to build an artificial island, an airstrip complex, and a possible military base at the Johnson South Reef.

In December 2015, CSSC announced that it would begin building an underwater observation system coined the "Underwater Great Wall" in the South China Sea, under a contract with the PLA. The massive underwater surveillance system will feature a network of ship and underwater subsurface sensors, providing the PLA Navy with a significant tactical advantage in the disputed and increasingly tense South China Sea.

CSSC was included in the Executive Order issued in November 2020 that prohibited U.S. investors from owning shares in companies linked to the PLA by the U.S. DOD. CSSC was included in this list.

Zhejiang Dahua Technology Co., Ltd. 002236.SZ

Dahua Technology provides video surveillance products and services used in machine vision, video conferencing, professional drones, and RFID systems. It has received over a billion dollars in contracts for video surveillance and security projects in Xinjiang, including facial recognition and data storage systems.

The company was added to the U.S. Department of Commerce's Entity List in October 2019 for having been implicated in human rights violations and abuses, mass arbitrary detention, and high-tech surveillance in Xinjiang. Dahua Technology was also one of the five Chinese companies that was designated as a national security threat by the Federal Communications Commission (FCC) in March 2021.

iFlytek 002230.SZ

Iflytek produces speech recognition software and products, including the first AI open platform for smart hardware developers in China. It has supplied voiceprint collection systems to Kashgar police in Xinjiang and partnered with the Xinjiang Public Security Bureau and with telecommunications companies to integrate voice pattern data into surveillance systems.

Iflytek was added to the U.S. Department of Commerce's Entity List in October 2019 for having been implicated in human rights violations and abuses, mass arbitrary detention, and high-tech surveillance in Xinjiang.