



INDEX RULES & METHODOLOGY | December 22, 2020

# CONSULTATION ON EQUITY INDEX TREATMENT OF SANCTIONED CHINESE COMPANIES

**Phil Galdi**, Head of Indices  
ICE Data Indices

**Dwijen A. Gandhi**, Research & Development  
ICE Data Indices

**ICE Index Hotline:**  
New York: +1 770 999 4501  
Email: [ICENYSEIndices@theice.com](mailto:ICENYSEIndices@theice.com)

---

## Executive Order restricts trading in certain Chinese companies

On November 12, 2020, the President of the United States of America signed an Executive Order prohibiting U.S. transactions in specific Chinese companies. The order takes effect on January 11, 2021 and may impact the ability of U.S. investors to replicate indices containing the affected securities.

## No immediate plans to remove sanctioned companies from indices

Given (i) the extremely limited share that the specifically named companies currently hold in the ICE equity indices, (ii) the lack of clarity on treatment of subsidiaries and affiliates of the sanctioned companies, (iii) the fact that U.S. investors who must abide by the sanctions are not immediately required to sell holdings of the named companies, and (iv) non-U.S. investors also use the indices, we do not have any immediate plans to exclude the companies from the indices.

## Consultation on Executive Order regarding certain Chinese companies

Since the potential impact of the sanctions on the indices could become greater as we get more clarity on certain aspects of the sanctions and should more companies be added to the list, ICE Data Indices (IDI) is conducting a consultation with stakeholders regarding their preferred treatment.

## Please respond by January 8, 2021

We will accept stakeholder feedback on the questions included in this consultation until January 8, 2021. All comments can be submitted to [ICENYSEIndices@theice.com](mailto:ICENYSEIndices@theice.com) with "China sanctions" in the subject line. Following the end of the consultation we will announce results and decisions regarding changes in index rules, if any.

## Background

The Executive Order refers to a list maintained by the U.S. Department of Defense, which designates “Communist Chinese military companies” operating directly or indirectly in the United States. At the time of the Executive Order, the list included 31 companies but four more companies have since been added. It is unclear whether the prohibition on “transactions” is aimed purely at the specifically named companies, or should be interpreted more broadly to include subsidiaries and affiliates as well. Pending further clarification from the Treasury Department, we assume the prohibition only affects the named companies. However, we have also looked at index allocations assuming a broader interpretation.

While a number of companies such as China Mobile Ltd. (941-HK, CHL-US), CNOOC Ltd. (883-HK, CEO-US), China Unicom (Hong Kong) Ltd. (CHU-US) and China Telecom Corp. Ltd. (728-HK, CHA-US) are publicly listed in the U.S. or Hong Kong and included in various equity indices, due to the fact that they are subsidiaries of the specifically named companies, the potential impact of the Executive Order is thereby assumed to be limited. However, there is a single instance of a named company that is currently included in an equity index: Semiconductor Manufacturing International Corporation (981-HK) is currently included in the ICE FactSet Global NextGen Communications Index (ICEFSNC).

The prohibition on transactions detailed in the Executive Order extends to all “U.S. persons” or to anything occurring within the United States. Correspondingly, it is important to note that several of the impacted indices are primarily used by ex-U.S. investors.

Table 1 in the Appendix shows the weight that sanctioned companies hold in each of the affected indices under two assumptions: (i) exposure to the specifically named companies, and (ii) exposure to those companies as well as their subsidiaries and affiliates as identified by IDI. The next regularly scheduled rebalancing date for the affected indices is also shown in the table.

## Questions

We request stakeholder feedback on the following questions pertaining to treatment of the China sanctions in the equity index rules:

1. Should any equities be removed from any indices as a result of the Executive Order?
  - a. Yes
  - b. No
2. If any equities are excluded due to the Executive Order, when should the exclusion happen?
  - a. Exclude as soon as reasonably possible
  - b. Exclude starting at the next regularly scheduled rebalancing
  - c. Exclude only at the point at which U.S. investors are required to divest all holdings in the sanctioned companies
3. Barring any further clarification to the contrary, should any exclusions be limited to only the named companies?
  - a. Yes
  - b. No, exclude subsidiaries and affiliates as well

# Appendix

**Table 1: Weight of sanctioned Chinese issuers in affected indices with next rebalancing dates (as of 12/18/2020)**

Ticker	Name	Named Companies only	Including affiliates and subsidiaries	Rebalancing dates
ADR	NYSE Arca International Market Index	-	2.32	N/A
CZH	NYSE Arca China Index	-	12.88	March 19, 2021
HKO	NYSE Arca Hong Kong Option Index	-	8.53	March 19, 2021
HKX	NYSE Arca Hong Kong 30 Index	-	8.53	March 19, 2021
ICEFSNC	ICE FactSet Global NextGen Communications Index	0.62	1.46	March 26, 2021
NYA	NYSE Composite Index	-	0.19	March 19, 2021
NYE.ID	NYSE Energy Sector Index	-	1.01	March 19, 2021
NYFSRAI	NYSE FactSet Global Robotics and Artificial Intelligence Index	-	0.82	June 18, 2021
NYI.ID	NYSE International 100 Index	-	0.73	March 19, 2021
NYL.ID	NYSE World Leaders Index	-	0.25	March 19, 2021
STRQGC	StrataQuant Global Commodity Index	-	1.58	January 12, 2021

## DISCLOSURES

This document is provided for informational purposes only. The information contained in this document is subject to change without. Nothing herein should in any way be deemed to alter the legal rights and obligations contained in agreements between ICE Data Indices LLC and/or affiliates and their clients relating to any of the products or services described herein. This document may include observations made by ICE Data Indices, LLC of general market movements and trends, but it is not meant to be a solicitation or a recommendation to buy, sell or hold securities. ICE Data Indices LLC does not provide legal, tax, accounting, or other professional advice. Clients should consult with an attorney, tax, or accounting professional regarding any specific legal, tax, or accounting situation.

For the purpose of calculating any Index, ICE Indices has relied on publicly available sources and has not independently verified the information extracted from these sources and accepts no responsibility or liability in respect thereof. ICE Indices, its affiliates and its third-party data providers and licensors (collectively "ICE Indices Parties") do not guarantee that the Content is accurate, complete, timely or error free and it should not be relied upon as such. ICE Indices Parties are not responsible for any errors, omissions, or interruptions regardless of the cause, or for the results obtained from the use of the Content. **THE CONTENT IS PROVIDED ON AN "AS IS" BASIS. ICE INDICES PARTIES DISCLAIM ANY AND ALL EXPRESS OR IMPLIED WARRANTIES AND CONDITIONS, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE, FREEDOM FROM VIRUSES, BUGS, WORMS, OTHER HARMFUL COMPONENTS OR OTHER PROGRAM LIMITATIONS, SOFTWARE ERRORS OR DEFECTS, THAT THE CONTENT'S FUNCTIONING WILL BE UNINTERRUPTED OR THAT THE CONTENT WILL OPERATE WITH ANY SOFTWARE OR HARDWARE CONFIGURATION.** In no event shall ICE Indices Parties be liable to any party for any direct, indirect, incidental, exemplary, compensatory, punitive, special or consequential damages, costs, expenses, legal fees, or losses (including, without limitation, lost income or lost profits and opportunity costs) in connection with any use of the Content even if advised of the possibility of such damages.

Any available index returns represent past performance and are not indicative of any specific investment. The Content (including any of the output derived from any analytic tools or models) is not intended to predict actual results, which may differ substantially from those reflected. Past performance is not necessarily indicative of future results.

Intercontinental Exchange, Inc. keeps certain activities of its business units separate from each other in order to preserve the independence and objectivity of their respective activities. As a result, certain business units of Intercontinental Exchange, Inc. may have information that is not available to other business units. ICE Indices has established policies and procedures to maintain the confidentiality of certain non-public information received in connection with each analytical process. There is no obligation on ICE Indices to disclose information held by it in relation to any Index to other parties.

The various businesses of Intercontinental Exchange, Inc. provide a wide range of products and services to a diverse group of clients and, as such, Intercontinental Exchange, Inc. faces potential conflicts of interest in the ordinary course of its business. Intercontinental Exchange, Inc. may be acting in a number of capacities in connection with Investable Products or other transactions entered into in relation to ICE indices. Intercontinental Exchange, Inc., acting in such capacities in connection with such transactions, shall have only the duties and responsibilities expressly agreed to by it in its relevant capacity and shall not, by virtue of its acting in any other capacity, be deemed to have other duties or responsibilities or be deemed to hold a standard of care other than as expressly provided with respect to each such capacity. ICE Indices has established policies and procedures designed to identify and address conflicts of interest.

In addition, Intercontinental Exchange, Inc. provides a wide range of services to, or relating to, many organizations, including issuers of securities, investment advisers, broker-dealers, investment banks, other financial institutions and financial intermediaries, and accordingly may receive fees or other economic benefits from those organizations, including organizations whose securities may form part of any index or other evaluation ICE Indices carries out.

**ABOUT INTERCONTINENTAL EXCHANGE** Intercontinental Exchange, Inc. (NYSE:ICE) operates a leading network of exchanges and clearing houses. ICE's exchanges and clearing houses, which include the New York Stock Exchange, serve global commodity and financial futures and equities markets. The New York Stock Exchange is the world leader in capital raising and equities trading. ICE is a leading provider of data services across global markets. Trademarks of ICE and/or its affiliates include Intercontinental Exchange, ICE, ICE block design, NYSE, and New York Stock Exchange, Information regarding additional trademarks and intellectual property rights of Intercontinental Exchange, Inc. and/or its affiliates is located at [www.intercontinentalexchange.com/terms-of-use](http://www.intercontinentalexchange.com/terms-of-use). Other products, services or company names mentioned herein are the property of, and may be the service mark or trademark of, their respective owners.

**ABOUT ICE DATA SERVICES:** ICE Data Services is the marketing name used to refer to the suite of pricing, market data, analytics, and related services offered by Intercontinental Exchange, Inc. and certain of its affiliates, including ICE Data Indices, LLC. Thousands of financial institutions and active traders, as well as hundreds of software and service providers, subscribe to ICE Data Services' offerings which include fixed income evaluations, reference data, real-time market data, trading infrastructure services, fixed income analytics, desktop solutions and web-based solutions. ICE Data Services' offerings support clients around the world with mission-critical functions, including portfolio valuation, regulatory compliance, risk management, electronic trading and wealth management. Over 2,400 employees in offices worldwide are employed in the ICE Data Services companies.