



# **MSCI'S FEEDBACK ON SEBI'S COMPLIANCE STANDARDS FOR INDEX PROVIDERS**

MSCI

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## INTRODUCTION

MSCI appreciates the opportunity to comment on SEBI's **Compliance Standards for Index Providers**. We have responded to the first two questions in SEBI's proposal.

### About MSCI

MSCI is a leading provider of investment decision support tools to institutional investors globally, including asset managers, banks, hedge funds and pension funds. MSCI products and services include indexes, ESG research and tools, and portfolio risk and performance analytics. MSCI is headquartered in New York, with research and commercial offices around the world.

MSCI has been calculating indexes for more than 50 years. The MSCI equity indexes include country and regional indexes, size indexes (large cap, small cap, and micro-cap), sector indexes, style (value/growth) indexes, strategy indexes, thematic indexes and ESG indexes.

MSCI also calculates custom indexes at the request of clients, by applying client screens and constraints to MSCI equity indexes. MSCI equity indexes are used worldwide by:

- assets owners to help them with their mandate decisions and with reviewing their managers' performance;
- active asset managers so that they can actively manage their funds against an index and report performance;
- passive fund managers to issue passive funds and ETFs based on the indexes;
- broker dealers for providing trading execution services, creating OTC and non-OTC derivative financial products and writing research more generally;
- stock exchanges to create equity index linked futures and options contracts; and
- Clearinghouses to calculate the risks of its positions for index linked futures and options contracts.

During 2013 and 2014, MSCI implemented the IOSCO Principles for Financial Benchmarks, was externally audited during each of 2014, 2015 and 2016 for the MSCI equity indexes and select MSCI private real estate indexes, and posted the adherence statements and audit reports on the Index Regulation page of [www.msci.com](http://www.msci.com). During 2017, 2018 and 2019, MSCI devoted those resources to implementing the EU benchmark regulation ("BMR"), and MSCI posted the IOSCO adherence statements on the Index Regulation page of [www.msci.com](http://www.msci.com).

On 5 March 2018, MSCI Limited, which is a UK subsidiary of MSCI Inc., was granted authorization by the UK FCA as a UK administrator under the BMR for the MSCI equity indexes. MSCI was the first major global equity index provider to become

authorized under the BMR. On 13 June 2019, MSCI notified the FCA in relation to specific UK MSCI Private Real Estate Indexes used as regulated benchmarks under the BMR. On 16 December 2019, MSCI notified the FCA in relation to the MSCI fixed income indexes.

### RESPONSES

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### MSCI Comments

**1. Whether the above Compliance Standards for Index Providers would provide for greater level of disclosure and transparency, promote the reliability of benchmark determinations, and address benchmark governance and accountability mechanisms?**

Comments on Discussion Paper	
Comments / Suggestions	Rationale
<p>MSCI broadly supports the IOSCO Principles for Financial Benchmarks and MSCI welcomes SEBI's proposal to align to the IOSCO Principles which will help ensure that globally consistent benchmark standards are applied.</p> <p>However, we would recommend a few areas of clarity:</p> <ul style="list-style-type: none"> <li>To provide further clarity in terms of scope and applicability, it would be helpful if the rules refer to Indian "administrators" using the definition in the IOSCO</li> </ul>	<ul style="list-style-type: none"> <li>To be consistent with international standards, the "Index Provider" or the "administrator" would be the entity in the corporate group that is responsible for overall "administration" of the indices.</li> </ul>

<p>Principles, instead of “Index Providers in India”.</p> <ul style="list-style-type: none"> <li>• As SEBI rightly points out, the IOSCO Principles by their terms allow for a proportional “comply or explain” regime. It would be important to ensure that fundamental principle continues to apply, especially because the provisions of the IOSCO Principles do not apply to all asset classes or types of indexes.</li> <li>• The audit provisions (including external audits broadly for all indexes goes) beyond the audit requirements set out in international standards.</li> </ul>	<p>As set out in Principle 1 of the IOSCO Principles, administrators “retain primary responsibility for all aspects of the Benchmark determination”, and Article 3(1)(6) of the EU benchmark regulation defines the administrator as the “natural or legal person that has control over the provision of a benchmark”.</p> <ul style="list-style-type: none"> <li>• Principle 17 of the IOSCO Principles allows for internal <u>or</u> external audits. This intentionally accommodates different types and sizes of index providers and is specifically designed to be “proportionate to the size and complexity of the Administrator’s operations”. The EU benchmark regulation only requires audits for critical benchmarks, like LIBOR. It</li> </ul>
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<ul style="list-style-type: none"> <li>An alternative to contractual changes (which could lead to potential market disruption), could be to require asset managers and stock exchanges instead (i) to confirm, during the due diligence process of choosing the index/index provider, that the index provider has published an IOSCO certification statement on its website, and (ii) to obtain the link on the index provider's website where the annual certification is posted.</li> </ul>	<p>would be helpful to remain closer to the IOSCO Principles.</p> <ul style="list-style-type: none"> <li>This would achieve SEBI's goals of greater levels disclosure and transparency, reliability of benchmark determinations and benchmark governance and accountability, without the potential market disruption associated with contractual provisions and changes.</li> </ul>
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**2. Whether above Compliance Standards for Index Providers are sufficient to provide broad framework for Index Providers while managing/maintaining Indices including provisions for licensing indices in foreign jurisdictions?**

Comments on Discussion Paper	
Comments / Suggestions	Rationale
<p>Requiring asset managers and stock exchanges to confirm, during the due diligence process of choosing the index/index provider, that the index provider has published an IOSCO certification statement on its website (and obtaining the link on the index provider's website where the annual certification is posted) will help ensure that globally consistent benchmark standards are applied.</p>	

<p>However, neither the IOSCO Principles nor the EU benchmark regulation include licensing provisions or restrictions, and introducing these new and different standards risks potential market disruption. Further, it should be made clear that the proposed licensing provisions/restrictions do not apply to foreign index providers/administrators at it would unduly and unjustifiably restrict the licensing of their indices globally.</p>	
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**3. Whether there is need for a formal regulatory framework for Index Providers?**

Comments on Discussion Paper	
Comments / Suggestions	Rationale
See comments above.	

**4. Whether SEBI should specify certain indices as significant and apply the regulatory framework to only those indices as is done in some international jurisdictions as mentioned above?**

Comments on Discussion Paper	
Comments / Suggestions	Rationale
<p>Most jurisdictions have chosen to designate certain local indexes and aligning to that standard would be more in line with what other countries have chosen to do.</p>	--

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To learn more, please visit  
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*The process for submitting a formal index complaint can be found on the index regulation page of MSCI's website at: <https://www.msci.com/index-regulation>.*

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