

October 20, 2026

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Department of the Treasury
Internal Revenue Service
1111 Constitution Avenue NW
Washington, DC 20224

Re: RIN 1545-BS14; CC-00349938-26. Comments of The Heritage Foundation
Regarding the Prohibition of ESG Index Funds and the Eligibility of Diversified Index
Funds Under the Proposed Rule, “Guidance on Eligible Investments for Trump
Accounts.”

To Whom It May Concern:

The Heritage Foundation (“Heritage”) respectfully submits this comment regarding the proposed regulations governing eligible investments for Trump Accounts, “Guidance on Eligible Investments for Trump Accounts,” RIN 1545-BS14 (the “Proposed Rule”). Heritage supports the Proposed Rule’s prohibition on investment funds that track environmental, social, and governance (“ESG”) indices, which contradict the statutory language and purpose of Trump Accounts which is to maximize returns while minimizing investor risk at low fees. Congress achieved this by defining “eligible investments” as any mutual fund or exchange traded fund that has low expenses and tracks a qualified index, which is further defined by citing the S&P 500 Index as the quintessential example of a qualified index and by excluding “sector-specific” indexes from eligibility. 26 U.S.C. § 530A(b)(3). ESG funds, by their nature, prioritize nonfinancial, largely political, considerations over the broad market diversification and investment purposes of the governing law. ESG funds operate both by including only certain favored companies and excluding disfavored companies--to the extent of materially eroding diversification and return potential, and therefore their exclusion is fully justified.

The Heritage Foundation, as a policy advocacy organization and an employer, respectfully urges the Department of the Treasury (“Treasury”) and the Internal Revenue Service (“IRS”) to clarify that otherwise broadly diversified index funds should not be disqualified merely because they exclude some companies engaged in certain vice industries. Disqualifying such funds when their selection is based on religious motivations could raise concerns under the Religious Freedom Restoration Act (“RFRA”). Such limited exclusions should not result in an otherwise eligible index fund being lumped in with ineligible ESG investment or industry- or sector-specific funds, provided that the fund satisfies all other applicable eligibility requirements, including diversification, index tracking, and return potential.

I. Introduction

On July 3, 2025, Congress gave final approval to the One Big Beautiful Bill Act, establishing Trump Accounts under Section 530A of the Internal Revenue Code.¹ President Trump signed the legislation into law on July 4, 2025, advancing the Administration’s commitment to supporting American families.² As President Trump explained, Trump Accounts were envisioned as a “pro-family initiative that will help millions of Americans harness the strength of our economy to lift up the next generation.”³

Trump Accounts are tax-advantaged investment accounts designed to provide American children with an early financial foundation and an opportunity to participate in the growth of the American economy. Contributions to Trump Accounts became permissible beginning July 4, 2026.⁴ Under the program, eligible American children born between January 1, 2025, and December 31, 2028, may receive a one-time \$1,000 contribution from the Treasury.⁵ Parents and family members may also contribute to these accounts, generally subject to a combined annual contribution limit of \$5,000.⁶ Employer contributions are limited to \$2,500 annually.⁷ The Treasury’s pilot contributions are excluded from the annual contribution limit.⁸

Under Section 530A, Congress limited Trump Account investments to low-cost mutual funds and exchange-traded funds (“ETFs”) that follow certain stock market indices and do not use borrowed money to amplify investment returns.⁹ Congress expressly excluded industry- and sector-specific indices while authorizing the Treasury to establish additional eligibility criteria.¹⁰ Consequently, the Treasury and the IRS proposed regulations prohibiting funds tracking ESG indices from qualifying as eligible investments.¹¹

¹ Pub. L. No. 119-21, 139 Stat. 72 (2025) <https://www.congress.gov/119/plaws/publ21/PLAW-119publ21.pdf>.

² The White House, *President Trump’s One Big Beautiful Bill Is Now the Law* (July 4, 2025) <https://www.whitehouse.gov/releases/2025/07/president-trumps-one-big-beautiful-bill-is-now-the-law/>.

³ Donald J. Trump, *Remarks at an “Invest in America” Roundtable Discussion*, 2025 Daily Comp. Pres. Doc. No. 00676, at 1 (June 9, 2025) <https://www.govinfo.gov/content/pkg/DCPD-202500676/pdf/DCPD-202500676.pdf>.

⁴ U.S. Dep’t of the Treasury, *Treasury Announces the Launch of the Trump Accounts App and Next Steps for Trump Accounts* (May 28, 2026) <https://home.treasury.gov/news/press-releases/sb0508>.

⁵ Internal Revenue Serv., *4 Million Children Have Been Signed Up for Trump Accounts with 1 Million Claiming the \$1,000 Pilot Program Contribution*, IR-2026-42 (Mar. 31, 2026) <https://www.irs.gov/newsroom/4-million-children-have-been-signed-up-for-trump-accounts-with-1-million-claiming-the-1000-pilot-program-contribution>.

⁶ Internal Revenue Serv., *Instructions for Form 4547: Trump Account Election(s)* (Dec. 2025) <https://www.irs.gov/instructions/i4547>.

⁷ Internal Revenue Serv., Treasury, *IRS Issue Proposed Regulations on Employer Contributions to Trump Accounts Under the Working Families Tax Cuts*, IR-2026-90 (Aug. 11, 2026) <https://www.irs.gov/newsroom/treasury-irs-issue-proposed-regulations-on-employer-contributions-to-trump-accounts-under-the-working-families-tax-cuts>.

⁸ https://www.irs.gov/irb/2026-13_IRB.

⁹ 26 U.S.C. § 530A(b)(3)(A)–(B) (2025).

¹⁰ 26 U.S.C. § 530A(b)(3)(A)(iv), (B) (2025).

¹¹ *Guidance on Eligible Investments for Trump Accounts*, 91 Fed. Reg. 54,280, 54,284 (proposed Aug. 21, 2026) <https://www.federalregister.gov/documents/2026/08/21/2026-17123/guidance-on-eligible-investments-for-trump-accounts>.

Heritage supports the Proposed Rule's prohibition on ESG index funds. However, Heritage urges the Treasury to clarify that otherwise qualifying, broadly diversified index funds should not be disqualified merely because they exclude a small number of corporations and replace them with others to maintain broad market exposure. Such clarification would preserve the Proposed Rule's intended restrictions without unnecessarily excluding diversified investment funds with limited, targeted industry exclusions.

II. The Treasury's Proposed Prohibition on ESG Index Funds Is Consistent with the Statutory Framework of Section 530A.

Both Congress and President Trump have emphasized that Trump Accounts are intended to provide American children with a strong financial foundation while encouraging participation in the American economy.¹² Naturally, the investments held in these accounts should promote long-term financial growth without exposing children's Trump Accounts to unnecessary risk. This objective is reflected in Section 530A, which favors low-cost, broadly diversified investments over narrowly focused or higher-risk funds.¹³

Congress established clear restrictions on the types of investments permitted in Trump Accounts. Under Section 530A, eligible investments must track qualified stock market indices, avoid leverage, and charge no more than 0.1 percent in annual fees and expenses.¹⁴ Congress also specifically excluded industry- and sector-specific indices, consequently restricting investments that concentrate heavily on particular sections of the economy.¹⁵

These restrictions reflect two principles underlying the Treasury's proposed prohibition: diversification and risk management. Broadly diversified funds spread investments across many sectors of the American economy.¹⁶ Although diversification cannot eliminate investment risk, it can reduce the potential harm caused by the poor performance of any one industry. This approach is particularly important for Trump Accounts, which are intended to support children's financial futures. Beyond building wealth, Trump Accounts also present an opportunity to teach young Americans the principles of responsible investing. By emphasizing diversification, low costs, and long-term growth, these accounts can introduce the next generation to sound financial decision-making.

¹² *Trump Accounts*, 2026-13 I.R.B. 772 (Mar. 23, 2026) <https://waysandmeans.house.gov/2025/07/03/chair-smith-floor-remarks-h-r-1-one-big-beautiful-bill-act/>; Donald J. Trump, *Remarks at an "Invest in America" Roundtable Discussion*, 2025 Daily Comp. Pres. Doc. 676, at 1 (June 9, 2025) <https://www.govinfo.gov/content/pkg/DCPD-202500676/pdf/DCPD-202500676.pdf>.

¹³ 26 U.S.C. § 530A(b)(3)(A)–(B) (2025).

¹⁴ 26 U.S.C. § 530A(b)(3)(A)(i)–(iii) (2025).

¹⁵ 26 U.S.C. § 530A(b)(3)(B) (2025).

¹⁶ U.S. Sec. & Exch. Comm'n, Off. of Inv. Educ. & Assistance, *Characteristics of Mutual Funds and Exchange-Traded Funds (ETFs) – Investor Bulletin* (Apr. 29, 2025) <https://www.investor.gov/introduction-investing/general-resources/news-alerts/alerts-bulletins/characteristics-mutual-funds-exchange-traded-funds>.

These same principles help explain the Treasury’s proposed prohibition on ESG index funds. Unlike traditional indices, ESG indices often exclude companies based on subjective social and political considerations rather than financial performance.¹⁷ The Treasury explained that these restrictions can limit exposure to certain companies, very much like sector-specific funds. Accordingly, the Proposed Rule would prohibit ESG index funds from qualifying as eligible Trump Account investments.¹⁸

Importantly, Congress expressly authorized the Treasury to establish additional investment eligibility criteria.¹⁹ The Proposed Rule exercises the authority expressly granted by Congress to establish a separate prohibition on ESG index funds. This prohibition is consistent with Congress’s broader effort to encourage diversified investments and limit unnecessary financial risk.²⁰ However, the Treasury should ensure that this prohibition does not inadvertently exclude otherwise qualifying, broadly diversified funds with limited, targeted industry exclusions.

III. The Treasury Should Clarify the Scope of the Proposed ESG Prohibition.

A. Overinclusivity: The Proposed Rule Could Inadvertently Exclude Otherwise Diversified Funds.

Although Heritage supports the Proposed Rule’s prohibition on ESG index funds, the Treasury should ensure that its definitions do not inadvertently exclude otherwise qualifying, broadly diversified investments. Under proposed Section 1.530A-3(e)(2), an index is considered industry- or sector-specific if the inclusion of a company depends on the industry in which it operates.²¹ Separately, proposed § 1.530A-3(e)(3) disqualifies funds tracking indices that have, or are marketed as having, an ESG focus. Without further clarification, trustees may see these definitions and unintentionally disqualify diversified funds that exclude certain businesses without pursuing a broader ESG investment strategy.

For example, an index fund may invest across numerous sectors of the American economy while excluding businesses engaged in pornography, marijuana, abortion, or gambling (often referred

¹⁷ U.S. Sec. & Exch. Comm’n, Off. of Inv. Educ. & Advoc., *Investor Bulletin: Smart Beta, Quant Funds and Other Non-Traditional Index Funds* (Aug. 6, 2018) <https://www.investor.gov/introduction-investing/general-resources/news-alerts/alerts-bulletins/investor-bulletins-25>.

¹⁸ *Guidance on Eligible Investments for Trump Accounts*, 91 Fed. Reg. 54,280, 54,284 (proposed Aug. 21, 2026) <https://www.govinfo.gov/content/pkg/FR-2026-08-21/pdf/2026-17123.pdf>.

¹⁹ 26 U.S.C. § 530A(b)(3)(A)(iv) (2025).

²⁰ *Priced Out of the American Dream: Understanding the Policies Behind Rising Costs of Housing and Borrowing*: Hearing Before the H. Comm. on Fin. Servs., 119th Cong. (Feb. 10, 2026) (transcript) <https://www.firstbranch.ai/hearing/118942>.

²¹ *Notice of Intent to Issue Regulations with Respect to Section 530A Trump Accounts*, Notice 2025-68, 2025-52 I.R.B. 856 (Dec. 22, 2025) https://www.irs.gov/irb/2025-52_IRB; Jeff Benjamin, *Faith-Based Funds Attract Loyal Investors*, INVESTMENTNEWS (Aug. 20, 2019) <https://www.investmentnews.com/equities/faith-based-funds-attract-loyal-investors/80940>.

to as vice industries).²² Such exclusions represent a small proportion of the total stock market and do not concentrate investments in any specific industry or undermine the fund's broader diversification purposes.

Without further clarification, some could interpret the Proposed Rule as classifying these funds as sector-specific because their investment criteria consider a company's industry or consider factors other than market capitalization.²³ Moreover, exclusions based on religious or moral considerations could be interpreted by some as reflecting a social focus under the Proposed Rule's ESG definition.

However, while ESG indices may employ both positive and negative screening (selecting companies or industries for inclusion and excluding others based on certain criteria), some values-based funds rely solely on exclusions. Faith-based funds may exclude companies involved in vice industries while maintaining broad market exposure. For example, the Global X S&P 500 Catholic Values ETF (CATH) excludes companies involved in activities contrary to Catholic values.²⁴ There is no positive screening scheme involved in CATH's strategy. Similarly, the Global X S&P 500 Christian Values ETF (CHRI) excludes companies engaged in activities inconsistent with Christian evangelical values.²⁵

Moreover, several faith-based or values-based funds conduct ongoing portfolio balancing to specifically maintain broad-based market exposure in light of their limited exclusions. For example, Blue Trust offers values-aligned portfolios that incorporate investment screening and diversification principles, while Eventide investments provides faith-based model portfolios structured around established asset-allocation guidelines.²⁶ Similarly, Inspire Investing offers index ETFs that combine biblical values screening with investments across a wide range of American companies and industries.²⁷ The mere exclusion of certain companies based on religious values should not automatically transform an index into an ESG or industry- or sector-specific index. Rather, whether a values-based index falls into either category should be assessed independently based on its actual investment strategy.

²² *Global X S&P 500 Christian Values ETF*, 2026 Summary Prospectus 2–3 (Mar. 1, 2026)

<https://www.sec.gov/Archives/edgar/data/1432353/000143235326000237/a497k-globalxsp500christia.htm>.

²³ *Guidance on Eligible Investments for Trump Accounts*, 91 Fed. Reg. 54,280, 54,293 (proposed Aug. 21, 2026) (proposed 26 C.F.R. § 1.530A-3(e)(2)) <https://www.govinfo.gov/content/pkg/FR-2026-08-21/pdf/2026-17123.pdf>.

²⁴ *Global X S&P 500 Catholic Values ETF*, 2026 Summary Prospectus 2 (Mar. 1, 2026)

<https://www.sec.gov/Archives/edgar/data/1432353/000143235326000223/a497ksp500catholicvalues.htm>.

²⁵ *Global X S&P 500 Christian Values* 2026 Summary Prospectus 2-3 (Mar. 1, 2026)

<https://www.sec.gov/Archives/edgar/data/1432353/000143235326000237/a497k-globalxsp500christia.htm>.

²⁶ Blue Trust, *Aligning Your Portfolio With Your Convictions* (Dec. 27, 2024)

<https://www.bluetrust.com/insight/aligning-your-portfolio-with-your-convictions>; Blue Trust, *Values-Aligned*

Investing, <https://www.bluetrust.com/values-aligned-investing> (last visited Oct. 20, 2026); Eventide Asset Management, LLC, *Portfolio Solutions*, <https://www.eventideinvestments.com/portfolio-solutions> (last visited Oct. 20, 2026).

²⁷ Inspire Investing, *Inspire 500 ETF (PTL)* <https://www.inspireetf.com/etf/ptl> (last visited Oct. 20, 2026).

Importantly, excluding certain vice businesses may also serve a legitimate risk management purpose. Businesses involved in industries such as marijuana and gambling face distinct legal, regulatory, and financial risks.²⁸ Marijuana businesses, for example, face uncertainty surrounding federal and state laws, while gambling companies must navigate extensive licensing requirements and changing regulations.²⁹ These challenges can threaten business operations and financial performance. Accordingly, excluding such businesses from an otherwise diversified investment portfolio may reduce exposure to identifiable risks rather than simply advance social or political preferences. If these exclusions do not materially undermine diversification, they may be consistent with the same risk management principles underlying Congress's investment restrictions for Trump Accounts. The Treasury should recognize this distinction rather than automatically treating targeted industry exclusions as equivalent to sector-specific or ESG investment strategies.

The Treasury should clarify that limited exclusions of certain businesses, including certain vice industries, do not, standing alone, render an otherwise qualifying index fund sector-specific or ESG-focused.

B. Materiality: Limited Exclusions Should Not Automatically Disqualify Otherwise Eligible Funds.

As the SEC has explained, simply holding many stocks does not necessarily ensure meaningful diversification if those investments are concentrated in a particular industry. But not all investment exclusions have the same consequences. An index that excludes a limited number of businesses while maintaining broad exposure to the American economy is fundamentally different from one that concentrates investments in a particular industry. Yet, the Proposed Rule risks treating these investment strategies alike, regardless of their actual effects on diversification. The Treasury should instead consider whether an exclusion materially changes the nature of an otherwise qualifying investment fund.

To make this distinction, the Treasury should consider adopting a materiality standard when evaluating whether targeted exclusions render an index sector-specific or ESG-focused. Such a standard could consider the following: (1) the proportion of companies excluded; (2) whether the remaining investments span a broad range of industries; and (3) whether the exclusions

²⁸ Ascend Wellness Holdings, Inc., *Annual Report* (Form 10-K), at 32 (Mar. 12, 2026) <https://www.sec.gov/Archives/edgar/data/1756390/000162828026017374/aawh-20251231.htm>; Flutter Entertainment plc, *Annual Report* (Form 10-K), at 32–33 (Feb. 26, 2026) <https://www.sec.gov/Archives/edgar/data/1635327/000163532726000005/flut-20251231.htm>.

²⁹ U.S. Gov't Accountability Off., GAO-26-107498, *Banking Services: Cannabis Businesses Face Access Challenges* (2026) <https://www.gao.gov/products/gao-26-107498>; <https://www.ncsl.org/fiscal/it-pays-to-play-sports-betting>.

substantially alter the fund's exposure to the broader stock market. These factors could also guide the Treasury's consideration of petitions for individualized eligibility determinations. These considerations would help distinguish limited exclusions from investment strategies that meaningfully restrict diversification. Again, we recommend funds with limited exclusions of vice industries be discussed as an example to provide clarity of application.

Additionally, the Treasury should apply the ESG prohibition according to its terms, without automatically treating funds with limited vice-industry exclusions as ESG investments. Funds that are not marketed as ESG should not be presumed ESG-focused merely because they exclude a limited number of businesses.

Importantly, a materiality standard will not automatically undermine Congress's prohibition on industry- and sector-specific indices or the Treasury's proposed prohibition on ESG index funds. Rather, it could help ensure that otherwise qualifying funds are not disqualified merely because they exclude certain businesses. The Treasury should study whether a materiality standard would unintentionally allow investments that the Proposed Rule seeks to exclude. The Treasury should also expressly clarify that targeted exclusions, including those involving vice businesses, do not automatically render a fund ineligible when they do not materially undermine broad-market diversification. Such clarification would preserve Congress's statutory investment requirements without unnecessarily restricting the investment options available to Trump Accounts.

IV. Excluding Faith-Based Index Funds May Raise Concerns Under RFRA.

A blanket exclusion on investment funds that utilize religiously motivated screening to avoid businesses engaged in activities such as abortion, pornography, and gambling, even when such funds maintain broad market exposure, burdens families with a religious conviction not to invest in such companies by forcing them to choose between violating their religious convictions or giving up the substantial benefits of Trump Accounts, including tax-advantaged savings and, for eligible children, federal contributions.

The Religious Freedom Restoration Act, 42 U.S.C. § 2000bb-1 *et seq.* ("RFRA"), prohibits the federal government from substantially burdening religious exercise unless the burden is the least restrictive means of furthering a compelling governmental interest. RFRA applies to federal statutes and their implementing regulations. Relevant here, the Supreme Court has recognized that conditioning government benefits on conduct contrary to religious convictions can impose a substantial burden on religious exercise. *Thomas v. Review Bd.*, 450 U.S. 707, 717–18 (1981); see also *Burwell v. Hobby Lobby Stores, Inc.*, 575 U.S. 682, 720–26 (2014).

Maintaining a ban on Trump Accounts' including investment funds that screen for activities such as abortion, pornography, and gambling could only be maintained if the government could

demonstrate both that the restriction furthers a compelling governmental interest *and* that the restriction is the least-religiously-burdensome means of achieving that compelling interest. As discussed above, however, the governmental goal of ensuring that Trump Accounts are fiscally sound by being broadly diversified³⁰ can be achieved by permitting diversified funds with targeted exclusions, such as CATH, CHRI, and the Blue Trust, Guidestone, and Eventide portfolios, which would be a less restrictive means of accomplishing the governmental interest while not requiring families with religious convictions about investing in abortion, pornography, or gambling to forego the Trump Account benefits altogether—an outcome that certainly does not further the governmental interest in establishing these accounts. At a minimum, Treasury should evaluate appropriate RFRA accommodations rather than foreclosing faith-compatible investment options.

V. Conclusion

Trump Accounts offer American children an opportunity to build wealth through responsible, long-term investing. Heritage supports the Treasury’s proposed prohibition on ESG index funds but cautions against interpreting that prohibition so broadly that otherwise qualifying, diversified funds are unnecessarily excluded. Limited exclusions of certain vice businesses do not undermine diversification and serve legitimate risk-management purposes. The Treasury should therefore clarify the distinction between ESG-focused investments and funds with targeted industry exclusions, while considering a materiality standard to evaluate their effects. Moreover, excluding otherwise qualifying faith-based funds could raise concerns under RFRA by conditioning access to Trump Account benefits on investments contrary to sincerely held religious beliefs. These clarifications would preserve the Proposed Rule’s objectives without unnecessarily restricting the investment options available to Trump Accounts.

Respectfully submitted on behalf of the Heritage Foundation,

Esther Bouquet
Senior Associate, American Investors Initiative
The Heritage Foundation

³⁰ There is no compelling interest in requiring only diversified index funds to be included in Trump Accounts as demonstrated by the ability of philanthropists, private foundations, and others to donate individual publicly traded stocks to Trump Accounts.