



23 October 2015



Dear [REDACTED],

### **Official Information Act Request – Oak Finance**

Thank you for your emailed questions of 12 October 2015, and your subsequent email of 19 October 2015, in which you advised that your email should be considered a request under the Official Information Act.

Your request relates to the following sentence from page 83 of our 2014/15 Annual Report: “The NZ Super Fund simultaneously purchased credit protection to provide it with insurance against a default by BES.” Your specific questions, and our responses, are set out below.

- 1) This above sentence seems to be referring to some sort of Insurance policy not involving Oak Finance. Is the protection different from the protection that you say you were expecting the Reserve Bank of Portugal to provide and which is now subject of a lawsuit?**

This is not correct – there is only one set of protection: the credit protection insurance the NZ Super Fund purchased from Goldman Sachs on BES at the time that Oak Finance made the loan to BES. There was no expectation that the Bank of Portugal would provide credit protection.

- 2) If so, why are you writing the investment down to zero? Has the organisation providing the "credit protection" also defaulted? Are you taking legal action against it?**

As is normal with these sorts of transactions, the credit protection is associated with all of BES' senior debt obligations rather than being specific to the Oak Finance loan. When BES failed, the NZ Super Fund's credit insurance contract was transferred, along with the senior debt obligations (including the Oak Finance loan obligations) to the “good bank” called Novo Banco. This transfer of the insurance was in accordance with the international (ISDA) rules governing credit default insurance.

The Bank of Portugal's retroactive, and we believe wrongful, decision to move Oak Finance's debt obligations back to BES in effect nullified this insurance - the credit protection contract remains with the majority of senior debt in Novo Banco, but the Fund's Oak Finance loan is purportedly back with BES.

Therefore, the issue we are facing is not with the credit protection itself, but rather with the delinking of the credit protection from the underlying loan obligation. This delinking is a result of the way the Bank of Portugal has chosen to treat the Oak Finance loan differently to all other senior debt. We believe this decision was based on a misunderstanding of both Goldman

Sachs's relationship with Oak Finance and the nature and level of Goldman Sachs's interest in BES shares.

The Fund is therefore taking legal action against both the Bank of Portugal (administrative action – like a New Zealand judicial review) and Novo Banco (debt recovery).

**3) It is normally not practical to insure oneself against lack of wisdom in one's business decisions. Is the cost of this "credit protection" available? If so what is it?**

The Fund is currently in a profit situation on the credit insurance contract, as the value of insurance on Novo Banco is greater than when we purchased the insurance on BES. The cost of the credit protection was 100 basis points per annum based on the notional size of the debt. It is currently worth 600 basis points per annum.

Further details of our investment in Oak Finance are available on our website at: <https://www.nzsuperfund.co.nz/publications-disclosures/oak-finance>.

You have the right to seek a review by the Office of the Ombudsman of our response to your request. We set out the details of the Office of the Ombudsman below should you wish to contact it.

Website: [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)  
Email: [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz)  
Free phone: 0800 802 602 (+64 4 473 9533)

Please note that we may choose to publish our response to your Official Information Act request on our website.

Yours sincerely



Adrian Orr  
Chief Executive Officer