

14 April 2021

[REDACTED]

Dear [REDACTED]

## **REQUEST UNDER THE OFFICIAL INFORMATION ACT 1982**

Thank you for your request to the Guardians of New Zealand Superannuation (“Guardians”), dated 11 March 2021 and clarified on 20 March 2021, made pursuant to the Official Information Act 1982 (“OIA”).

### **Your Request**

You have requested the following information:

Communication between the Guardians’ Chief Executive Officer, Board Members, the members of staff, being the researcher/s, report writer/s and presenter/s who prepared and presented the Investment Committee paper (“the report writers”) and non-government actors who have at some point in time advocated a policy of divestment from Israeli banks, between the dates of 1 January 2020 and 11 March 2021.

Communication extends to:

- all forms of transmissions, including, but not limited to: conversations, telephone calls, emails, texts, notes, and letters.
- Information, regardless of whether it was transmitted on a government-provided device or a device owned in an individual’s personal capacity, or any other device, provided the information transmitted relates to the request above.
- in the event the communication was transmitted verbally, and there is no written transmission, a written account of the information that was transmitted verbally is to be provided.
- any official information that was transmitted in a social and/or information and/or non-employment environment.
- Information both sent and received by the Chief Executive Officer, the Board Members, and the report writers.

### **Background**

By way of background, the Guardians is operationally independent from the Crown. We manage the NZ Super Fund on a prudent, commercial basis in line with a statutory investment mandate. We take responsible investment very seriously and were one of the 27 founding signatories of the United Nations Principles for Responsible Investment. We are recognised for having leading Responsible Investment practices.

When a decision is made to exclude a security from the NZ Super Fund, it is based on the clear process and principles set out in our Responsible Investment Framework, and informed by a number of factors including the Guardians’ mandate, international conventions, New Zealand law, Crown actions and material statements of public policy, and the company’s own involvement and activities.

The Investment Committee paper referred to above sets out the relevant matters presented to the Investment Committee which informed our decision to exclude the five banks to which your request relates. The decision to exclude was not made lightly.

In your request, you have asked for correspondence from and to the Guardians' Board members. We note that ethical exclusion decisions are within management's delegated authority (i.e. responsibility sits with management). The Board has had no input on this decision.

One of the documents captured by your request is a legal opinion that was sent to us that concerns the legality of investing in Israeli banks. We do not agree with a number of points made in the legal opinion, and it did not inform our decision to exclude the banks.

## Our Response

Details of the information we have identified as being within the scope of your request, and our response in respect of that request, are set out in **Table 1 below**. The information we are releasing can be found **attached**, at **Appendix 1**.

Under section 9(2)(a) of the OIA we have withheld the names and contact details of certain individuals mentioned in the documents in the interests of protecting the privacy of those individuals. We do not believe that releasing this information in aid of the public's interest in transparency and accountability of the Guardians' decisions can be said to outweigh the potential injury and other implications that may be done by releasing this information and potentially subjecting these individuals to disproportionate contact and attention.

**Table 1**

| No. | Document Reference | Document Date | Document Title   | Status           | Withholding grounds |
|-----|--------------------|---------------|--|------------------|---------------------|
| 1   | #3096787           | 11/12/2020    | Letter for the Chief Executive Matt Whineray<br><br><i>Email from John Minto to Enquiries inbox</i>  | Released in full | N/A                 |
| 2   | <i>Attachment</i>  | 11/12/2020    | Request for NZ Super Fund to withdraw its investments from the companies named by the UN Human Rights Council as assisting in breaches in international law and human rights<br><br><i>Palestine Solidarity Network Aotearoa Letter to CEO Matt Whineray</i> | Released in full | N/A                 |
| 3   | <i>Attachment</i>  | 24/09/2019    | New Zealand Superannuation Fund Investments in Israeli Banks   | Released in full | N/A                 |

|    |                   |            |  |                    |           |
|----|-------------------|------------|--|--------------------|-----------|
|    |                   |            | <i>Rodney Harrison QC Legal Opinion</i>  |                    |           |
| 4  | #3148495          | 23/02/2021 | RE: Letter for the Chief Executive Matt Whineray<br><br><i>Email Correspondence between the Guardians and John Minto</i>   | Partially released | S 9(2)(a) |
| 5  | #3152742          | 01/03/2021 | Guardians of NZS – Israeli Investments<br><br><i>Email from the Guardians to John Minto</i>  | Partially released | S 9(2)(a) |
| 6  | <i>Attachment</i> | 26/02/2021 | <i>Letter from CEO Matt Whineray to John Minto</i>   | Released in full   | N/A       |
| 7  | <i>Attachment</i> | 14/01/2021 | Israeli banks and construction of settlements in the Occupied Palestinian Territories<br><br><i>Investment Committee Paper</i>                                   | Released in full   | N/A       |
| 8  | #3152741          | 01/03/2021 | Guardians of NZS – Israeli bank exclusion decision<br><br><i>Email from the Guardians to Individual A</i>  | Partially released | S 9(2)(a) |
| 9  | <i>Attachment</i> | 14/01/2021 | Israeli banks and construction of settlements in the Occupied Palestinian Territories<br><br><i>Investment Committee Paper</i><br><br>Refer page 20 of Appendix. | Released in full   |           |
| 10 | #3152908          | 01/03/2021 | Re: Guardians of NZS – Israeli bank exclusion decision<br><br><i>Email from Individual A to the Guardians</i>  | Partially released | S 9(2)(a) |
| 11 | #3152740          | 01/03/2021 | Guardians of NZS – Israeli bank exclusion decision<br><br><i>Email from the Guardians to Individual B</i>  | Partially released | S 9(2)(a) |

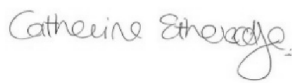
|    |                   |            |  |                    |           |
|----|-------------------|------------|--|--------------------|-----------|
| 12 | <i>Attachment</i> | 14/01/2021 | Israeli banks and construction of settlements in the Occupied Palestinian Territories<br><br><i>Investment Committee Paper</i><br><br>Refer page 20 of Appendix. | Released in full   | N/A       |
| 13 | #3152853          | 01/03/2021 | Re: Guardians of NZS – Israeli bank exclusion decision<br><br><i>Email from Individual B to the Guardians</i>  | Partially released | S 9(2)(a) |

### General

You have the right to seek a review by the Ombudsmen's Office of our response to your request.

Please note that we may choose to publish our response to your request on our website at [www.nzsuperfund.nz](http://www.nzsuperfund.nz).

Yours sincerely



Catherine Etheredge  
Head of Communications  
Guardians of New Zealand Superannuation