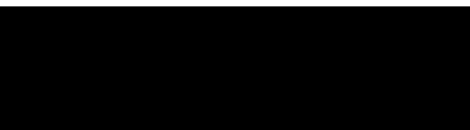


31 May 2021



Dear 

## REQUESTS UNDER THE OFFICIAL INFORMATION ACT 1982

In our decision letter to you of 21 May 2021 we noted that we were continuing to consider and consult on the release of approximately 65 further documents in response to your OIA request for information that refers to the divestment of Israeli banks.

Please find below a further list of documents that we are releasing to you today at **Table 1**. The information we are releasing is attached at **Appendix 1**.

Where we have already released documents either proactively or to you (e.g. the Investment Committee Paper, Communications Plan, Q&A) but they have also been captured again here (typically as attachments to emails) we have not included them in Appendix 1. You agreed that you did not require us to release names and contact details of people in the documents. Where names and contact details have been redacted on the basis of this agreement, we have marked the redactions as “**s9(2)(a)**” in the Appendix so you can see that it is name/contact information that has been withheld.

Where we have withheld information from the documents that we are releasing, we have considered whether doing so outweighs the public interest in the matter, and have concluded that it does not. In brief, the main withholding grounds are:

- **Section 6(a) and (b)** – Information has been withheld where releasing it would be likely to **prejudice the international relations** of the Government of New Zealand and/or the **entrusting of information** to the Government of New Zealand on a basis of confidence by the government of any other country or any agency of such a government. This is a conclusive reason for declining to release information under the OIA.
- **Sections 9(2)(b)(ii) and 9(2)(i)** – “**protect information where the making available of that information would be likely to unreasonably prejudice the commercial position of the person who supplied or who is the subject of the information.**” The Guardians invests the Fund on a commercial basis and undertakes commercial activities in doing so, including in respect of our responsible investment activities. We compete in a global market for a variety of suppliers such as investment advisers and responsible investment screening agencies. Our business partners and suppliers are each commercial entities in their own highly competitive markets. They are very concerned about protecting their sensitive commercial information. They will not work with us if we cannot uphold the

confidentiality of their information. Releasing this information would prejudice their commercial position by making freely available their professional analysis and judgements, for which we have paid a fee on a commercial basis. We strongly believe that it is in the public interest that we can maintain the highest standards of commercial sensitivity with those we work with. Moreover, disclosure of background information concerning our exclusion processes can make our decision-making process less effective and adversely impact on our investment process and, therefore, our commercial activities.

- **Section 9(2)(ba)** – “**protect information which is subject to an obligation of confidence... where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied or otherwise damage the public interest.**” Some of the documents you have requested contain information that our suppliers have provided us on a confidential basis because it is commercially sensitive. We operate in a competitive market and if we cannot uphold the confidentiality of commercially sensitive information provided to us in order to evaluate investments, the supply of such information will be jeopardised. In the event that we were to disclose this confidential information to the public, it is likely that other parties with which the Guardians might wish to contract would be reluctant to engage with us because of the risk that we would disclose their confidential information. It is in the public interest that we can maintain the highest standards of confidentiality and commercial sensitivity with those we work with, in order to compete on a level playing field with other private sector investors and maximise returns to the Fund (and thus taxpayers).
- **Section 9(2)(g)(i)** – “maintain the effective conduct of public affairs through the **free and frank** expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty”. It is important for our efficient and effective operations that our staff and officers are able to express their opinions freely and frankly, including in the context of investment or exclusion decisions which can be contentious. The documents include opinions of staff members who prepared those materials. The release of such information is likely to inhibit frankness and candour in the future which will be detrimental to good investment decision making and contrary to the public interest.
- **Section 9(2)(h)** – it is necessary for us to withhold this information in order to maintain **legal professional privilege**. Legal professional privilege is recognised as an important protection that will not be set aside except in the clearest cases. In this case, we do not consider that there is a public interest in the release of this information that outweighs the Guardians' interest in protecting its rights to legal privilege.

We are continuing to work through the remaining documents and will be in touch about these as soon as possible.

In respect of your new OIA request of 23 May 2021, we wanted to let you know that the nature and volume of your requests is becoming problematic. Aspects of the questions overlap, broadly framed and are complex to process. We note that you are lodging requests

across other agencies for similar information, as we are also being consulted by these agencies in respect of requests that they are handling. We have already proactively disclosed the pertinent information on our exclusion decision by publishing the relevant Investment Committee paper on our website. This paper has also been supplemented by what are now extensive disclosures under the OIA that are publicly available at <https://www.nzsuperfund.nz/publications/disclosures/oia/>.

We are currently considering your latest request and will be in touch separately to clarify your requirements and refine its scope with you. In respect of any future requests, we would be grateful if you could please consider what information is already available and make your requests as specific as possible.

### **General**

You have the right to seek a review by the Ombudsman's Office of our response to your request. The Ombudsman's contact details are available online. Please note that we may choose to publish our response to your request on our website at [www.nzsuperfund.nz](http://www.nzsuperfund.nz). As previously offered, feel free to call me on 0274 777 501 or email me on [cetheredge@nzsuperfund.co.nz](mailto:cetheredge@nzsuperfund.co.nz) (cc [enquiries@nzsuperfund.co.nz](mailto:enquiries@nzsuperfund.co.nz)) if you would like to clarify or discuss your OIA requests and our responses in any way.

Yours sincerely,



Catherine Etheredge  
Head of Communications  
Guardians of New Zealand Superannuation

**Table 1**

PDF Page No	Document Reference	Document Date	Document Title	Status	Core withholding grounds
1	2559639	5/09/2018	Follow-Up Response – NZSF – Investments in Israel	All requested information released	
2	2560298	5/09/2018	Unsent draft  Follow Up – NZSF – Investments in Israel – John Minto	Partially withheld	Section 9(2)(h)
3	2574964	29/10/2018	Letter re Super Fund Investment in Israel	All requested information released	
4	2585785	3/12/2018	Israel Letter – December 2018	All requested information released	
6	2606807	5/02/2019	Israel Letter – February 2019	All requested information released	
8	3110635	13/01/2021	Israeli Investments - John Minto Response - January 2021 - DRAFT	All requested information released	
10	3148171	15/02/2021	RE: Confidential - draft communications plan - Israeli banks - for review  And attachment #3141128 (below)	All requested information released	
N/A	3141128	15/02/2021	SO's comments 15 Feb - Communications Plan exclusion of Israeli Banks  (Attachment to #3148171)	Withheld in full	Section 9(2)(g)(i)
N/A	2725992	27/11/2019	ISS ESG_RI screens for NZSF_ October 2019	Relevant portion withheld in full	Section 9(2)(b)(ii) Section 9(2)(ba)(i)
N/A	3023854	27/11/2020	MSCI Universe ESG Flag Summary	Withheld in full	Section 9(2)(b)(ii) Section 9(2)(ba)(i)
12	2581427	17/11/2018 9:57	Fwd: NZ SUPER FUND Investments. Atn Matt Whineray	All requested information released	
14	3163699	24/10/2018 10:32	RE: Please fwd to Guardian Simon Botherway	All requested information released	
16	2709821	4/10/2019	RE: Ministerial - Israeli investments Attachments 2523662, 2570579, 2531036, 2572912	All requested information released	
24	2709799	4/10/2019	RE: Ministerial - Israeli investments Attachment 25729123	All requested information released	
28	2709820	4/10/2019	RE: Ministerial - Israeli investments	All requested	

PDF Page No	Document Reference	Document Date	Document Title	Status	Core withholding grounds
			Attachment: 2559639	information released	
32	2944886	13/02/2020	FW: UN human rights report	All requested information released	
N/A	2760892	13/2/2020	RE: UN human rights report	Withheld in full	9(2)(g)(i)
N/A	2760890	13/2/2020	RE: UN human rights report	Withheld in full	9(2)(g)(i)
N/A	3115127	20/01/2021	IC Questions on Recommendation to exclude Israeli Banks with operations in the OPT	Withheld in full	Section 9(2)(ba)(i) 9(2)(b)(ii) 9(2)(g)(i)
34	3148598	10/02/2021	Email: Draft comms plan - Israeli Bank exclusions Attachment: 3137626 (draft withheld in full per above)	All requested information released	
35	3140796	12/02/2021	Email: Comms Plan - Exclusion of Israeli Banks – revised	All requested information released	
36	3148597	12/02/2021	Email: Confidential - draft communications plan - Israeli banks - for review  Attachment: 3137626 (draft withheld in full per above)	All requested information released	
37	3154064	18/02/2021	Email: Israeli banks comms plan - finalisation	All requested information released	
38	3148594	19/02/2021	Email: RE: Confidential - draft communications plan - Israeli banks - for review	Partially released	Section 9(2)(b)(ii) Section 9(2)(j) Section 9(2)(ba)(i)
41	3145841	22/02/2021	Email: RE: In confidence - no surprises briefing on exclusion of Israeli banks	All requested information released	
43	3148614	24/02/2021	Email: Exclusion of companies with operations in the Occupied Palestinian Territory in relation to poor ESG practices	Partially released	9(2)(b)(ii) 9(2)(j) 9(2)(ba)(i)
45	3159720	25/2/2021	RE: Israeli bank exclusions - update on timing/actions	Partially released	s(2)(ba)(ii) Section 6(a) and (b)
47	3152579	26/2/2021	Publication of IC paper and query on timing	All requested information released	Section 6(a) and (b) Section 9(2)(g)(i)