

29 August 2014



Dear [REDACTED]

REQUEST UNDER THE OFFICIAL INFORMATION ACT 1982

Thank you for your request for information received by email dated 15 August 2014 and further clarified on 22 August 2014. We have interpreted your request as being made pursuant to the Official Information Act 1982 ("OIA").

Your Request

You have requested the following information:

- any recent reviews or assessments we have conducted on Israel Chemicals and G4S in relation to Israel; and
- the material on Israel Chemicals recently provided to the Super Fund by Mr Shearer; and
- information/internal documents explaining why Boeing (and by extension other arms manufacturers) would not be a candidate for divestment.

General Comments

As explained on our website, because of our commitment to engagement as the best way of getting companies to improve their behaviour, exclusion is a last resort. When we do make a decision to exclude, our decision is based on the clear process and principles that are set out in our Responsible Investment Framework. These principles include New Zealand national and international laws, conventions to which the NZ Government is a signatory, significant policy positions of the NZ Government and the UN Global Compact.

Acting consistently with New Zealand Government and international policy is the basis on which we fulfil our obligation to avoid prejudice to NZ's reputation as a responsible member of the world community.

These principles are a necessary requirement to have a workable ethical policy and to also meet our responsibilities under the New Zealand Superannuation and Retirement Income Act to maximise returns without undue risk and to practice best portfolio management.

Calls for divestment vary between different people or groups – and may include coal, oil and gas, armaments, gambling, alcohol, pharmaceuticals, mining – and sometimes all suppliers to one or other of these sectors. In the current case, all companies operating in a country – Israel – are the focus of calls for divestment. On the other hand, some people do not believe we should apply exclusions at all.

The elected New Zealand Government, New Zealand law and international conventions which New Zealand supports therefore form the best basis from a whole of New Zealand perspective for guiding our Responsible Investment policy.

In deciding whether to exclude an armaments company, or a strategic supplier to an armaments company, we therefore consider whether the weapons are banned by conventions which the NZ Government has signed. This is why we exclude companies directly involved in the production of weapons banned under these conventions e.g. cluster munitions, but do not ban other armaments companies such as Boeing, that do not meet the criteria for exclusion.

We do expect companies to comply with sanctions and embargoes that apply to their business activities. If we receive evidence that companies are breaching law which applies to them in relation to arms sanctions or embargoes, we will engage with the company in an attempt to confirm the situation and rectify such an illegal practice. We will also engage with companies where they might be in contravention of Principle 2 of the United Nations Global Compact.

We note that neither the United Nations nor the New Zealand Government have called for sanctions nor for an embargo on the supply of arms to Israel.

For more information on our approach please see www.nzsuperfund.co.nz.

Our Response

As set out below, we are withholding some of the information you have requested on the basis that we have good reasons for doing so under section 9 of the OIA.

Where we have withheld information, we have considered whether the public interest in favour of disclosing that information outweighs our reasons for withholding it, and have concluded that it does not. We believe it is necessary for us to withhold the information you have requested in order to:

- maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to members or officers and employees of any organisation (section 9(2)(g))
- enable the Guardians to carry out, without prejudice or disadvantage, commercial activities (section 9(2)(i)); and
- enable the Guardians to carry on, without prejudice or disadvantage, negotiations (section 9(2)(j)).

We have also declined to provide some of the information which you request on the basis that it does not exist (section 18(e)).

G4S

We are aware that G4S is the subject of ongoing engagement on ESG issues by institutional investors on a range of issues.

We note that in June 2014 G4S published an independent review in relation to its business in Israel:

<http://www.g4s.com/en/Media%20Centre/News/2014/06/04/Independent%20Israel%20Review/>

It also confirmed it would end all its Israeli prison contracts within the next three years:

<http://www.ft.com/intl/cms/s/0/06e06252-ecc9-11e3-8963-00144feabdc0.html?siteedition=uk#axzz3B5OKi3Ob>.

While it remains on our watch list and we receive updates on the company from our research provider, we have not conducted any additional reviews or assessments of G4S than have already been provided to you in respect of your 2013 Official Information Act request.

We refer you to the following comments in document #894031, which we provided to you then:

Group4Security	Global Security firm	UK	No action	Security equipment to checkpoints - is not integral in the respect Group4 equipment could readily be replaced by other equipment. G4S has decided to exit some contracts involving checkpoints, prisons and police stations in line with Business Ethics Policy.
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Your request is therefore declined on the basis that the information you requested does not exist (section 18(e)).

Israel Chemicals

The key points relating to our holding in Israel Chemicals are set out below.

We understand that:

- the supply of white phosphorus for military use is not banned under international or national law;
- Israel Chemicals does not itself manufacture weapons;
- Israel Chemicals is not a supplier to the Israeli Defence force.

We consider the proximity of the company to any potential breach of law through the misuse of white phosphorus weapons against civilians, if the US Army supplied these weapons, is outside its sphere of influence.

We do not have evidence that:

- Israel Chemicals was the supplier of white phosphorus for weapons used by the Israeli Defence Force in the 2008 conflict in Gaza.
- White phosphorus weapons are being used against civilians in the current conflict;

By way of context:

- neither the United Nations nor the New Zealand Government have called for sanctions nor for an embargo on the supply of arms to Israel in the current Gaza conflict;
- white phosphorus is a precursor to other phosphorus products which are sold widely for commercial use by many sectors; and
- we understand that Israel Chemicals makes less than 1% of its revenues from sales to the military.

We recently developed an ESG profile (document #1306776) of our holding in Israel Chemicals, which is captured by your request. However, because we are currently monitoring the conflict in Gaza and engaging with the company, this profile document is subject to review. In addition, we have a policy of not discussing our responsible investment engagements publicly, as doing so is not conducive to achieving the best results from the engagement

For this reason we decline your request on the basis of the following grounds:

- **Section 9(2)(g)(i):** it is important for our efficient and effective operations that our staff and officers are able to express their opinions freely and frankly. Release of such information in the current case, given that the monitoring process and company engagement is ongoing, would be likely to inhibit future free and frank expression of opinions of our staff and officers, where it would be detrimental to the public interest.
- **Section 9(2)(ba)(i):** our engagements on ESG issues with the companies in which we invest are conducted on a confidential basis. These companies are reassured by our pledges to maintain and respect confidentiality. Releasing this information would create a very real risk that future engagement with these companies, and the supply of information from them, would be jeopardised. It is in the public interest that we can maintain the highest standards of confidentiality with companies with which we are engaged.
- **Section 9(2)(j):** engagements on ESG issues frequently involve negotiations with the companies in which we invest. The effectiveness of such negotiations would very likely be undermined if we disclosed the nature and details of the negotiations.

(The Investment Committee papers we have previously provided to you under the OIA related to companies where engagement was at an end (or we did not engage with them) and they had been divested from our portfolio.)

Boeing

Boeing does not meet our grounds for exclusion because it does not manufacture banned weapons.

For your information, Boeing was reviewed as part of our 2008 decision on the exclusion of companies manufacturing nuclear warheads. Information on our decision is on our website at <https://www.nzsuperfund.co.nz/how-we-invest-responsible-investment/exclusions>.

We have not conducted any recent reviews or assessments of our holdings in Boeing other than as part of our ongoing monitoring of our portfolio for compliance with our exclusion decisions.

Your request is therefore declined on the basis that the information you requested does not exist (section 18(e)) or is already publicly available.

Material provided by Mr Shearer

We have not received any material relating to Israel Chemicals from Mr Shearer.

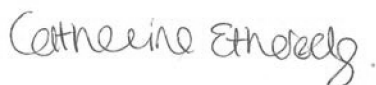
Your request is therefore declined on the basis that the information you requested does not exist (section 18(e)).

General

You have the right to seek a review by the Ombudsman's Office of our decision to withhold the information. Contact details for the Ombudsman's Office can be found at: <http://www.ombudsman.parliament.nz/>

We understand that your primary research interest is the interplay between NGOs, activists and the public with the Guardians' responsible investment decisions. Our Responsible Investment Manager Anne-Maree O'Connor would be happy to meet with you to discuss this issue further. If you would like to take up this offer please contact me on 09 366 4905 or cetheredge@nzsuperfund.co.nz.

Yours sincerely



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