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Doc Ref 819360

From: Adrian Orr [<mailto:aorr@nzsuperfund.co.nz>]
Sent: Friday, 21 September 2012 8:41 a.m.
To: Russel Norman
Cc: Anne-Maree O'Connor; Catherine Etheredge
Subject: RE: New Zealand Superannuation Fund's investment in Shikun & Binui Ltd

Dear Russel,

I have had the opportunity to talk to my team about the issue you raise below. We are aware of the issue and other related concerns, and there is on going consideration underway.

In order to assist your expectations around timing, we should be in a position to respond with more substance before December . We take RI issues very seriously and are continuously working through a prioritised list of issues. I am eager the background work and related issues are completed ahead of our final decisions.

With full respect,
Adrian

From: Russel Norman [<mailto:Russel.Norman@parliament.govt.nz>]
Sent: Wednesday, 19 September 2012 12:32 p.m.
To: Adrian Orr
Subject: New Zealand Superannuation Fund's investment in Shikun & Binui Ltd

September 19, 2012

New Zealand Superannuation Fund
Adrian Orr, Chief Executive Officer

Dear Adrian,

Through the use of Parliamentary Written Questions, I recently determined that the New Zealand Superannuation Fund (the Fund) is currently invested in Shikun & Binui Ltd. – an Israeli real estate company building settlements in East-Jerusalem and previously involved in building settlements in the occupied territories on the West Bank.

The International Court of Justice in The Hague, the UN Security Council, and the International Committee of the Red Cross, have all issued statements that the building of Israeli settlements on the West Bank and in East Jerusalem is contrary to the IV Geneva Convention. The purpose of the IV Geneva Convention is to protect civilians in situations of war and occupation.

As a result, I believe this particular investment risks the reputation of the Fund to be a responsible investor in the world community.

In June, the Norwegian Government's Pension Fund divested from Shikun & Binui Ltd. under the UN guidelines for responsible investment – the same guidelines our Fund is signed up to.

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I am writing to ask you consider divestment from Shikum & Binui Ltd. If you have already considered this option, I would be interested in your reasons for maintaining your investment in the company.

Please feel free to write or call if you have any further questions.

Yours sincerely,

Russel

Dr Russel Norman MP

Co-leader, Green Party of Aotearoa New Zealand

P: 04 817 6712 | F: 04 472 6003

E: russel.norman@parliament.govt.nz | W: www.greens.org.nz



Authorised by Russel Norman, Parliament Buildings, Wellington



"Anyone who believes exponential growth can go on forever in a finite world is either a madman or an economist" – Kenneth Boulding

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Doc Ref 817082

From: Robert Ashe [mailto:Robert.Ashe@parliament.govt.nz]

Sent: Wednesday, 12 December 2012 5:16 p.m.

To: Robert Ashe

Subject: Greens welcome Super Fund divestment decision – Green Party media release

12 December 2012

Greens welcome Super Fund divestment decision

The Green Party has today welcomed the New Zealand Superannuation Fund's decision to divest from four Israeli companies involved in the illegal construction of Israeli settlements in the occupied Palestinian territories.

The three companies are Africa Israel Investments and subsidiary Danya Cebus, Elbit Systems Limited, and Shikun & Binui. The value of the divestment is small, totalling about \$30,000 of the \$20 billion fund.

"We welcome the ethical lead the New Zealand Superannuation Fund has shown by divesting from companies involved in the building of new Israeli settlements in the occupied Palestinian territories," said Green Party Co-leader Dr Russel Norman.

"Continuing to profit from the companies illegal activities would have put the Superannuation Fund's reputation at considerable risk; the companies are likely in breach of the Geneva Convention which has been designed to protect civilians in time of war."

The International Court of Justice in The Hague, the UN Security Council, and the International Committee of the Red Cross have all stated that the building of Israeli settlements on the West Bank and in East Jerusalem is contrary to the Fourth Geneva Convention.

In its World Report 2012, Human Rights Watch reported that 'In the West Bank, including East Jerusalem, Israel demolished hundreds of Palestinian homes in the West Bank displacing more West Bank Palestinians last year than during any year since the UN started collecting cumulative figures in 2006'.

"The divestment decision will send a clear message to Israel that New Zealand will not sanction the human rights abuses they're committing in Palestine," Dr Norman said.

Human Rights Watch Israel Report 2012:

<http://www.hrw.org/world-report-2012/world-report-2012-israeloccupied-palestinian-territories>

For more information:

Russel Norman MP, 027 458 5181

Robert Ashe, Political & Media Advisor, 04 817 6714 / 027 499 0409

Authorised by Russel Norman, Parliament Buildings, Wellington. If you do not wish to receive future messages, send a reply with UNSUBSCRIBE in the subject line. Current photographs of Green MPs and Green Party logos can be downloaded from <http://www.greens.org.nz/mediaresources>

Robert Ashe

Green Party Advisor

Level 14.05, Bowen House

Parliament Buildings

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Doc Ref 818196

From: [REDACTED]
Sent: Thursday, 13 December 2012 9:39 p.m.
To: Catherine Etheredge
Subject: Re: FW: Media Statement - NZ Super Fund excludes three companies on responsible investment grounds

Dear Catherine,

Thank you for this welcome news. Much appreciated!

I hope Caterpillar USA will be next. It will soon be 10 years since the murder of 23 year-old American Rachel Corrie. Quakers USA divested from Caterpillar earlier this year.

Thanks again for keeping us informed.

Warm regards,

Lois

----- Original Message -----

From: "Catherine Etheredge" <CEtheredge@nzsuperfund.co.nz>

To: [REDACTED]

Sent: 12/12/2012 4:20:09 PM

Subject: FW: Media Statement - NZ Super Fund excludes three companies on responsible investment grounds

Dear Lois, further to our correspondence last week, please find attached a media statement we have just released.

Best regards
Catherine

Catherine Etheredge
Head of Communications

DDI: +64 9 366 4905
Mobile: +64 27 4777 501
Email: cetheredge@nzsuperfund.co.nz

A Great Team Building the Best Portfolio

PO Box 106 607, Auckland 1143, New Zealand
Level 12, Zurich House, 21 Queen Street, Auckland 1010, New Zealand
Office: +64 9 300 6980 | Fax: +64 9 300 6981 | Web: <http://www.nzsuperfund.co.nz/>

From: New Zealand Superannuation Fund [mailto:cetheredge@nzsuperfund.co.nz]
Sent: Wednesday, 12 December 2012 3:50 p.m.
To: Catherine Etheredge

Subject: Media Statement - NZ Super Fund excludes three companies on responsible investment grounds

If this email does not display properly, view our [online version](#)

<http://www.nzsuperfund.co.nz/>

[Newsroom](#)

[Contact us](#)

Media
12 December 2012

Statement

New Zealand Superannuation Fund excludes three companies on responsible investment grounds

The New Zealand Superannuation Fund today announced that it had excluded three companies from its \$20 billion investment portfolio on responsible investment grounds.

Excluded Company	Criteria	Holdings at 31 Oct 2012
<u>Africa Israel Investments and subsidiary Danya Cebus</u>	Africa Israel and its subsidiary Danya Cebus have been excluded because of their involvement in the construction of Israeli settlements in the Occupied Palestinian Territories. The settlements have been cited as illegal under international law, and the Fund considers the companies' involvement to be inconsistent with the United Nations Global Compact.	NZ\$9,744
<u>Elbit Systems Limited</u>	Elbit has been excluded because of its involvement in the construction of NIL* the Separation Barrier in the Occupied Palestinian Territories. The Separation Barrier has been cited as illegal under international law, and the Fund considers the company's involvement to be inconsistent with the United Nations Global Compact.	
<u>Shikun & Binui</u>	Shikun & Binui has been excluded because of its involvement in the construction of Israeli settlements in the Occupied Palestinian Territories. The settlements have been cited as illegal under international law, and the Fund considers the company's involvement to be inconsistent with the United Nations Global Compact.	NZ\$19,898

Findings by the United Nations that the Separation Barrier and settlement activities were illegal under international law were central to the Fund's decision to exclude the companies, said Manager, Responsible Investment Anne-Maree O'Connor.

The Fund also factored in votes by New Zealand for UN Security Council resolutions demanding the cessation and dismantling of the Separation Barrier, and the cessation of Israeli settlement activities in the Occupied Palestinian Territories.

The Fund also viewed the companies' activities to be inconsistent with the UN Global Compact, the key benchmark against which the Fund measures corporate behaviour.

"In deciding whether a company is breaching the Fund's responsible investment standards and how material

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that breach is, we take account of the proximity and importance of the company's actions to an illegal or unethical activity," said Ms O'Connor.

"We draw a distinction between being directly and materially involved in an activity versus being a supplier of materials or services in the normal course of business. In doing so, we consider whether the product or service is integral to the activity and tailor-made as opposed to being an off-the-shelf substitute or readily replaceable alternative."

"We also consider whether engagement by the Fund with the company concerned would realistically lead to a meaningful change in behaviour. In the case of these companies we have come to the conclusion that engagement is not likely to be effective."

Ms O'Connor said the exclusion decisions were based on an ongoing research and screening programme and, in the case of Elbit Systems Ltd, engagement with the company over an extended period. The stocks have now been sold.

All three stocks were held passively in the Fund's global equity portfolio, which is managed externally and includes shares in more than 6,500 companies around the world. Like many institutional investors, a sizeable proportion of the Fund's investment portfolio tracks global equity indices (including the MSCI large-cap equity index, MSCI emerging market index and MSCI small-cap index) in order to gain cost-effective, diversified exposure to share markets around the world. Investments in these companies move in and out of the Fund primarily according to their market capitalisation rather than through active stock picking. The portfolio is monitored daily for compliance with Fund exclusions.

The Fund's responsible investment standards and activities are set out in its responsible investment framework, available on <http://www.nzsuperfund.co.nz/>.

ENDS

* Elbit Systems Limited was deleted from the MSCI indices in June and subsequently dropped out of the Fund's segregated investment portfolio. Excluding it will ensure it does not re-enter the portfolio in the future, should its market capitalisation change. At 30 June 2012 the Fund's holdings in Elbit were worth \$36,532.

Media contact: Catherine Etheredge, Head of Communications, cetheredge@nzsuperfund.co.nz, 64 9 27 4777 501.

About the New Zealand Superannuation Fund
The New Zealand Superannuation Fund invests money, on behalf of the New Zealand Government, to partially pre-fund future universal superannuation payments. The Fund is a founding signatory of the United Nations' Principles for Responsible Investment (UNPRI). It is also a member of the Investor Group on Climate Change Australia/New Zealand, the International Corporate Governance Network and the Responsible Investment Association Australasia.

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Doc Ref 817812

From: Catherine Etheredge [CEtheredge@nzsuperfund.co.nz]
Sent: Monday, 17 December 2012 8:55 a.m.
To: Newsdesk
Subject: RE: Israel and the NZ Super

Hi Henry,

We publish our equity holdings annually. A link to the most recent list, as at 30 June 2012, is attached. http://www.nzsuperfund.co.nz/files/Equity%20Listings/NZ%20Super%20Fund%20equities_Listing_as_at_30_June_2012.pdf See page 43 for details of our holdings in Israeli companies. (As you are aware, Elbit, Africa Israel and Shikun & Binui have subsequently been excluded from the Fund).

Please note that this is not about Israeli companies; it is about the activities these three companies are involved in.

Best regards
Catherine

From: henrybenj@jwire.com.au [mailto:henrybenj@jwire.com.au] **On Behalf Of** Newsdesk
Sent: Saturday, 15 December 2012 6:41 a.m.
To: Catherine Etheredge
Subject: Israel and the NZ Super

Good morning Catherine

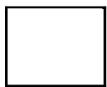
Withdrawal of investment in Israeli companies

Are there still Israeli companies in the fund's portfolio

If so, how many?

If so, can you tell me how much is currently invested in Israeli companies please?

Henry



Henry Benjamin [Editor]
www.jwire.com.au
0418 444 321
newsdesk@jwire.com.au

spread the word

From: Alisha Lewis [ALewis@nzsuperfund.co.nz] [mailto:/O=NZ SUPERANNUATION FUND/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AXL04MUM]
Sent: Tuesday, 5 March 2013 9:14 a.m.
To: Gavin Walker
Subject: FW: Letter for Gavin Walker attached

Hi Gavin,

Just forwarding this on to you.

Regards,

Alisha

Alisha Lewis
Communications Executive

PO Box 106 607, Auckland 1143, New Zealand

Level 12, Zurich House, 21 Queen Street, Auckland, New Zealand

Office: +64 9 300 6980 | Fax: +64 9 300 6981 | Web: www.nzsuperfund.co.nz



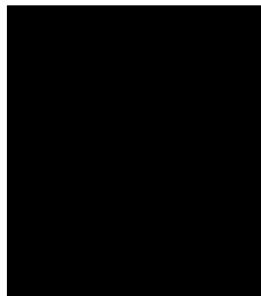
P Please consider the environment before printing this e-mail.

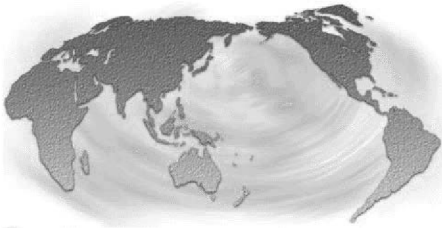
From: [REDACTED]
Sent: Monday, 4 March 2013 9:11 p.m.
To: Enquiries
Subject: Letter for Gavin Walker attached

Kia ora,

Please pass on the attached letter for Gavin Walker

Regards,





GLOBAL PEACE & JUSTICE AUCKLAND

www.gpja.org.nz

4 March 2013

Gavin Walker
Chair, Board of Guardians
NZ SuperFund
P O Box 106607,
Auckland 1143,

Email: enquiries@nzsuperfund.co.nz

Dear Gavin Walker and the Board of Guardians,

Firstly, congratulations on making the decision in December last year to exclude three companies involved in constructing illegal settlements in occupied Palestine and the construction of the separation barrier.

We believe that action was in line with the views of the majority of New Zealanders who do not want to see their money being used to prop up the occupation of Palestinian lands in violation of international law and the United Nations.

Your decision comes as the latest in a series of ethical exclusions such as your divestment from Freeport McMoran, Tokyo Electric Power Company, and companies involved in nuclear weapons and cluster munitions. It is essential that the SuperFund continues to ensure that its investments continue to be ethical and to reflect the wishes of the New Zealand public.

As you may be aware Israel is now subject to an international Boycott, Divestment and Sanctions (BDS) campaign because of its blatantly racist treatment of its Arab-Israeli citizens; its brutal military occupation of Palestinian territory; the construction of illegal Jewish-only settlements on Palestinian land and its blockade of the Gaza Strip.

The BDS campaign was launched in 2005 by some 260 Palestinian civil society organisations as the best way for the international community to support the Palestinian struggle for justice and human rights.

In 2009 a collection of NGOs focused on ending the Israeli occupation of Palestinian territories wrote to the Board to seek divestment of the New Zealand Superannuation Fund from corporations specifically engaged in activities that directly support the occupation of Palestinian land.

In light of the recent war on Gaza and the ongoing expansion of Israel's illegal settlements in the Palestinian West Bank we believe it is important that we reiterate our request that the Superannuation Fund divest its monies specifically from all Israeli corporations until the occupation of Palestinian territories ends.

Israeli companies

We note that as at 30 June 2012 the SuperFund had \$7,678,104 invested in 42 Israeli corporations.

These include,

BANK HAPOALIM: Has branches in the illegal West Bank settlements Gilo, Pisgat Ze'ev, Ramot and provides mortgages to houses and building in illegal settlements in the West Bank. Provided finance for at least two settlement constructions. Of course the settlements are a violation of international law.¹

BANK LEUMI: '(TLV:LUMI) (PINK:BLMIF) is the second largest bank in Israel. According to the Coalition of Women for Peace, it has branches in the following settlements in the West Bank: Ma'ale Edomim, Oranit, Pisgat Ze'ev, Gilo, Kiryat Arba, Katzerin. The bank has partial control over several companies that are involved in the occupation: Paz Oil Company (15%), Super Pharm (18%) and Hot Communication Systems (cable TV) (15%). Super Pharm is an Israeli drugstore chain with branches in the following settlements: Ma'ale Edomim, Pisgat Ze'ev, Gilo. Super Pharm is also one of the owners of Blockbuster in Israel, which has DVD vending machines in the settlements of Ariel, Giv'at Ze'ev, Ma'ale Edomim, and Sha'arei Tikva. Bank Leumi is also one of the banks lending money to the Citypass Consortium, which is building a tramway to connect Jerusalem with illegal settlements in the West Bank.'²

MIZRAHI TEFAHOT BANK :'(TLV:MZTF) has branches in the illegal settlements of Alon Shvut and Karnei Shomron, in the West Bank.'³

PAZ OIL: '(TLV:PZOL) has gas stations in West Bank settlements including Ma'ale Edomim, Kiryat Arba, Pisgat Ze'ev, Gilo, Karnei Shomron and Ofra. Subsidiary company PazGas is supplying cooking gas to West Bank settlements including Ma'ale Edomim and the settlement outpost of Havat Maon.'⁴

To summarise, we believe it is unacceptable that the SuperFund is investing money with corporations that finance and operate in Israeli-only settlements on stolen land in the West Bank in violation of international law. The majority of New Zealanders would be horrified to know that their money is being given to banks which finance the construction of these settlements which violate Article 49 of the Fourth Geneva Convention.

Hans van den Broek, former Minister of Foreign Affairs of the Netherlands, wrote last year,

¹ Adri Nieuwhof, 'Israeli banks entrenched in settlement building', 26 October 2009, available at: <http://electronicintifada.net/content/israeli-banks-entrenched-settlement-building/8507>

² Interfaith Peace Initiative, 'Companies Supporting the Israeli Occupation of Palestinian Land', October 2009, available at: <http://www.interfaithpeaceinitiative.com/profitting.pdf>

³ Ibid.

⁴ Ibid.

“Almost 20 years have passed since the Oslo Accords were signed – and peace in the Middle East seems more remote than ever. That no comprehensive peace has been achieved is due to a number of reasons. The stagnation of the peace process cannot be attributed to a single factor.

However, one of the main reasons – I would say the decisive one – is Israel’s incessant settlement policy in the West Bank and East Jerusalem. In recent years, this policy has been preventing the resumption of meaningful peace negotiations. But its negative impact goes much further: it threatens the viability of the two-state solution and thus the very feasibility of peace.

During the past decades, the EU has consistently criticized and condemned the settlement policy. Dozens of official EU statements and positions reaffirm the illegality of the settlements under international law and regard them as major obstacles to peace. Repeatedly, the EU has stressed that it will not recognise any unilateral changes to the pre-1967 borders, including with regard to Jerusalem.

As settlement construction has continued and accelerated, however, we Europeans have failed to move from words to action. So far, we have refrained from deploying our considerable political and economic leverage vis-à-vis Israel to contain developments on the ground that contradict our basic values and that undermine our strategic interests.⁵”

We reiterate this concern. New Zealand must also move from words to action by deploying our economic leverage to contain settlement construction.

Caterpillar

In addition we note the SuperFund has \$2,017,530 invested in Caterpillar Inc. The value of this investment has nearly doubled in the last three years despite the fact that we highlighted to the Board in 2009 that Caterpillar,

Supplies bulldozers to the IDF [Israeli Defence Force]. The IDF uses these to destroy Palestinian homes, orchards and olive groves in the Occupied Territories. They are also used to clear Palestinian land for illegal Israeli settlements, segregated roads and the Separation Wall. Despite years of corporate engagement by investors, Caterpillar is expanding its role in the occupation, recently announcing a joint venture with InRobTech to develop unmanned remote-controlled bulldozers for Israel.

In June 2012 United States retirement fund, Teachers Insurance and Annuity Association – College Retirement Equities Fund, divested \$72 million in shares from Caterpillar in response to requests from New York University faculty opposed to the investment and a campaign by US based group Jewish Voices for Peace.⁶

Divestment

⁵ Hans van den Broek, ‘Foreword’, in *Trading Away Peace: How Europe helps sustain illegal Israeli settlements*, October 2012, available at: <http://www.rightsforum.org/media/doc/tradingawaypeace.pdf>

⁶ Cecilie Surasky, ‘BDS Victory: TIAA –CREF dumps CAT stock’, *Jewish Voices for Peace*, 21 June 2012, available at: <http://jewishvoiceforpeace.org/blog/bds-victory-tiaa-cref-dumps-cat-stock>

In the 2009 letter it was noted,

...that the New Zealand Superannuation Fund has obligations in legislation. Specifically, Section 58 of the New Zealand Superannuation and Retirement Income Act 2001, requires the Guardians of the Fund to invest so as to avoid prejudice to New Zealand's reputation as a responsible member of the world community.

Section 61(d) of the Act demands a Statement of Investment Standards and Procedures that provides for ethical investment to avoid prejudice to New Zealand's reputation as a responsible member of the world community.

Moreover, we understand from your statement of Responsible Investment Policy, that the Trust is a founding signatory to the United Nations' Principles for Responsible Investment. In particular we are further told that the Guardians have adopted the United Nations Global Compact, which sets 'core values' for investment using considerations of such matters as human rights. The relevant principles of the UN Global Compact are;

Principle 1. Businesses should support and respect the protection of internationally proclaimed human rights; and

Principle 2. Make sure they are not complicit in human rights abuses.

Divestment from the corporations listed above would end the New Zealand Superannuation Fund's complicity with the Israeli occupation of Arab lands and Israel's ongoing breaches of international law and violations of human rights therein.

We reiterate our call for divestment from the Superfund in Israeli corporations in general and specifically Caterpillar, which directly profits from the continued conflict in the occupied territories.

In light of Israel's recent announcement of new settlements and the latest Gaza conflict it is important that New Zealand ensures that it is not complicit in profiteering from these settlements and this conflict. Divestment would ensure this.

We look forward to hearing from you.

Regards,

A handwritten signature in black ink, appearing to read 'J. B. Minto', with a small flourish at the end.

John Minto
Spokesperson
GPJA
0220850161
johnminto@orcon.net.nz

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Doc Ref 842608

From: [REDACTED]
Sent: Thursday, 14 March 2013 1:14 p.m.
To: [REDACTED]
Subject: New Zealand Superannuation Fund


Dear [REDACTED]

Please find attached response to your letter dated 4 March 2013. A hard copy is on it's way to you.

Thank-you
Adrian

14 March 2013


Global Peace & Justice Auckland


By email: 

Dear 

Thank you for your letter of 4 March 2013 on behalf of Global Peace & Justice Auckland regarding the New Zealand Superannuation Fund's approach to responsible investment and in particular our equity holdings in Israeli companies. Our Board Chairman Gavin Walker has asked me to respond to you on behalf of the Fund.

Before addressing the specifics of your letter, it may be helpful if we set out some contextual background about the Guardians and our approach to responsible investment (RI).

As you note, RI is part of meeting our investment mandate in our Act¹. When investing, we are required to avoid prejudicing New Zealand's reputation as a responsible member of the world community, and to apply best-practice portfolio management.

We take these responsibilities seriously and are proud of what we have achieved relative to global benchmarks. The Fund is a founding signatory of the United Nations Principles for Responsible Investment (UNPRI) and one of the few signatories globally to be rated in the top quartile for the implementation of all six of the UN Principles.

Our RI Policy supports the UN Global Compact Principles as an appropriate standard for companies in our global portfolio. Where companies have breached our standards, rather than excluding them from our portfolio, our preference is to utilise our position as shareholders to encourage them to implement improvements in their policies and practices. We prefer to engage with companies because we believe that investors with active RI strategies can play a role in encouraging companies to improve their management of environmental, social and governance issues. We also believe that companies that do so can improve their long-term financial performance. Exclusion is a last resort since shares are simply taken back up by the market.

We may, however, decide to exclude companies for severe breaches of our responsible investments standards, where we consider engagement is unlikely to be effective, due to the context of the company's operations or a lack of responsiveness from the company to the issue.

¹ New Zealand Superannuation and Retirement Income Act 2001

In deciding whether a company is breaching the Fund's responsible investment standards and how material that breach is, we take account of the proximity and importance of the company's actions to an illegal or unethical activity.

In our recent exclusion decisions in December 2012 relating to the issue of companies operating in the Occupied Palestinian Territories, we draw a distinction between the company being directly and materially involved in an activity versus being a supplier of materials or services in the normal course of business. In doing so, we also consider whether the product or service is integral to the activity and tailor-made, as opposed to being an off-the-shelf substitute or readily replaceable alternative.

In this context we reviewed a number of companies, including Caterpillar, and we remain confident in our process and decisions.

Your comments and the information you have provided have been noted and will be retained as part of our on-going RI research efforts.

Thank you again for your interest in this issue and for the information provided. For further information on our approach to RI please refer to www.nzsuperfund.co.nz.

Yours sincerely

A handwritten signature in black ink, appearing to be 'A. Orr', written over a horizontal line.

Adrian Orr
Chief Executive, New Zealand Superannuation Fund

CC Gavin Walker, Chairman, Guardians of New Zealand Superannuation

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Doc Ref 863805

From: Catherine Etheredge [CEtheredge@nzsuperfund.co.nz]
Sent: Wednesday, 15 May 2013 3:37 p.m.
To: Tim Hunter
Subject: Exclusions - previous announcements

Hi Tim,

Thanks for your time this afternoon. Please find below links to our previous statements on exclusions from the Fund for breaches of responsible investment standards.

- Freeport, KBR, TEPCO, Zijin:
<http://www.nzsuperfund.co.nz/news.asp?pageID=2145831983&RefID=2141742302>
- Africa Israel/Danya Cebus; Elbit; Shikun & Binui:
<http://www.nzsuperfund.co.nz/news.asp?pageID=2145831983&RefID=2141742545>

I've also attached the press release about the global RI Reporting Awards in which we have just discovered the Fund is a finalist.

Our 2011/12 Annual Report is available on our website at http://www.nzsuperfund.co.nz/files/Annual%20Reports/NZ_Super_Fund_-_2011_12_Annual_Report_-_website.pdf. The Responsible Investment Report is at pages 38-43. Page 40 includes a table with a breakdown of the Fund's engagement activities during 2011/12, including whether they were direct or collaborative engagements.

Best regards
Catherine

Catherine Etheredge
Head of Communications

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Mobile: +64 27 4777 501
Email: cetheredge@nzsuperfund.co.nz

A Great Team Building the Best Portfolio

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Embargoed until 00:01 BST, Tuesday 14th May 2013

AUSTRALIAN AND NEW ZEALAND INVESTORS SHORTLISTED FOR GLOBAL AWARD

Australian Future Fund, Vic Super, Construction & Building Unions Superannuation fund and New Zealand Superannuation Fund nominated for global responsible investment award.

A new global award to recognise excellence in responsible investment reporting has shortlisted the **Australian Future Fund** for best responsible investment report by a large pension fund. **Vic Super, the Construction & Building Unions Superannuation fund** and the **New Zealand Superannuation Fund** are in the running for best responsible investment reporting by a medium or smaller-sized fund. The winner will be announced at RI Europe in London on 11th June [link](#).

The 'RI Reporting Awards' [link to PDF](#) recognize those funds that are most transparent about how they are putting responsible investment into action. Reporting on RI issues is seen as vital for communicating publicly the steps that institutional investors are taking to address looming environmental dangers and financially material social risks (such as child labour, supply chains, tax), and, via better corporate governance, to promote sustainable corporate practices and help avoid a repeat of the 2008/09 financial crisis.

Good RI reporting is also the indicator of how seriously pension funds are taking their commitments to integrate increasingly 'material' ESG risks and opportunities into traditional financial analysis and investment decision processes.

The shortlist has been created from an analysis of the responsible investment reporting of over 1,000 of the world's largest pension funds from Europe, North America, Australasia, Latin America and Africa.

Hugh Wheelan, Managing Editor of Responsible Investor and Chair of the judging panel said:

"Institutional investors are living through a post financial crisis era where there is mounting pressure for them to be more responsible and transparent about environmental, social and corporate governance efforts as part of their fiduciary duty to protect beneficiary assets over the long term. Because pension funds sit at the top of the investment chain they can set the standards for others to follow. These awards recognize those pension funds that are visibly leading the way via their responsible investment reporting."

The full list of nominations is:

The full list of nominations is:

Nominated for best responsible investment report by a large pension fund

- Australian Future Fund, Australia
- BT Pension Scheme, UK
- California Public Employment Retirement Systems (CalPers), USA
- Fjaerde AP-fonden (AP4), Sweden
- Folksam, Sweden
- Government Employees Pension Fund, South Africa
- Pensioensfonds Zorg en Welzijn, Netherlands
- Previdência dos Funcionarios do Banco do Brasil, Brazil

Further information over page ...

Nominated for best responsible investment report by a small or medium-sized pension fund

- Church of England, UK
- Construction & Building Unions Superannuation, Australia
- Environment Agency (Active) Pension Fund, UK
- Government Pension Fund, Norway
- National Pensions Reserve Fund, Ireland
- New Zealand Superannuation Fund, New Zealand
- OPSEU Pension Plan, Canada
- Vic Super, Australia

Download the RI Reporting Awards Information & Nominations here -

http://www.responsible-investor.com/images/uploads/reports/RI_Reporting_Awards_Nominations.pdf

Download the RI Reporting Awards Criteria here -

http://www.responsible-investor.com/images/uploads/reports/RI_Awards_Criteria.pdf

The **two awards for Best RI Report 2013 will be announced at RI Europe** in London on 11th June, see -

<http://www.responsible-investor.com/europe2013>

The RI reporting Awards are being organised by Responsible Investor in association with our research partner the Responsible Finance Research Charity.

About Responsible Investor

Focusing on business critical news and data, Responsible Investor <http://www.responsible-investor.com> is the only dedicated news and events service reporting on responsible investment, ESG and sustainable finance for institutional investors globally.

About the Responsible Finance Research Charity

Responsible Finance Research (ReFineResearch) is a charitable institution which supports and leverages academic and industry research in the area of responsible investment. The charity aims to achieve deeper knowledge of responsible investing through innovative thinking, greater transparency and advanced research methods.

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Dear David May, Chair, Guardians of the N.Z. Superannuation Fund,

New Zealand Superannuation Fund investments in Occupation of Palestinian and Syrian Lands

The New Zealand Superannuation Fund currently holds investments in corporations deeply complicit in the belligerent Israeli occupation of the West Bank, East Jerusalem, Golan Heights and the blockade of the Gaza Strip.

Investments in these corporations materially support the continued Israeli occupation and Israel's continual violation of United Nations resolutions and international human rights and humanitarian law.

According to international law and the United Nations' UNSC resolution 242 (1967), the acquisition of territory by force is prohibited. Israel has occupied the West Bank, East Jerusalem, Gaza Strip and Syrian Golan Heights since 1967. This continuing occupation has been involved a myriad of serious human rights violations (see United Nations' E/CN.4/2004/6). Approximately five million Palestinian refugees are the result of successive Israeli expulsions since 1948. These refugees have their right to return and restitution under UNGA 194 (III) blocked by Israel. The unilateral annexation of Jerusalem by Israel is unlawful – cf. UNSC 252 (1968). The demographic and physical transformation of the Occupied Territories, through Israeli settler implants, is a war crime under the provisions of the Treaty of Rome of 1998 (A/Conf.183/9, Art8(2)(b) (viii)). The Israeli construction of a Separation Wall on occupied land violates the legal obligations of a belligerent occupier (A/ES-10/273). Israel has thwarted the Palestinians' right to self-determination, including the creation of a viable and sovereign state in their homeland – cf. UNGA 3236 (xxix) of 22 November 1974, UNSC 1397 (2002) and UNGA 58/292 of 6 May 2004.

On 9th July 2004, the highest judicial body of the United Nations, the International Court of Justice (ICJ), issued an Advisory Opinion on the Legal Construction of a Wall in the Occupied Palestinian Territories (A/ES-10/273 and Cor.1.). It ruled that the territory, including East Jerusalem, is unambiguously under 'belligerent occupation', (para 78, 101, 120) and such occupation is a denial of the Palestinian rights of self-determination. The ICJ ruled that both the Israeli settlements and the Separation Wall are built in breach of international law and that humanitarian law, the laws of war and human rights law apply cumulatively in the Occupied Palestinian Territory (paras 105-114).

The ICJ also stated that all States are under an obligation not to recognise the illegal situation resulting from the construction of the Separation Wall, must not render aid or assistance in maintaining that situation, and must see to it that any impediment to the Palestinian people's right to self determination is brought to an end (para 159). All States Parties to the Fourth Geneva Convention are under an obligation to ensure compliance by Israel with international humanitarian law as embodied in that Convention (para 159). The Court found that the Israeli obligations to comply were *erga omnes*, that is to all members of the international community. This in turn derived from the application of the *jus cogens* rule which means that breaches of obligation should not be recognised and this non-recognition is permanent.

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Such a finding indicates a very high level of legal obligation to States Parties. New Zealand is such a State Party, having signed the Fourth Geneva Convention on 11 February 1950 and ratified it 2 May 1959.

New Zealand has incorporated provisions of the Fourth Geneva Convention into New Zealand legislation, specifically the Geneva Conventions Act 1958 No19 (as of 1 July 2009), which is ‘An Act to enable effect to be given to certain International Conventions done at Geneva on the 12th day of August 1949 and to certain Protocols additional to those Conventions, and for purposes connected therewith’.

New Zealand’s International Crimes and International Criminal Court Act 2000, codifies the provisions of the Treaty of Rome, which relate to individual responsibilities for breaches of humanitarian law. This was the legislation under which a New Zealand judge issued an arrest warrant in 2006 for suspicion of war crimes against the former Chief of Israeli Defense Staff, now Minister of Strategic Affairs of Israel, Moshe Ya’alon, for his role in the assassination of Salah Shehade and others in Gaza in 2002.

On 20 July 2004, the General Assembly of the United Nations adopted by an overwhelming majority resolution ES-10/15 demanding that Israel heed the ICJ opinion. New Zealand voted in favour. Israel had adamantly refused to acknowledge the legitimacy of the ICJ, and for that matter the application of the Fourth Geneva Convention.

In 2005 a coalition of Palestinian NGOs and civil society organisations issued a call for the rest of the world to actively pursue non-violent punitive measures until Israel meets its obligation to recognize the Palestinian people’s inalienable right to self-determination and complies with the precepts of international law by:

1. Ending its occupation and colonization of all Arab lands and dismantling the [Separation] Wall;
2. Recognizing the fundamental rights of the Arab-Palestinian citizens of Israel to full equality; and
3. Respecting, protecting and promoting the rights of Palestinian refugees to return to their homes and properties as stipulated in UN resolution 194 (III).

· Since September 2000, the Israeli army has killed more than 6,500 men, women and children in the Occupied Palestinian Territories (including Gaza) (OPT), by means of bombing, house demolitions and targeted assassinations. (Source: Palestine Solidarity Campaign, <http://www.palestinecampaign.org/images/apartheid%20factsheet%20-%20web.pdf>)

· Currently, about 10,000 Palestinian prisoners are being illegally held in Israeli jails, including more than 300 children, many under the system of ‘administrative detention’ — i.e. without charge or trial. (Source: Palestine Solidarity Campaign, <http://www.palestinecampaign.org/images/apartheid%20factsheet%20-%20web.pdf>)

· Israel uses more than 80 per cent of the water from the Mountain Aquifer, the main source of underground water in Israel and the OPT, while restricting Palestinian access to a mere 20

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per cent. Some 180,000-200,000 Palestinians living in rural communities have no access to running water and the Israeli army often prevents them from even collecting rainwater. (Source: Amnesty International, <http://www.amnesty.org/en/news-and-updates/report/israel-rations-palestinians-trickle-water-20091027>)

· Fully 95% of the Separation Wall is being built on Palestinian territory rather than on Israel's border, known as the Green Line. This means that the western sector of the Wall will effectively annex at least 10% of the West Bank to Israel. (Source: War on Want, <http://www.waronwant.org/attachments/Profiting%20from%20the%20Occupation.pdf>)

· The United Nations Human Rights Council Goldstone Report recently found that Israeli actions in the Gaza Strip between December 2008 and January 2009 may have amounted to war crimes. It cites a number of specific incidents in which Israeli forces launched 'direct attacks against civilians with lethal outcome'. These are, the Report says, cases in which the facts indicate no justifiable military objective pursued by the attacks. The incidents described include: Attacks in the Samouni neighbourhood, in Zeitoun, south of Gaza City, including the shelling of a house where soldiers had forced Palestinian civilians to assemble; Seven incidents concerning 'the shooting of civilians while they were trying to leave their homes to walk to a safer place, waving white flags and, in some of the cases, following an injunction from the Israeli forces to do so'; The targeting of a mosque at prayer time, resulting in the death of 15 people. (Source: United Nations, <http://www.unhchr.ch/hurricane/hurricane.nsf/view01/9B63490FFCBE44E5C1257632004EA67B?opendocument>)

The New Zealand Superannuation Fund, by investing in the listed corporations, is complicit in the occupation and the Israeli mechanisms of preserving that occupation, which include long-standing and severe breaches of international humanitarian and human rights law:

Corporation	Amount Invested	Activity[1]
Bank Leumi Le-Israel BM	\$1,475,329	The second largest bank in Israel. Has branches in the following settlements in the West Bank: Ma'ale Edomim, Oranit, Pisgat Ze'ev, Gilo and Kiryat Arba, and in Katzerin in the Golan Heights.
Bezeq Israeli Telecommunication Corp Ltd	\$227,510	The major Israeli telecommunication company. The company provides telecommunication services to all of the Israeli settlements, army bases and checkpoints in the West Bank and to Israeli settlements in the Syrian Golan Heights. The company built telecommunication infrastructure throughout the West Bank and Golan Heights. Additionally, its full subsidiary, Pelephone Communications, is an Israeli provider of cellular phone services, which erected close to a hundred antennas and telecommunication infrastructure facilities on occupied land in the West Bank and the Golan heights and provides cellular communication services to the settlers and Israeli soldiers in the occupied territory.

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		The company also owns YES which provide satellite broadcasting services to some of the checkpoints and to all Israeli settlements.
Boeing	\$701,826	Supplier of the F-15 Eagle and the AH-64 Apache attack helicopter to Israel.
Caterpillar	\$1,162,877	Supplies bulldozers to the IDF. The IDF uses these to destroy Palestinian homes, orchards and olive groves in the Occupied Territories. They are also used to clear Palestinian land for illegal Israeli settlements, segregated roads and the Separation Wall. Despite years of corporate engagement by investors, Caterpillar is expanding its role in the occupation, recently announcing a joint venture with InRobTech to develop unmanned remote-controlled bulldozers for Israel.
Cellcom Israel Ltd	\$137,157	An Israeli provider of cellular phone services. The company erected close to two hundred antennas and telecommunication infrastructure facilities on occupied land in the West Bank and the Golan Heights. The company provides cellular communication services to the settlers and Israeli soldiers in the Occupied Territory.
Delek Group Ltd	\$37,945	A fuel distributor. The company owns and operates a chain of Delek gas stations and Menta convenience stores near and in West Bank settlements
Elbit Systems Ltd	\$133,596	<p>One of two main providers of the electronic detection fence to the Separation Wall project in the occupied West Bank. Specifically, received the contract to the Jerusalem Envelope section of the Wall (Masu'a system) with the US Detekion.</p> <p>Subsidiaries Elbit Electro-Optics (El-Op) and Elbit Security Systems (Ortek) supplied and incorporated LORROS surveillance cameras in the Ariel section and for the A-ram wall.</p> <p>The company supplied UAVs (Unmanned Aerial Vehicles) to the Israeli army, which are in operational use in during combat in the West Bank and Gaza. The cameras in these UAV are manufactured by Controp Precision Technologies.</p> <p>According to reports, the company developed an armed UGV (Unmanned Ground Vehicle) for patrolling the border with Controp Precision Technologies and Tomcar.</p>

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Israel Bank Hapoalim BM	\$1,892,635	The largest Israeli Bank. Has branches in the illegal Gilo and Giv'at Ze'ev West Bank settlements and in the Golan Heights
Makhteshim-Agan Industries Ltd	\$1,803,893	Owns Fibertech which manufacture fiberglass pipes and products in a factory located in Karnei Shomron, which is an Israeli settlement in the occupied West Bank. The company also took part in various infrastructure projects in the West Bank.
Mizrahi Tefahot Bank Ltd	\$1,274,138	The Bank has branches in the following West Bank settlements: Alon Shvut, Karnei Shomron, Kedumim and Ramat Eshkol. The bank signed a financing agreement with the construction company Heftziba for the building of 58 housing units in the neighborhood settlement of Homat Shmuel (Har Homa) in East Jerusalem (the construction of most of the units was completed by 2008).
Partner Communications Co Ltd	\$137,182	An Israeli provider of cellular phone services. The company erected more than 160 antennas and telecommunication infrastructure facilities on occupied land in the West Bank and the Golan Heights. The company provides cellular communication services to the settlers and Israeli soldiers in the Occupied Territories.
United Technologies	\$5,517,080	Produces Blackhawk helicopters which are used by the Israeli military to attack Palestinian cities, refugee camps and villages.

We note that the New Zealand Superannuation Fund has obligations in legislation. Specifically, Section 58 of the New Zealand Superannuation and Retirement Income Act 2001, requires the Guardians of the Fund to invest so as to avoid prejudice to New Zealand's reputation as a responsible member of the world community.

Section 61(d) of the Act demands a Statement of Investment Standards and Procedures that provides for ethical investment to avoid prejudice to New Zealand's reputation as a responsible member of the world community.

Moreover, we understand from your statement of Responsible Investment Policy, that the Trust is a founding signatory to the United Nations' Principles for Responsible Investment. In particular we are further told that the Guardians have adopted the United Nations Global Compact, which sets 'core values' for investment using considerations of such matters as human rights.

The relevant principles of the UN Global Compact are;

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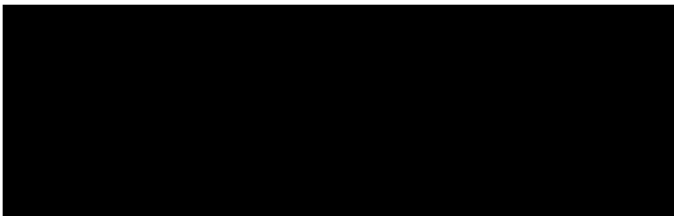
Principle 1. Businesses should support and respect the protection of internationally proclaimed human rights; and

Principle 2. Make sure they are not complicit in human rights abuses.

Divestment from the corporations listed above would end the New Zealand Superannuation Fund's complicity with the Israeli occupation of Arab lands and Israel's ongoing breaches of international law and violations of human rights therein.

We look forward to hearing from you in the near future that you have divested from the above investments. We, of course, are only too happy to meet with you to discuss these investments should you have any questions about them.

Yours Sincerely,



On behalf of,

Investment Watch Aotearoa/New Zealand and,



Global Peace and Justice Auckland



Palestine Human Rights Campaign



Wellington Palestine Group

Cc Bill English, Minister of Finance

[1] The information provided is from <http://www.whoprofits.org/>, an online database maintained by leading Israeli peace organisation, *The Coalition of Women for Peace*.

RI Engagement Decision

Freeport McMoRan USA

Description of issue

Freeport McMoRan owns and operates the Grasberg gold and copper mine in Indonesia.

Freeport McMoRan's Grasberg mine in Indonesia has faced a long history of community resistance and security-related issues. The military and police force have a poor reputation for human rights abuses and illegal business activities that continue to this day. Elements in the Indonesian security forces assigned to mine have a history of ongoing human rights abuses. Freeport has responded to a long period of investor and NGO engagement by improving their own Human Rights policies and the training of its own security personnel. However, abuses and fatalities persist at the mine, including the deaths of several strikers last year during strike action that had endured for a number of months.

The company persists with payments to government security forces despite an independent human rights assessment recommending the company end the practice. The payments exacerbate community grievances and suspicion of the company. The company has put in place whistle-blowing systems but these payments and its dependence on the military and police during strikes must undermine trust in such a system. It is unclear if the security payments are legal under Indonesian law but the company states that it is part of the contractual requirements it has with the government. Despite this experience Freeport repeated the controversial practice of payment to government security forces in the Congo, where again such forces have a poor reputation for human rights.

Relevant RI standards

Regulatory Environment:	
Universal Declaration of Human Rights	Inconsistent with Human Rights Norms
National Local Law	Military payments may not be illegal
UN Global Compact Principles 1	Support international human rights
UN Global Compact Principles 2	Not complicit in human rights abuses

Assessment

Reputable evidence of breach

Materiality of issue

Contravention of international sanctions?	N	<p>The company has improved its Human Rights Policies and management systems, including training and control over its own security personnel. Human rights abuses related to the mine include a history of reprisals against indigenous protests over environmental and social impacts of the mine. The security presence in the area is heavy with separatist movements adding to the risk of conflict.</p> <p>Despite the company's efforts, there were fatalities at the hands of government security forces during strikes last year. Of particular concern is the company's continuation of financial and in-kind payments to the military. The impact of the abuses are severe and long-term. The company appears to have little control over the external security at the mine and there are accusations that the military are operating illegal businesses in the region.</p>
Significant regulatory non-compliance?	Y	
Severe long-term impact	Y	
Severe but short-term impact	Y	
Structural problem (history of problems)?	Y	
Direct involvement?	Y	

Assessment**Severe long term historical and ongoing impact****Key sources**

MSCI Reports. – (#401554)

Assessment**Reputable evidence based on reliable sources****Likely effectiveness of engagement****Context**

Issue conflicts with purpose of co. N

Lack of ability to control situation Y

Legal compliance is not sufficient Y

Responsiveness

Structural issue (history of problems) Y

History or culture of non-engagement N

Lack of response to direct engagement Y

Limited ability to collaborate with peers N

Only responds to extreme engagement N

Has reached limits of what company can do Y

Language or cultural barriers N

Company has lack of ability to control government security forces assigned to the mine area.

There has been significant improvement in its own human rights policies including training of police personnel. However Freeport has not addressed or ended payments to the military. The company appears to have a structural weakness in managing security and community issues as it has repeated this controversial policy to pay government forces in the Congo. Peers are actively engaging.

Assessment**Partial effectiveness so far but limited chance of further improvements****Resource requirements to engage**

One of our focus issues? Y

NZ or Australian company? N

Can engage with other investors? Y

Can monitor company behavior? Y

One of our larger holdings? N

Exclusion will harm fund performance? N

Engagement likely to succeed? N

Human Rights especially in conflict zones is a focus issue. Significant resources already expended.

This is not a key company by region (Aus/NZ) or size so is unlikely to impact the portfolio return. However, further engagement is unlikely to be successful and we have reached the limits of what can be achieved, even with collaboration with other investors. Further resources would be extensive as it would need to challenge legal arguments on payments to security forces.

Assessment**Significant resources required to achieve any further progress****Recommendation****Exclude**

Other issues:

Freeport McMoRan has a history of poor environmental, human rights and governance performance at the Grasberg mine. The Norwegian Government Pension Fund excluded the company due to the severe environmental damage from riverine tailings disposal. The company has stated that the mine

cannot operate without this form of waste disposal, and the sustainability of its business is exposed to regulatory risk should Indonesia follow most of the rest of the world and ban riverine disposal.

This practice is also relevant to the social and security situation since it has led to an influx of people seeking to make a living from panning the tailings in the river for gold. This has in turn likely led to the increase in crime, HIV, and accusations of illegal military business operations in the area. Indigenous people are aggrieved and security forces take hard-line approach to political and community protests against the mine.

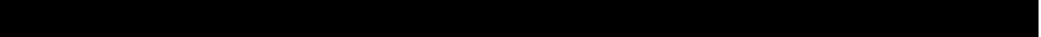
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Lois Griffith Petition—analysis

General Summary

Key points on the 6 stocks:

- All 6 have alleged activities to do with the Israel separation Barrier issues
- The 3 key issues that are common amongst these companies are alleged human rights abuses (by Caterpillar and G4S), and poor practices by the 3 Banks. By providing surveillance equipment – Elbit is seen as supporting the barrier initiative.
- The International Court of Justice (ICJ) deems the separate barrier to be illegal - http://en.wikipedia.org/wiki/Israeli_West_Bank_barrier
- An Israeli High Court decision on a petition from two Palestinian enclaves ordered the Israeli government to “within a reasonable period, reconsider the various alternatives for the separation fence route at Alfei Menashe”. Therefore the legality of certain aspects of the Separation Barrier project is questionable also under Israeli law itself. However, it is the State, *not the companies*, that were the responsible parties in this case.
- The three Banks are accused of providing finance to businesses and others that are located near or on the Separation barrier and providing mortgages to settlers in the disputed West Bank. On a separate business ethics issue all are implicated and entwined in the same breach of poor customer practices (charging higher fees, withholding customer taxes etc).
- The AP funds, ATP and the Norwegian Pension Fund have excluded Elbit systems, however none of the other companies have been excluded by any of our key peers (including PGGM).
- Two Danish institutions have also excluded Elbit Systems (Danish Bank (Danske Bank), and PKA Ltd. (Pensionskassernes Administration A/S), one of the largest funds administrating workers’ pension funds in Denmark)). Their main reasons were that the barrier only serves military purposes and violates Palestinian human rights. They have looked at whether companies produce custom designed products to the wall and thus have a particular involvement in repressive activities. <http://stopthewall.org/worldwideactivism/2166.shtml>
- 
- Elbit, and G4S have business ethics policies, and all 3 banks have an approach to CSR.
- When goggling - The 3 companies and 3 banks are identified on one main NGO website (Who profits – focused on exposing companies operating in Israel) – stating that the Banks provide financing for the construction of housing projects in Israeli settlements in the occupied territory (providing loans and financial services to local authorities of West Bank settlements) – hence supporting the activities of the separation barrier.

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NZ – MFAT position

There is no evidence to state NZ has a sanction against Israel

Key points on why not to exclude

- Companies are not carrying out any illegal activity – therefore not prejudice to NZ’s reputation.
- NZ does not have any sanctions against Israel – our investment approach is consistent with international standards, New Zealand legislation and Crown actions

<http://www.mfat.govt.nz/Treaties-and-International-Law/09-United-Nations-Security-Council-Sanctions/index.php>

<http://www.mfat.govt.nz/Countries/Middle-East/Israel.php>

Elbit Systems

Elbit systems are on our RI Red list- and has been excluded by Norwegian Pension Fund because of its involvement in supplying surveillance to the Israel govt (which is then used in the monitoring of civilians crossing the separation barrier). A few of our peers have excluded Elbit systems based on the fact that: *The construction of parts of the barrier may be considered to constitute violations of international law, and Elbit, through its supply contract, is thus helping to sustain these violations. The International Court of Justice (ICJ) deems the separate barrier to be illegal.* For this reason, the AP funds (ethical council), ATP and the Norwegian Pension Fund have excluded Elbit systems.

See the Norwegian Pension Fund’s detailed report here: <http://www.regjeringen.no/pages/2236676/Tilr dning%20Elbit%20engelsk.pdf>

Table 1: 6 Companies on petition – based on MSCI and internet research

Company	Company activity	Key ESG issue	Summary of issues	MSCI detailed Research
Elbit Systems	Israel – Aerospace and defence	By supplying surveillance Cameras – company is seen as encouraging Separation barrier activity (Human rights abuses)	<p>Elbit Systems provided weapons and surveillance systems to the Israeli government for use in controversial military actions against both combatants and non-combatant civilians in the West Bank and the Gaza Strip.</p> <p>[REDACTED]</p> <p>The International Court of Justice determined that the construction of the wall - approximately 80% of which is in Palestinian territory - violates international law and is an illegal annexation.</p> <p>The company has a code of ethics policy – which states the company complies with all applicable laws, governmental rules and regulations. The Code contains a "whistleblower" process to encourage reports of Code violations.</p> <p>http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9Nzg3NzJ8Q2hpbGRJRjRD0tMXxUeXBIPtM=&t=1</p>	[REDACTED]

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Caterpillar	US Company: Farm Machinery and heavy truck	Human rights abuses Supplying trucks to Israel	<p>Caterpillar has been constantly criticized by human rights groups for selling armored bulldozers to the Israeli government, which allegedly uses some of them to bulldoze Palestinian settlements to assist in the creation of the separation barrier.</p> <p>[REDACTED]</p> <p><i>have the legal right to regulate how customers use the company's products and that the vast majority of the company's machines are used for peaceful purposes.</i></p>	[REDACTED]
G4S	UK Company: Security and Alarm services	<p>[REDACTED]</p> <p>Has activity in Israel</p>	<p>[REDACTED]</p> <p>In South Africa the Company has been accused of retaliating against employees who report on the company's wrongdoing s.</p> <p>G4S has also received some bad press with its operations in Israel (proving guards for businesses on the separation barrier). By providing security services to illegal settlement businesses, it is alleged that G4S facilitates Israel's violations of international law.</p> <p>Although MSCI did not cover this in their report – its worth reading this internet link: http://electronicintifada.net/content/security-firm-g4s-confirms-involvement-israels-occupation/9169</p> <p>G4S – has a Code of Business ethics and is a signatory to the UNGC.</p> <p>G4S supports the principles of the United Nations Universal Declaration of Human Rights http://www.g4s.com/en/Social%20Responsibility/Our%20ethics/~media/Files/Corporate%20Files/g4s_business_ethics_policy.ashx</p> <p>Media release in March 2011 – where G4S – says that their security services in the West Bank are not in compliance with the company's ethical policies, even though their activities are not discriminating or controversial – therefore they will end a number of its activities in the occupied West Bank area. http://www.business-humanrights.org/media/documents/g4s-stops-activities-in-west-bank-11-mar-2011.pdf</p> <p>G4S in their CSR reports outlines a checklist - where they assess new market entries, major contracts</p>	[REDACTED]

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			and other significant investments to ensure they comply with political, ethical, social, technological, environmental and legal standards.	
Hapoalim Bank	Israel Bank	<p>Bribery and Corruption, and Poor business practices</p> <p>Financing project on West Bank</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>In addition, (From a NGO website, [REDACTED]) this bank is also in the spotlight as the Bank provides financing for the construction of housing projects in Israeli settlements in occupied territory, provides loans and financial services to local authorities of West Bank settlements and provides loans for Israeli businesses operating in the occupied territory (by providing such finance – the Bank is seen as supporting the occupation of the disputed territories).</p> <p>http://www.whoprofits.org/Company%20Info.php?id=570</p> <p>Bank Hapoalim is leading on the TASE's Maala index (index which measures and ranks ESG performance of Israeli public firms). The Bank has continuously been awarded the highest possible rank (since 2003) – Platinum - and received the highest grade in 2009 and 2010 (obtained from the Bank's website).</p> <p>Bank Hapoalim has also been added to the FTSE4Good global index.</p> <p>The banks is also a signatory to the UNGC.</p> <p>http://www.bankhapoalim.com/wps/portal/int/lobbyssr?WCM_GLOBAL_CONTEXT=bhint/int/home/sresponsibility&contentIDR=3cabec8046f5c6ddb971f9de98bedc56&useDefaultDesc=0&useDefaultText=0&proceed=1</p> <p>Last CSR report released in 2009.</p>	[REDACTED]
Bank Leumi	Israel Bank	Poor business practices	[REDACTED]	[REDACTED]

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		<p>Financing project on West bank</p>	<p>In addition (From a NGO website, and not covered by MSCI in any detail) - this bank is also in the spotlight as the Bank provides financing for the construction of housing projects in Israeli settlements in occupied territory, provides loans and financial services to local authorities of West Bank settlements and provides loans for Israeli businesses operating in the occupied territory (by providing such finance – the Bank is seen as supporting the occupation of the disputed territories). http://www.whoprofits.org/Company%20Info.php?id=499</p> <p>The company has a social responsibility approach – Lumi was awarded the highest possible rating-a Platinum Rating-for the Tase’s Maale Rating of corporate responsibility in 2009 - Leumi was identified as excelling in corporate governance. http://english.leumi.co.il/Articles/16925/</p> <p>Last CSR report released in 2006.</p>	
<p>Israel Discount Bank</p>	<p>Israel Bank</p>	<p>Poor business practices</p> <p>Financing Project on West Bank</p>	<div data-bbox="698 751 1928 1189" style="background-color: black; width: 100%; height: 100%;"></div> <p>In addition, (From a NGO website, and not covered by MSCI) this bank is also in the spotlight as the Bank provides financing for the construction of housing projects in Israeli settlements in occupied territory, provides loans and financial services to local authorities of West Bank settlements and provides loans for Israeli businesses operating in the occupied territory (by providing such finance – the Bank is seen as supporting the occupation of the separation barrier). http://www.whoprofits.org/Company%20Info.php?id=558</p>	<div data-bbox="1928 751 2092 821" style="background-color: black; width: 100%; height: 100%;"></div>

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			<p>Within its domestic market, Israel Discount Bank has consistently been recognized as being ranked among the Top 10 Israeli companies in terms of its corporate social responsibility and community involvement (From the banks website) – also listed on the Tase’s Maale Israeli sustainability index.</p> <p>Last CSR report released in 2009.</p>	
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Memorandum

To: Adrian Orr

cc: Paul Gregory; Tim Mitchell

From: [REDACTED] Anne-Maree O'Connor

Date: 7 Oct 2011

Subject: Commerce Committee – Israeli companies

The Issue

All 6¹ of the companies listed on the Lois Griffith petition are linked to the Israel Palestinian, West Bank or separation barrier issue.

In a 2004 advisory opinion, the International Court of Justice found that *"the construction of the wall, and its associated régime, are contrary to international law"*. Based on this, it can be considered that the State of Israel to be acting contrary to international law. Continued Israeli settlement in the West Bank is also aggravating the peace process.

An Israeli High Court decision on a petition from two Palestinian enclaves ordered the Israeli government to "within a reasonable period, reconsider the various alternatives for the separation fence route at Alfei Menashe²". Therefore the legality of certain aspects of the Separation Barrier project is questionable also under Israeli law itself. However, it is the State, *not the companies* that are the responsible parties in this case.

There is public (NGO) criticism, that by providing services to the government used in the construction and operation of the barrier, that Elbit, G4S and Caterpillar are directly, or indirectly helping to sustain these violations. In addition, NGOs criticize the three Banks, Hapoalim Bank, Bank Leumi and Israeli discount Bank, for helping to continue settlement in disputed territories by providing mortgages and financial services to settlers.

Analysis

The UN Guiding Principles on Business and Human Rights (John Ruggie report³) are grounded in recognition of a) States' existing obligations to respect, protect and fulfill human rights and fundamental freedoms; b) the role of business enterprises as specialized organs of society performing specialised functions, required to comply with all applicable laws and to respect human rights and finally c) the need for rights and obligations to be matched to appropriate and effective remedies when breached.

In this case, the State of Israel is responsible for the construction of the Separation Wall and is also responsible for allowing further settlement in the West Bank. Companies operating in areas of conflict are often indirectly drawn into human rights and other controversies through

¹ Elbit systems, Caterpillar, GAS, Bank Hapoalim, Bank Leumi, and Israel Discount Bank.

² Alfei Menashe is a Jewish Israeli settlement located in the seam zone on the western edge of the central West Bank



³<http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf>

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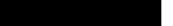
the actions of States or governments. We encourage companies to draw on international guidelines to avoid or mitigate these risks.


Key analysis to date:

1. 
 Table 1 in appendix 1 provides a high level analysis on the 6 companies.
2. The Norwegian Council of Ethics decided the risk of complicity was there for Elbit (which provides security technology and services that are integral to the wall). The Council therefore excluded the company. However, the council also decided that Caterpillar was not complicit for providing bulldozers to the Israelis since they did not control what the bulldozers were used for. They were used by the Israeli government in the construction of the Wall and allegedly in clearing Palestinian homes as part of this construction. The Council has not made public if it is monitoring, reviewing or making decisions on the other companies mentioned in the petition.
3. All the companies will believe they are operating in compliance with Israeli law with regards to operations in the West Bank since they are permitted by the Government. G4S has also stated it has sought legal advice and is operating in accordance with international and UK law. However, G4S has decided to end some of its services in Israeli which it does not believe meets its own Corporate Ethical standards (press release March 2011)⁴.
4. The three banks (Hapoalim Bank, Bank Leumi and Israeli discount Bank) are criticized by NGO's for providing services and financing to Israeli citizens and businesses settling in West Bank territories. On a separate business ethics issue all are implicated and entwined in the same breach of poor customer practices (charging higher fees, withholding customer taxes etc). Nevertheless, all 3 bank's websites report approaches to Corporate Social Responsibility and all receive commendable rankings on Israeli ESG indices.

GNZS Action

Companies operating in regions of conflict face higher exposure to human rights and other social risks. For this reason, in 2009 GNZS was part of the UN Expert Group consultation on responsible business and responsible investment in conflict zones. This resulted in the UN "Guidance on Responsible Business in Conflict-Affected and High -Risk Areas: A Resource for Companies and Investors". This UN guidance provides the primary focus of our engagement with companies operating in these situations.

We added Elbit Systems to our High Risk list (Feb 2010) mainly on account of the Norwegian Council of Ethics reports. We analyzed the company and decided to take engagement action due to the level of concern regarding the separation barrier. 



⁴<http://www.business-humanrights.org/media/documents/g4s-stops-activities-in-west-bank-11-mar-2011.pdf>

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The other 5 companies are not on our High Risk List [REDACTED] and have not been excluded by any of our peer funds. Therefore we have taken no action rather than have MSCI screen these and deliver their analysis as part of their normal service to us.

Conclusion

Apart from Elbit, none of these companies are on our High Risk List. [REDACTED]

Going forward, we will continue to engage with Elbit Systems as part of our engagement process, requesting they implement the UN Guidance on conflict zones.

Based on our current understanding of the facts, we have no intention in adding the other 5 companies onto our engagement list, unless of course we become aware of additional information which changes our view. In the meantime, we will track the other 5 companies and keep abreast of any peer activity undertaken on these companies.

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Appendix 1

Table 1: Analysis of Companies on petition

Name	Alleged Issue specific to separation barrier	MSCI analysis	Have peers excluded?	GNZS Action
Elbit Systems	Human rights abuses: supplying surveillance Cameras used on the barrier (hence seen as encouraging barrier activity)		Yes Norwegian council of Ethics, AP Funds, and ATP	MSCI Screen plus Internal analysis On high risk stock list (engagement ongoing)
Caterpillar	Human rights abuses: Supplying trucks to Israel, which is then alleged as being used to bulldoze Palestinian homes		No	MSCI Screen only
G4S	Human rights abuses: Having security guards on the barrier (hence seen as encouraging barrier activity)		No	MSCI Screen only
Hapoalim Bank	Human rights abuses: financing settlements in the West Bank.		No	MSCI Screen only
Bank Leumi	Human rights abuses: financing settlements in the West Bank.		No	MSCI Screen only
Israeli discount Bank	Human rights abuses: financing settlements in the West Bank.		No	MSCI Screen only

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Main Companies				
Companies	Industry	Country	Action	Description
Separation Barrier				
Elbit systems	Military & Security	Israel	Don't Hold	Direct involvement through TORCH electronics system which appears to be one of main components of the barrier and control regime. Elbit is end-supplier and TORCH appears to be especially designed for and is integral to the separation barrier.
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.
Settlements construction				
Africal Israel (& Danya Cebus)	Property developer	Israel	Exclude decision pending	Direct construction of settlements in OPT
Shikun & Binui	Construction	Israel	Exclude decision pending	Direct construction of settlements in OPT
Caterpillar	Industrials	US	No action	Used by Government to clear Palestinian settlements - it is the government that is accountable for use of its equipment not Caterpillar.
Bank Hapoalim	Bank	Israel	No action	Not directly involved in construction or maintenance of settlements or barrier - proceeded no further with assessment