



05 July 2018

Dear [REDACTED]

REQUEST UNDER THE OFFICIAL INFORMATION ACT 1982

Thank you for your request to the Guardians of New Zealand Superannuation ("Guardians") dated 7 June 2018 made pursuant to the Official Information Act 1982 ("OIA").

Your Request

You have requested the following information:

The ESG profile (if available), recent reviews and assessments of the Fund's holdings in the following companies in relation to their business activities in Israel and the occupied Palestinian territories:

- *Israel Chemicals*
- *Bank Hapoalim*
- *Bank Leumi*
- *Mizrahi Tefahot Bank*
- *First International Bank of Israel*

We have interpreted 'recent' to mean information developed or received since your last OIA request in 2014.

In respect of your last OIA request, we have also revisited our 2014 decision to withhold our RI Engagement Decision on Israel Chemicals (document #1306776). At the time we withheld this document because (among other reasons) we were in the midst of a confidential engagement with the company and we were concerned that releasing the information would prejudice that engagement. As we are no longer engaging with Israel Chemicals, we are now in a position to largely release the document, as set out below.

Context

The companies listed by you in your request are held passively in the New Zealand Superannuation Fund's "the Fund's" global equity portfolio, which is managed externally and includes shares in more than 6,500 companies around the world.

In deciding whether a company is in breach of the Fund's responsible investment standards and how material that breach is, the Guardians takes account of the proximity and importance of the company's actions, and our ability to engage with the company to change its business or practices. 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.

We take our lead from national and international laws, conventions to which the New Zealand Government has signed, and significant public policy positions of the New Zealand Government. We are aware of no evidence to suggest that Israel Chemicals, or

the banks listed by you in your letter, are operating contrary to national and international laws, or conventions the New Zealand Government is a signatory to.

Therefore, the companies listed by you in your letter are not captured by our exclusion decision.

We will, however, continue to monitor the companies concerned to ensure that our investment portfolio meets our responsible investment standards and remains in line with the New Zealand Government's position and international law on the issue, should those change.

Our Response

Details of the information we have pertaining to your request, and our response in respect of that request, are set out in **Table 1 below** this letter. The information we are releasing can be found **attached**, at **Appendix 1**.

We have withheld documents, as well as portions of certain documents, on the basis that we have a good reason for doing so under section 9 of the OIA. In **Table 1** we have identified the particular grounds that apply to each document.

The general bases on which it is necessary for us to withhold the information, and the grounds under the OIA that we refer to, are as follows.

Section 9(2)(a) – *“Protect the privacy of natural persons”*. Names and contact details pertaining to individuals other than senior managers have been withheld in order to protect the privacy of natural persons. We cannot see any public interest in, or benefit from, the release of such personal information. Information regarding the identity of these individuals is not required for the purposes of transparency and accountability of the Guardians' activities.

Section 9(2)(b)(ii) – *“Protect information where the making available of the information would be likely to unreasonably prejudice the commercial position of the person who supplied or who is the subject of the information”*. As part of our investment activity we contract with various suppliers, including responsible investment/ethical screening and research agencies. These agencies are commercial entities in their own competitive markets, and their business model depends upon developing and selling proprietary advice and research.

Given the reports are central to their business model and developed at considerable expense, these agencies are naturally very concerned about protecting their intellectual property and proprietary analysis, including because disclosing such information can cause them loss of revenue opportunities or make their research available to competitors.

Furthermore, because the information in question has been produced with recourse to third party sources, our suppliers could be in breach of their own licensing agreements should this information become subject to public distribution.

Given this, releasing the information to the public would limit the ability of our suppliers to sell research to clients in the future, and may expose them to financial litigation which in our view would unreasonably prejudice their commercial position.

Section 9(2)(ba)(i) – *“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.”* The information

provided to us by companies on responsible investment/ethical matters is frequently of a commercially sensitive character, and imparted on a confidential basis. Our partners and suppliers are reassured by our commitments to maintain and respect confidentiality, particularly given that disclosure can have an adverse financial impact upon them as described above. They will not work with us if we cannot uphold the confidentiality of this information, creating a very real risk that future engagement and the supply of such information would be jeopardised, which would have a significant adverse impact on our activities. It is therefore in the public interest that we maintain the highest standards of confidentiality and commercial sensitivity with those we work with.

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.”* It is important for our efficient and effective operations that our staff and officers are able to express their opinion freely and frankly. The information in question includes 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.

We have also relied upon section **9(2)(g)** in respect of certain information.

General

You have the right to seek a review by the Ombudsmen's Office of our decision to withhold the information. Please note that we may choose to publish our response to your request on our website at www.nzsuperfund.co.nz.

Yours sincerely



David Iverson
Acting Chief Investment Officer

Table 1

| | Document Reference | Date | Document Name | Decision |
|----|--------------------------------|------------|--|---|
| 1 | <u>1698621</u> | 17/08/2015 | Email between NZSF staff - "RE: Alleged comments on phosphorus during 'occupation' of reception in 2014" | Partially withheld under sections 9(2)(a) and 9(2)(g)(i). |
| 2 | <u>1306776</u> | 05/08/2014 | RI Engagement Decision on Israel Chemicals | Partially withheld under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 3 | <u>1768801</u> | | Peace Action Wellington Report Profiting from War: New Zealand's weapons and military-related industry | Released in full. |
| 4 | <u>2513159</u> | | The Israeli Occupation Industry – Who Profits – Financing land Grab – The Direct Involvement of Israeli Banks in the Israeli Settlement Enterprise | Released in full . |
| 5 | <u>2521621</u> | 26/02/2018 | ESG Research by MSCI: Israel Chemicals: ESG Ratings Tearsheet | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 6 | <u>2521622</u> | 26/02/2018 | ESG Research by MSCI: Israel Chemicals: ESG Ratings Report | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 7 | <u>2521626</u> | 26/02/2018 | ESG Research by MSCI: Israel Chemicals: ESG DataMetrics Report | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 8 | <u>2521627</u> | 26/02/2018 | ESG Research by MSCI: Israel Chemicals: Intangible Value Assessment | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 9 | <u>2521629</u> | 15/04/2018 | ESG Research by MSCI: Israel Chemicals: ESG Controversies | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 10 | <u>2521651</u> | 13/06/2018 | ESG Research by MSCI: Israel Chemicals: Business Involvement Screening Research | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |

| | | | | |
|----|----------------|------------|--|---|
| 11 | <u>2521632</u> | 24/08/2017 | ESG Research by MSCI: Bank Hapoalim: ESG Ratings Tearsheet | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 12 | <u>2521637</u> | 24/08/2017 | ESG Research by MSCI: Bank Hapoalim: ESG Ratings Report | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 13 | <u>2521640</u> | 24/08/2017 | ESG Research by MSCI: Bank Hapoalim: ESG DataMetrics Report | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 14 | <u>2521646</u> | 24/08/2017 | ESG Research by MSCI: Bank Hapoalim: Intangible Value Assessment (IVA) | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 15 | <u>2521647</u> | 15/02/2018 | ESG Research by MSCI: Bank Hapoalim: ESG Controversies | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i) |
| 16 | <u>2521650</u> | 16/06/2018 | ESG Research by MSCI: Bank Hapoalim: Nusiness Involvement Screening Research | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 17 | <u>2521652</u> | 27/09/2017 | ESG Research by MSCI: Bank Leumi: ESG Ratings Tearsheet | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 18 | <u>2521656</u> | 27/09/2017 | ESG Research by MSCI: Bank Leumi: ESG Ratings Report | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 19 | <u>2521657</u> | 27/09/2017 | ESG Research by MSCI: Bank Leumi: ESG DataMetrics | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 20 | <u>2521658</u> | 27/09/2017 | ESG Research by MSCI: Bank Leumi: Intangible Value Assessment | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 21 | <u>2521659</u> | 04/09/2017 | ESG Research by MSCI: Bank Leumi: ESG Controversies | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 22 | <u>2521660</u> | 13/06/2018 | ESG Research by MSCI: Bank Leumi: Business Involvement Screening Research | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 23 | <u>2521662</u> | 24/08/2017 | ESG Research by MSCI: Mizrahi Tefahot Bank: ESG Ratings Tearsheet | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |

| | | | | |
|-----------|--------------------------------|------------|--|--|
| 24 | <u>2521667</u> | 24/08/2017 | ESG Research by MSCI: Mizrahi Tefahot Bank: ESG Ratings Report | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 25 | <u>2521669</u> | 24/08/2017 | ESG Research by MSCI: Mizrahi Tefahot Bank: ESG DataMetrics | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 26 | <u>2521671</u> | 24/08/2017 | ESG Research by MSCI: Mizrahi Tefahot Bank: Intangible Value Assessment (IVA) | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 27 | <u>2521730</u> | 25/05/2018 | ESG Research by MSCI: Mizrahi Tefahot Bank: ESG Controversies | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 28 | <u>2521733</u> | 13/06/2018 | ESG Research by MSCI: Mizrahi Tefahot Bank: Business Involvement Screening Research | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |
| 29 | <u>2521734</u> | 13/06/2018 | ESG Research by MSCI: First International Bank of Israel: Business Involvement Screening Research | Withheld in full under sections 9(2)(b)(ii), 9(2)(ba)(i). |