

Item 2a	Israeli Banks & Construction of Settlements in the OPT	
SuperDocs Ref #: _3112075	Presenter(s): [REDACTED]	
<p>The Investment Committee heard:</p> <ul style="list-style-type: none"> • The paper sought the IC's approval of the recommendation to exclude the securities issued by five Israeli banks from the portfolio based on the Guardians RI Policy, Standards and Procedures. The banks are the First International Bank of Israel; Israel Discount Bank; Bank Hapoalim; Bank Leumi; and Bank Mizrahi-Tefahot ('the Israeli banks' or 'the banks'). • The presenters provided an overview of key points as set out in the paper.. • The UN General Assembly has for a long time reaffirmed the illegality of Israeli settlements in the Occupied Palestinian Territories (OPT). The UN Security Council had also reaffirmed that the establishment of settlements in OPT had no legal validity. The UN Human Rights Council has also issued reports which concluded that the construction of Israeli settlements in the OPT cause or contribute to breaches of Palestinian human rights. • The responsible investment team had been monitoring developments in the OPT region for some time. The reason the recommendation to exclude these companies was being made now included: <ul style="list-style-type: none"> ○ International concern about settlement activity in OPT had heightened following the Israeli PM's 2019 comments regarding annexing parts of the OPT if re-elected and the increase in approvals of construction plans for housing units within OPT. ○ The reports specified in the paper describe the nature of the project finance provided by banks in respect of developments within the OPT as active and direct. This includes the banks issuing guarantees and having a say in ultimate price setting of dwellings. ○ The size of settlements has also significantly grown. Based on the scale, it implied that without the banks, the settlement activity would unlikely have the finance to proceed on the scale contemplated by recent construction plan approvals. The information suggested that no non-Israeli banks provided funding, elevating the importance of the Israeli banks. • The UN Human Rights Council has also recently published a database of 112 companies (incl. the banks) for which it considers there are reasonable grounds to believe the companies are involved in certain specified activities related to the Israeli settlements in the OPT. • It was noted that the overall issues involve judgment based on our understanding of the position from relevant information, provided by credible sources, available to us at the time (which may not be perfect given the nature of the issues). We have a robust decision-making process for exclusion decisions which we apply, and are guided by our SIPSP and RIF. <p>Discussion:</p> <p><i>Size</i></p> <ul style="list-style-type: none"> • The NZ Super Fund's current exposure to the banks in question is approximately NZD \$6.7m (circa 0.01% of current NAV) which is held in the passive mandate. The exposure was recently higher, as NZD \$20m (0.05% of current NAV) of securities in Bank Leumi was previously held in the factors portfolio managed by Northern Trust. <p><i>Boundaries</i></p> <ul style="list-style-type: none"> • The IC discussed the boundaries and implications of the proposed exclusion, including: <ul style="list-style-type: none"> • for other companies providing services within OPT, and • the rationale for excluding individual companies but not sovereign debt issued by the Israel Government when the breach of international law occurs at country/state level. • For example, the IC's attention was drawn to the fact that we currently have a corporate bond in the portfolio of an Israeli power company that could be providing electricity to the OPT. If that were the case, this could be seen to help enable the construction of the settlements. We could also hold sovereign bonds issued by the Government of Israel in the portfolio. 		

Section 9(2)(a)

- In this case, where the companies are operating within a country which has activities which conflict with international law/human rights standards, we would still expect the companies to have strong policies, governance and practices in place in respect of human rights matters.
- The companies in this case were materially involved in the actual construction of the settlements. Without the settlements there would be no need for any other ancillary companies to also be involved e.g. the Israeli power company. This is also consistent with how we treat our product exclusions e.g. we currently exclude core makers of cluster munitions, but not suppliers of the materials.
- The Responsible Investment Framework imposed a different test for exclusions of sovereign bonds. This required the NZ Govt to have imposed sanctions on the relevant country, which has not occurred in respect of Israel.

International law and human rights

- There was a question about whether or not we were excluding on the basis of breach of international law or breach of human rights standards.
- Any exclusions in this case would focus on an unacceptable risk of severe breaches of the UN Global Compact which was the standard under the RIF applicable to corporate practices.

NZ Govt Position

- The IC discussed the NZ Government's position on the settlements. New Zealand has supported certain UN resolutions that have called the settlements illegal and counter-productive to a two-state settlement.

MSCI

- The IC discussed the fact that MSCI has not 'red flagged' the actions of these banks. It was noted that MSCI is an important – but not the only – source of information for identifying potential breaches of standards.
- In this case, based on our own research and drawing on UN and other credible reports we have formed our own view of the issues. [REDACTED]

Section 9(2)(g)(i)

Engagement vs Exclusion

- There was discussion on whether to engage with the banks prior to excluding. It was noted that the RIF provided that in certain cases we may determine not to go through with engagement if we have strong grounds to consider that it is unlikely succeed, or if we believe that resources required would be unjustified in the context.
- Ultimately the RI team concluded that engagement was unlikely to be successful in this case, as we are a small minority investor in the banks and the UN HRC has already in effect engaged with the banks (in the sense that it had compiled and published the database and communicated with the companies on the list).
- In the event that we exclude, we will write to the banks to inform them of our decision. If they respond and provide evidence that their activity relating to OPT settlements has halted, then the exclusion can be reassessed.
- The IC discussed whether these exclusions would be permanent or if they would be re-evaluated once the construction of the settlements is complete and there is no further funding of settlement. It was noted that all exclusions are subject to review in the future based on information available at the time.

Peers

- The IC were interested in why only a limited number of our peers have elected to exclude the banks. It was explained that (1) most of the Israeli banks are small cap stocks which reduces the likelihood that they are held by many of our peers in their portfolios; and (2) many of our peers exclude based on 'products' (e.g. tobacco), and excluding based on 'practices' is less common.

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- Notable exclusions have been made over time by NGPF, PGGM and ABP on the issue, and by a small handful of other pension funds or fund managers which are not considered peers.

Communications

- There is likely to be interest in our decision whether we choose to exclude or to hold. Given the controversial nature of issues either outcome may attract criticism. A communication plan will be prepared.

Decision: The IC **approved** the recommendation to exclude securities issued by First International Bank of Israel; Israel Discount Bank; Bank Hapoalim; Bank Leumi; and Bank Mizrahi-Tefaho from the portfolio based on the Guardians' RI Policy, Standards and Procedures.

Further Actions (not to be tracked by IC):	Who	When
n/a		
Matters Arising for Investment Committee	Who	When
n/a		