

From: [REDACTED]
To: Catherine Etheredge; [REDACTED] s9(2)(a)
Cc: [REDACTED] Sarah Owen; [REDACTED]
Subject: RE: Attn - Matt Whineray, Catherine Savage & Lindsay Wright - Are Israeli Banks involved in Pillage? - Follow Up
Date: Friday, 27 July 2018 3:28:02 PM

[REDACTED]

s9(2)(g)(i)
s9(2)(h)

From: Catherine Etheredge
Sent: Friday, 27 July 2018 1:59 PM
To: [REDACTED]
Cc: [REDACTED]; Sarah Owen [REDACTED] s9(2)(a)
Subject: FW: Attn - Matt Whineray, Catherine Savage & Lindsay Wright - Are Israeli Banks involved in Pillage? - Follow Up

[REDACTED] our conversation at lunch was omniscient - see below...

Can we get a paragraph regarding our legal position to include in a response please?

Kind regards
Catherine

From: [REDACTED]
Sent: Friday, 27 July 2018 1:54 PM
To: Catherine Etheredge [REDACTED] s9(2)(a)
Subject: Fwd: Attn - Matt Whineray, Catherine Savage & Lindsay Wright - Are Israeli Banks involved in Pillage? - Follow Up

Sent from my iPhone

Begin forwarded message:

From: [REDACTED] s9(2)(a)
Date: 27 July 2018 at 12:50:04 PM NZST
To: [REDACTED]
Cc: <grant.robertson@parliament.govt.nz>, <amy.adams@national.org.nz>, <golriz.ghahraman@parliament.govt.nz>
Subject: Attn - Matt Whineray, Catherine Savage & Lindsay Wright - Are Israeli Banks involved in Pillage? - Follow Up

Alert: External email.

To: Matt Whineray Acting Chief Executive New Zealand Superfund

CC: Grant Robertson Minister of Finance
Catherine Savage CHAIR
Lindsay Wright DEPUTY CHAIR
Amy Adams National Party spokesperson on Finance
Golriz Ghahraman Green party spokesperson for Global Affairs

Are Israeli Banks involved in Pillage? – Follow up

Dear Mr. Whineray

On the 26th of July 2018, you responded to my email below.

In it you asserted that:

- In deciding whether a company is in breach of 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. We **draw a distinction** between being **materially involved in**, and responsible for, the activity, **versus** being **a supplier of** materials or **services** in the normal course of business. We will also consider if engagement with the company would be able to influence an end to the activity before making an exclusion decision.
- We have excluded development and construction companies directly involved in constructing settlements in the Occupied Palestinian Territories (OPT). These companies seek the permits, source the funding (primarily bank loans), manage the projects, and derive returns based on the sale of these newly constructed properties. Our exclusion decision followed findings by the United Nations that the West Bank Separation Barrier and **settlement activities were illegal under international law**.
- Whilst **financial accompaniment for any property development project is always necessary**, our focus is on the company with primary responsibility for the activity. Extending the boundaries of our exclusion policy to companies whose involvement is less direct, including the provision of bank financing, given the range of activities to which our exclusions apply, would increase the number of companies captured to such an extent as to make our exclusion policy unworkable.
- In your letter **you request assurance that none of the Israeli banks the Fund is invested in are involved in pillage, or in any other contravention of international conventions or law. We do not provide legal assurances regarding the activity of companies.**

I have highlighted some of the parts which I believe are relevant.

I have to say that I am disappointed in your response in two areas about NZ Superfund's involvement, however remotely, in the Israeli Banking system that funds the Illegal Settlements. Here are a couple of

1) "Materially Involved" verses being a "Supplier of services"

Your distinction between these two surprises me.

If I can draw a couple of parallels for you to mull over:

A Taxi driver

- Would you consider a Taxi Driver driving a robber to a bank and knowing he is about to rob that bank, "Materially Involved" or a merely a "Supplier of services"?
- Has that Taxi driver No Obligation to avoid/stop someone about to commit a crime?

Supplier of Zyklon B

- In WW2, the Nazi's used Zyklon B as the main agent they uses to kill Jews in the extermination camps spread across Europe.
- Of course, the Nazi's did not manufacture the Zyklon B but they bought it from the manufacturer - Degussa AG.
- Would you consider Degussa AG, knowing that the materials they produced were being used to commit Genocide, to be "Materially Involved" or merely a "Supplier of products"?
- Would you as Chair of the NZ Superfund be happy investing in Degussa AG at that time as they were not directly involved in carrying out the Genocide of Jews?

2) Legal issues

In your letter as set out in the extracts above, you acknowledge that:

- **"settlement activities were illegal under international law".**
- **"financial accompaniment for any property development project is always necessary"**
- **"We do not provide legal assurances regarding the activity of companies"**

So you KNOW that the Settlements cannot be built without the involvement of the Israeli Banks. And these are banks which you, as head of the NZ Superfund, have chosen/agreed to invest in.

I am surprised that when the potential that the NZ Superfund may be involved in an activity which may be defined as Pillage and a War Crime under International Law has been brought to your attention, you have not sought Legal Advice.

That you yourself seem to have no interest in ensuring that the NZ Superfund is acting within International Law.

I therefore request that:

- The NZ Superfund gain access to International Legal advice as to whether the Israeli Banks, and therefore the NZ Superfund, are acting Lawfully in regards to International Law.
- Based on that Legal advice, take any appropriate action that is required to stay within International Law.

Regards



s9(2)(a)

From: [Redacted] s9(2)(a)
Sent: Monday, 18 June 2018 10:04 a.m.
To: 'enquiries@nzsuperfund.co.nz'
Cc: 'grant.robertson@parliament.govt.nz'; 'amy.adams@national.org.nz'; 'golriz.ghahraman@parliament.govt.nz'
Subject: Attn - Matt Whineray, Catherine Savage & Lindsay Wright - Are Israeli Banks involved in Pillage?

To: Matt Whineray Acting Chief Executive New Zealand Superfund

CC: Grant Robertson Minister of Finance
Catherine Savage CHAIR
Lindsay Wright DEPUTY CHAIR
Amy Adams National Party spokesperson on Finance
Golriz Ghahraman Green party spokesperson for Global Affairs

Are Israeli Banks involved in Pillage?

Dear Mr. Whineray

It has been reported that:

“Israeli banks are helping build West Bank settlements in violation of international law by providing financial services to home buyers and local councils, **Human Rights Watch** said in a new report published Tuesday.”

<https://www.hrw.org/report/2018/05/29/bankrolling-abuse/israeli-banks-west-bank-settlements>

The report said that bank activities in or with settlements have helped encourage settlement growth and "contribute to rights abuses" against Palestinians. It added that Israeli banks, and international banks doing business with them, may be engaging in pillage, by acquiring ownership interests in housing projects on seized land.

Because of an Israeli law limiting the amount of money developers can collect from buyers in advance, banks often become direct partners in settlement projects, Human Rights Watch says.

"Most Israeli banks finance or 'accompany' construction projects in the settlements by becoming partners in settlement expansion, supervising each stage of construction, holding the buyers' money in escrow, and taking ownership of the project in case of default by the construction company," the report said.

Pillage is outlawed in the 4th Geneva Convention – Article 33.

(<https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=72728B6DE56C7A68C12563CD0051BC40>)

Also under Customary International Humanitarian Law – Rule 52 - Pillage

https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule52

It is also identified as a War Crime.

The New Zealand Superfund Responsible Investment says:

The Guardians has a long-standing **commitment to Responsible Investment**. We believe that environmental, social and governance (ESG) factors are material to long term returns. **Our governing legislation also requires us to avoid prejudice to New Zealand's reputation in the world community.**

ESG considerations are therefore integrated into all aspects of the Fund's investment activities, from investment selection and due diligence to ownership activities such as monitoring our external investment managers, exercising our voting rights and engaging with companies to improve their ESG policies and practices.

Our responsible investment work programme is closely aligned to the United Nations' Principles for Responsible Investment – the leading global network for investors to demonstrate their commitment to responsible investment, to collaborate and learn with their peers about the financial and investment implications of ESG issues, and to incorporate these factors into their investment decision making and ownership practices.

From your portfolio, it shows you hold stakes in the following:

Bank Hapoalim BM	Commercial Banks
Bank Leumi Le-Israel BM	Commercial Banks
First International Bank Of Israel Ltd	Commercial Banks
Israel Discount Bank Ltd	Commercial Banks
Mizrahi Tefahot Bank Ltd	Commercial Banks
Plus500 Ltd	Diversified Financial Services

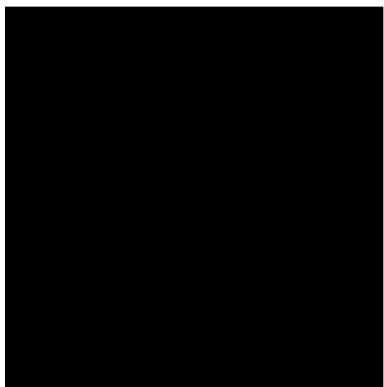
My questions are these:

- Can you please assure me that None of the Israeli banks you have invested in are involved in Pillage.

- Can you please also assure me that None of the other Israeli institutions you have invested in are involved in contravening any International Conventions or Law.

My interest it to feel reassured that New Zealand is not involved, and therefore not complicit, in committing crimes against the Palestinian people.

Regards



s9(2)(a)

Released under the OIA

From: [REDACTED] s9(2)(a)
To: Sarah Owen
Subject: RE: OPT Legally privileged
Date: Saturday, 6 June 2020 1:18:08 PM s9(2)(b)(ii)
Attachments: image001.jpg s9(2)(ba)
2522068-1-Israel-Palestine - For [REDACTED].DOCX.DRF s9(2)(i)
988020-1-RI High Risk Profile Israel Discount Bank - DRAFT January 2014.DOCX.DRF
987904-1-RI High Risk Profile Bank Mizrahi-Tefahot Israel - DRAFT January 2014.DOCX.DRF
987920-1-RI High Risk Profile First International Bank of Israel - DRAFT January 2014.DOCX.DRF
987783-1-RI High Risk Profile Bank Leumi Israel - DRAFT January 2014.DOCX.DRF

Hi Sarah

[REDACTED] had [REDACTED] more recently do some work for us - [REDACTED]
[REDACTED]

We will look at the OHCHR database of companies with activities in the OPT. (We were using a database form an NGO previously for company lists)

Our research on the banks was done in Jan 2014 – although it looks like I had a comment or two in feedback so are still called draft but in fact pretty complete.

We follow peers that exclude on ethical grounds. [REDACTED]
[REDACTED]

[REDACTED] It is a very divided issue. Below gives a flavour - including you have the polar opposite in the US.

<https://www.ipe.com/pension-funds-ordered-to-divest-companies-that-support-boycott-of-israel/10008102.article>

[REDACTED]

[REDACTED]

[REDACTED]

s9(2)(a)

A Great Team Building the Best Portfolio

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From: [REDACTED]
Sent: Thursday, 4 June 2020 6:16 PM
To: Sarah Owen [REDACTED] s9(2)(a)
Subject: OPT Legally privileged

Hi Sarah

s9(2)(a)

Find original decision docs. WE decided the banks were not close enough so did not do a similar paper. I will have to find a more detailed one on the banks – I am sure it is there as [REDACTED] and I discussed in

some detail.

Other docs

1311184

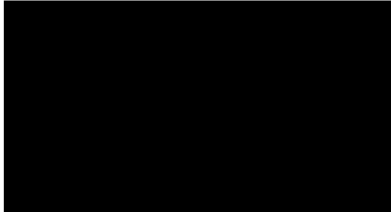
894107

894081

269658

269655

269656



s9(2)(a)

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Released under the OIA

Review of companies excluded due to construction in Israeli settlements

1 Purpose

In 2012, New Zealand Superfund looked at the issue of companies involved in the construction of Israeli settlements in Occupied Palestinian Territory (OPT). This was due to illegalities in international law. This led us to exclude three companies for their involvement in the construction of illegal settlements in Palestine and Israel's Separation barrier. In December 2017, we underwent a research process to review the situation to see if changes to exclusions were needed for companies operating in the area.

This review aims to:

- Analyse any changes in NZ policy or international law with regards to the Israeli/Palestine conflict.
- Investigate if previously excluded companies should continue to be excluded by NZSF, taking into account law changes or changes in companies' practices.
- Investigate if there are any other companies that should be excluded

2 Background:

2.1 International Law

Multiple UN Security Council Resolutions dating back decades have established that the construction of Israeli Settlements in the OPT are illegal. UN Security Council resolution 465 adopted unanimously on March 1 1980 established that Israel's policy and practices of building settlements on occupied territory, including East Jerusalem, have no legal validity and constitute a flagrant violation of the IV Geneva Convention provisions to protect civilians during war and occupation. Article 49 of the IV Geneva Convention states "The occupying power shall not deport or transfer parts of its own civilian population into the territory it occupies." A ICJ advisory opinion in 2004 also concluded that the Israeli settlement in the OPT breached international law. Repeated Security Council and UN General Assembly Resolutions have further criticized the settlement activity as a serious obstacle to the peace process.¹

December 2016, Resolution 2334 was passed. This resolution reaffirms the UN's position that Israel's settlements in Palestine are in violation of international law, specifically the IV Geneva Convention article 49. New Zealand was one of the proponents of the resolution. It is of note that for the first time, the US abstained from voting. Previous research on the resolution is available in Superdoc #2317363.

Below is a summary of the resolution's objectives.

It expresses 'grave concern that continuing Israeli settlement activities are dangerously imperilling the viability of the two-State solution'. It demands that Israel immediately cease all settlement activity and that it fully respect all of its legal obligations in this regard. It also demands that Palestinian Authority Security Forces maintain effective operations aimed at confronting all those engaged in terror and dismantling terrorist capabilities. It specifically calls for immediate steps to prevent all acts of violence against civilians, including acts of terror as well as acts of provocation and destruction and calls for accountability in this regard. It calls on both parties for a genuine commitment to the two-State solution and creating the conditions necessary for promoting peace. And finally, it urges intensification and acceleration of

¹ [REDACTED] – Africa-Israel and Shikun & Binui Exclusion decision
Document Number: 2522068 Version: 1

*international and regional diplomatic efforts and support aimed at achieving just and lasting peace in the Middle East on the basis of relevant UN resolutions, the Madrid terms of reference (including the principle of land for peace), the Arab Peace Initiative and the Quartet Roadmap and an end to the Israeli occupation that began in 1967.*²

2.2 NZ current position on Israel/Palestine conflict

NZ has historically supported the two state system and supported the United Nations General Assembly's resolutions that Israel's occupation of Palestine is illegal. In 2016, NZ put forward and supported the passing of Resolution 2334 despite pressure from Israel. Former Foreign Minister Murray McCully supported the resolution, saying that "New Zealand voted for and co-sponsored the resolution because it was consistent with long-held New Zealand policy positions on the Palestinian question".³

2.3 Recent activity in Israel/Palestine since 2012

According to the Israel Bureau of Statistics, there are currently 126 Israeli settlements in the West Bank, as of 2016, with an approximate Israeli settlers population of 420,000. 60% of West Bank is completely under Israeli control. There are approximately 200,000 Israelis in East Jerusalem.⁴ Israeli settlements in occupied Palestine territory continue to be built and new Israeli settler home constructions in West Bank has increased by 70% in the year to March 2017.⁵

Despite UN resolutions and international law recognising the illegality of the situation, NGO's continue to report that issues are ongoing. Amnesty International in their 2016/2017 report reported ongoing human rights abuses and war crimes committed by both Israel and Palestine.⁶

2.4 Previous reasons for excluding companies

NZ Super Fund expects companies they invest in to obey national and international law. *When making exclusion decisions, we draw a distinction between a company being directly and materially involved in an activity, versus being a supplier of materials in the normal course of business. 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.*⁷

The following companies were excluded from our investment portfolio on the 12th December 2012 for involvement in construction of settlements and the Separation Wall in West Bank and East Jerusalem.

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.

² ██████████ – Adoption of UN security council resolution

³ <https://mfat.govt.nz/en/media-and-resources/news/un-security-council-adopts-historic-resolution-on-israeli-settlements/>

⁴ <http://edition.cnn.com/2017/02/01/middleeast/settlements-explainer/index.html>

⁵ <http://www.aljazeera.com/news/2017/06/israeli-settlement-building-soars-west-bank-170619173006691.html>

⁶ <https://www.amnesty.org/en/countries/middle-east-and-north-africa/israel-and-occupied-palestinian-territories/report-israel-and-occupied-palestinian-territories/>

⁷ ██████████, above n 1

Elbit Systems Limited has been excluded because of its involvement in the construction of 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.

*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.*⁸

3 Companies' current policies and practices

Research in November 2017 found that none of the companies' websites mentioned changes in policy regarding Israeli settlements in occupied Palestine territory. The sites did not mention explicitly that they would continue or discontinue construction projects in West Bank or East Jerusalem.

Company	Continuation of original breach	Peer actions	Recommendations
Africa-Israel Investments	In a statement to the Israeli Newspaper Yedioth Ahronoth on October 2014, Africa Israel announced that it will stop building in the occupied Palestinian territories including in Jewish settlements neighbourhoods in East Jerusalem. However, there is not mention of this alleged policy change in any of the company's official publications. ^{9,10} Africa-Israel Investments confirmed later that year that they had acquired a contract to construct settlements in East Jerusalem. The company site contains a list of their current residential projects. From the locations that the company provided, none appeared to be in the occupied Palestinian territory. According to an Israel news site, the UN has sent a warning letter to companies doing business in Israeli settlements. The official list has not been released but Africa-Israel is allegedly on the list. ¹¹	The Norwegian Government Pension Fund most recently excluded the company November 2014.	Continue to exclude.
Shikun & Binui	Most sites that have monitored Shikun & Binui's involvement in Israeli settlements have not updated since 2012 when NZ Superfund originally excluded the company. The locations of construction projects on their company site are not exact	Excluded by the Norwegian Government Pension	Continue to exclude.

⁸ <https://www.nzsuperfund.co.nz/news-media/new-zealand-superannuation-fund-excludes-three-companies-responsible-investment-grounds>

⁹ <http://investigate.afsc.org/company/africa-israel-group>

¹⁰ <https://www.whoprofits.org/company/africa-israel-investments>

¹¹ <https://www.haaretz.com/israel-news/1.814658> (The Guardian)

s9(2)(b)(ii)
s9(2)(ba)
s9(2)(g)(i)
s9(2)(i)

	enough to determine if they are in occupied Palestine territory.	Fund May 2012.	
Elbit Systems Ltd	There is no information on the company's website to confirm that it is still involved in the construction of the Separation barrier. According to WhoProfits, as of July 2014, the company continues to be one of the main providers of security systems to the Separation Wall project in West Bank. ¹² Elbit is also allegedly on the UN list of companies doing business in Israeli settlements. We note that [REDACTED]	Excluded by the Norwegian Government Pension Fund August 2009.	Continue to exclude.

3.1 Africa-Israel Investment subsidiaries

Company	Company's activities and relationship with Africa-Israel Investment	Peer Actions	Recommendation
Dayna Cebus	Dayna Cebus is a subsidiary of Africa Israel Investments Ltd. ¹³ Africa Israel owns 100% of Dayna Cebus which is a private company. Danya Cebus was previously excluded with Africa-Israel Investments in 2012. New Zealand Superfunds most recent policy is that subsidiaries of excluded companies are only excluded if they are also involved in a breach. Danya Cebus was directly involved in the construction of settlements in West Bank and East Jerusalem.	In 2013, Danya Cebus was excluded by GPF for involvement in construction in East Jerusalem. In the Norwegian Government Pension Fund's exclusion decision for Africa-Israel Investments, it refers solely to Dayna Cebus' involvement in illegal settlement construction and Africa-Israel Investment's role as the owner. ¹⁴	Continue to exclude.
Africa Israel Properties Ltd.	Africa Israel Properties Ltd is a subsidiary of Africa Israel Investments Ltd. Africa Israel Investments owns 55.93% of Africa Israel Properties Ltd. The company is involved in development, construction,	According to the Norwegian Government Pension Fund's report, there is no evidence that Africa Israel	No evidence found that Africa Israel Properties is included in the construction of illegal settlements. May need to investigate

¹² <https://www.whoprofits.org/company/elbit-systems>

¹³ <http://www.afigroup-global.com/userfiles/File/Finance%20Docs/2016/Annual2016ChapAEng.pdf>

¹⁴ https://nettsteder.regjeringen.no/etikkradet-2017/files/2017/02/AnnualReport_2010-1.pdf

	rental and operation of industrial, office and commerce buildings, and development of residential real estate.	Properties has properties or other activities in OPTs.	to find more recent evidence.
Africa Israel Residencies	Africa Israel Residencies Ltd is a subsidiary of Africa Israel Investments Ltd. Africa Israel Investments owns 55.93% of Africa Israel Residencies Ltd. Most of Africa-Israel Investment's real estate operations are executed through Africa Israel Residencies. Africa Israel Residencies is also involved in construction, management and maintenance of rental housing.		No evidence found that Africa Israel Residencies is included in the construction of illegal settlements. May need to investigate to find more recent evidence.

4 Any other companies operating which should be excluded?

4.1 Similar breaches

Company	Company's activities	Is the company directly and materially involved in a breach or a supplier of services?
[Redacted content]		

s9(2)(b)(ii)
s9(2)(ba)
s9(2)(g)(i)
s9(2)(i)

In a report by Human Rights Watch, the following companies were listed as being involved in illegal Israeli settlements.¹⁸

¹⁵ Super Doc #812346

¹⁶ <https://www.whoprofits.org/company/magal-security-systems>

¹⁷ <https://www.whoprofits.org/company/magal-security-systems>

¹⁸ <https://www.hrw.org/report/2016/01/19/occupation-inc/how-settlement-businesses-contribute-israels-violations-palestinian>

Company	Company's activities	Is the company directly and materially involved in a breach or a supplier of services?

s9(2)(ba)
s9(2)(b)(ii)
s9(2)(g)(i)
s9(2)(i)

As mentioned earlier, the UN has sent warnings to 150 companies that are doing business in occupied Palestine territory. The list of companies is not available. It is possible that the list may become available as the UN passed a resolution in 2016 to compile a database of all companies doing business in illegal Israeli settlements in Palestine. There is no timeline given for when this might become available.

Conclusion

International and New Zealand law with regards to Israel's occupation of Palestinian territory has not changed direction. It continues to reinforce the position that Israel's settlements are illegal. However, settlements continue to be built in OPT.

From the information available, it is likely that Africa-Israel Investments and Elbit Systems Ltd are still involved in construction and/or maintenance of Israeli settlements and the Separation barrier. However, there is no evidence to suggest that Elbit Systems has ceased operations there. Since 2012, there has been no further information on Shikun & Binui's involvement in illegal settlements. Given the lack of information, it would be prudent to keep the exclusion of the company in place.

s9(2)(ba)
s9(2)(b)(ii)
s9(2)(g)(i)
s9(2)(i)

¹⁹ <https://whoprofits.org/company/heidelbergcement>

²⁰ https://www.hrw.org/sites/default/files/report_pdf/israel0116_web.pdf

²¹ <https://www.whoprofits.org/company/heidelbergcement>

s9(2)(ba)
s9(2)(b)(ii)
s9(2)(g)(i)
s9(2)(t)

is required with regards to [REDACTED] involvement in Israel's separation barrier and [REDACTED] in the OPT.

5 Appendix

5.1 Peer actions

5.1.1 Government Pension Fund Global (GPF)

The companies Africa Israel Investments Ltd. and Danya Cebus Ltd. were recommended for exclusion from GPF portfolio in November 2009 due to their involvement in the construction of Israeli settlements in the West Bank. The fund excluded Africa Israel Investments because it constituted an unacceptable risk that the fund would contribute to serious violations of individuals' rights in situations of war or conflict. August 2013, the Minister of Finance repealed the exclusion on the recommendation from the Council of Ethics as the companies had ceased construction projects in West Bank and at the time had no future plans for such projects. However by November 2013, the companies were once again recommended for exclusion due to their involvement in settlement construction in East Jerusalem.

May 2012, Shikun & Binui were recommended for exclusion for their involvement in the building of settlements in East Jerusalem, in violation of the IV Geneva convention and other international law.

August 2009, Elbit Systems Ltd was excluded for its integral involvement in the construction and security system of Israel's Separation barrier, which was found by the ICJ to contravene international law.

As of GPF's most recently updated list (June 2017), Africa Israel Investments, Shikun & Binui Ltd and Elbit Systems Ltd continue to be excluded from the Norwegian Government's Pension fund.

Released under the OIA

ITEM

**PORTFOLIO MONITORING:
ISRAEL DISCOUNT BANK**

Prepared by:



s9(2)(a)

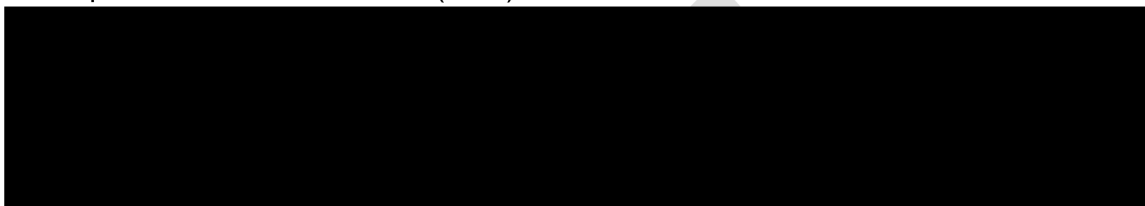
Date:

January 2014

1 Background

1.1 In January 2014 PGGM, a Dutch investment firm announced it would divest from the Israeli bank due to concerns over the bank's financing of settlements in the occupied Palestinian territories (OPT).

1.2



1.3

2 GNZS holdings

2.1 Value: NZ\$ 106,831

2.2 Units: 48,243

2.3 Manager:



2.4 ISIN: IL0006912120

s(9)(2)(b)(ii)
s9(2)(ba)
s9(2)(i)

3 The Issues

3.1 Dutch asset manager PGGM has opted to divest from five Israeli banks, including the Israel Discount Bank, citing the banks' involvement with financing Israeli settlements in the occupied Palestinian territories (OPT). A PGGM statement regarding the exclusion of Israeli Banks cited:

“concern, as the settlements in the Palestinian territories are considered illegal under international humanitarian law. Moreover, international observers have indicated that the settlements constitute an important obstacle to a peaceful (two-state) solution of the Israeli- Palestinian conflict. In 2004 the International Court of Justice concluded in an Advisory Opinion that the settlements in the Palestinian territories are in breach of Article 49 of the Fourth Geneva Convention relative to the Protection of Civilian Population in Time of War. This article prohibits an occupying power to transfer its own citizens to occupied territory. International bodies, including the UN General Assembly and the UN Human Rights Council have adopted various broadly supported resolutions, which state that the settlements are considered illegal. Israel disputes this interpretation of the applicability of international law.” Research has shown that Israel Discount is involved in financing construction of some building projects in settlement areas (*WhoProfits.org*).

PGGM's engagement “dialogue showed however that, given the day-to-day reality and domestic legal framework they operate in, the banks have limited to no possibilities to end their involvement in the financing of settlements in the occupied Palestinian territories. Therefore, it was concluded that engagement as a tool to bring about change will not be effective in this case”

C2 - Internal Use Only

3.1.1 According to MFAT, New Zealand “has spoken out against actions by Israel including [the] expansion of settlements in the Occupied Palestinian Territory.” Additionally, New Zealand accepts ICJ’s jurisdiction as compulsory.

3.2

s9(2)(b)(ii)
s9(2)(ba)
s9(2)(i)

4 Breach of UN Global Compact

4.1 Israel Discount Bank’s current actions in terms of financing OPT settlements put it in breach of certain human rights as recognized by the United Nations, as such these actions put the bank in breach of Principle one: *Businesses should support and respect the protection of internationally proclaimed human rights.*

5 Overall Summary

5.1 GNZS’ preliminary research highlights that PGGM is the only investment fund thus far to have actively excluded the Israel Discount Bank from its investment universe. It should also be noted that this has drawn controversy from the Dutch Foreign Minister who stated that PGGM’s decision was “a sanctimonious move intended to pander to a certain nefarious trend in public opinion.”

5.2 It should also be noted that PGGM’s engagement dialogue showed “that, given the day-to-day reality and domestic legal framework they operate in, the banks have limited to no possibilities to end their involvement in the financing of settlements in the occupied Palestinian territories.”

5.3

s9(2)(b)(ii)
s9(2)(ba)
s9(2)(i)

6 Next Steps

6.1 Continue to monitor for further controversies.

ITEM

**PORTFOLIO MONITORING:
BANK MIZRAHI-TEFAHOT**

Prepared by:



s9(2)(a)

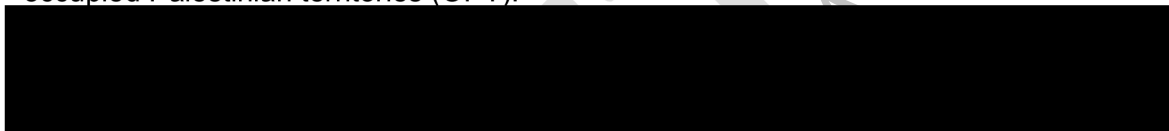
Date:

January 2014

1 Background

- 1.1 Bank Mizrahi-Tefahot Ltd. together with its subsidiaries, provides a range of international, commercial, domestic, and personal banking services primarily in Israel. The company operates in six segments: Household, Small Business, Private Banking, Commercial Banking, Business Banking, and Financial Management.
- 1.2 In January 2014 PGGM, a Dutch investment firm announced it would divest from the Israeli bank due to concerns over the bank's financing of settlements in the occupied Palestinian territories (OPT).

1.3



2 GNZS holdings

- 2.1 Value: NZ\$ 179,037
- 2.2 Units: 11670
- 2.3 Manager:
- 2.4 ISIN: IL0006954379

s9(2)(b)(ii)
s9(2)(ba)
s9(2)(i)

3 The Issues

- 3.1 Dutch asset manager PGGM has opted to divest from five Israeli banks, including Bank Mizrahi-Terahot, citing the banks' involvement with financing Israeli settlements in the occupied Palestinian territories (OPT). A PGGM statement regarding the exclusion of Israeli Banks cited:

“concern, as the settlements in the Palestinian territories are considered illegal under international humanitarian law. Moreover, international observers have indicated that the settlements constitute an important obstacle to a peaceful (two-state) solution of the Israeli- Palestinian conflict. In 2004 the International Court of Justice concluded in an Advisory Opinion that the settlements in the Palestinian territories are in breach of Article 49 of the Fourth Geneva Convention relative to the Protection of Civilian Population in Time of War. This article prohibits an occupying power to transfer its own citizens to occupied territory. International bodies, including the UN General Assembly and the UN Human Rights Council have adopted various broadly supported resolutions, which state that the settlements are considered illegal. Israel disputes this interpretation of the applicability of international law.” Further research has shown that Bank Mizrahi-Terahot is involved in financing commercial and private construction through mortgages (WhoProfits.org).

PGGM's engagement “dialogue showed however that, given the day-to-day reality and domestic legal framework they operate in, the banks have limited to no possibilities to end their involvement in the financing of settlements in the occupied Palestinian territories. Therefore, it was concluded that engagement as a tool to bring about change will not be effective in this case”

C2 - Internal Use Only

3.1.1 According to MFAT, New Zealand “has spoken out against actions by Israel including [the] expansion of settlements in the Occupied Palestinian Territory.” Additionally, New Zealand accepts ICJ’s jurisdiction as compulsory.

3.2

3.3

3.4

s9(2)(b)(ii)
s9(2)(ba)
s9(2)(i)

4 Breach of UN Global Compact

4.1 Bank Mizrahi-Tefahot’s current actions in terms of financing OPT settlements put it in breach of certain human rights as recognized by the United Nations, as such these actions put the bank in breach of Principle one: *Businesses should support and respect the protection of internationally proclaimed human rights.*

4.2

s9(2)(g)(i)

5 Overall Summary

5.1 GNZS’ preliminary research highlights that PGGM is the only investment fund thus far to have actively excluded Bank Mizrahi-Tefahot from their investment universe. It should also be noted that this has drawn controversy from the Dutch Foreign Minister. It should also be noted that PGGM’s engagement dialogue showed “that, given the day-to-day reality and domestic legal framework they operate in, the banks have limited to no possibilities to end their involvement in the financing of settlements in the occupied Palestinian territories.”

6 Next Steps

6.1 Continue to monitor for further controversies.

ITEM

**PORTFOLIO MONITORING:
FIRST INTERNATIONAL BANK OF ISRAEL (FIBI)**

Prepared by:

[REDACTED]

s9(2)(a)

Date:

January 2014

1 Background

1.1 In January 2014 PGGM, a Dutch investment firm announced it would divest from the Israeli bank due to concerns over the bank's financing of settlements in the occupied Palestinian territories (OPT).

1.2

[REDACTED]

1.3

1.4

1.5

[REDACTED]

2 GNZS holdings

2.1 Value: NZ\$ 28,964

2.2 Units: 1,484

2.3 Manager:

[REDACTED]

s9(2)(ba)
s9(2)(b)(ii)
s9(2)(i)

2.4 ISIN: IL0005930388

3 The Issues

3.1 Dutch asset manager PGGM has opted to divest from five Israeli banks, including First International Bank of Israel, citing the banks' involvement with financing Israeli settlements in the occupied Palestinian territories (OPT). A PGGM statement regarding the exclusion of Israeli Banks cited:

“concern, as the settlements in the Palestinian territories are considered illegal under international humanitarian law. Moreover, international observers have indicated that the settlements constitute an important obstacle to a peaceful (two-state) solution of the Israeli- Palestinian conflict. In 2004 the International Court of Justice concluded in an Advisory Opinion that the settlements in the Palestinian territories are in breach of Article 49 of the Fourth Geneva Convention relative to the Protection of Civilian Population in Time of War. This article prohibits an occupying power to transfer its own citizens to occupied territory. International bodies, including the UN General Assembly and the UN Human Rights Council have adopted various broadly supported resolutions, which state that the settlements are considered illegal. Israel disputes this interpretation of the applicability of international law.”

Further research and data from *WhoProfits.org* suggests that FIBI is involved in financing settlements in the OPT.

C2 - Internal Use Only

PGGM's engagement "dialogue showed however that, given the day-to-day reality and domestic legal framework they operate in, the banks have limited to no possibilities to end their involvement in the financing of settlements in the occupied Palestinian territories. Therefore, it was concluded that engagement as a tool to bring about change will not be effective in this case"

3.2



s9(2)(ba)
s9(2)(b)(ii)
s9(2)(t)

4 Breach of UN Global Compact

4.1 First International Bank of Israel's current actions in terms of financing OPT settlements put it in breach of certain human rights as recognized by the United Nations, as such these actions put the bank in breach of Principle one: *Businesses should support and respect the protection of internationally proclaimed human rights.*

5 Overall Summary

5.1 GNZS' preliminary research highlights that PGGM is the only investment fund thus far to have actively excluded the FIBI from their investment universe. It should also be noted that this has drawn controversy from the Dutch Foreign Minister who stated that PGGM's decision was "a sanctimonious move intended to pander to a certain nefarious trend in public opinion."

5.2 It should also be noted that PGGM's engagement dialogue showed "that, given the day-to-day reality and domestic legal framework they operate in, the banks have limited to no possibilities to end their involvement in the financing of settlements in the occupied Palestinian territories."

6 Next Steps

6.1 Continue to monitor for further controversies.

ⁱ <http://www.israelnationalnews.com/News/Flash.aspx/284376>

ⁱⁱ <http://www.globes.co.il/serveen/globes/docview.asp?did=1000901801>

ITEM

**PORTFOLIO MONITORING:
BANK LEUMI**

Prepared by:

[REDACTED]

s9(2)(a)

Date:

January 2014

1 Background

1.1.1 Bank Leumi le-Israel B.M. engages in various banking, financial, and non-banking activities. It operates through Households; Small Businesses; Corporate Banking; Commercial Banking; Private Banking; and Financial Management and Capital Markets segments. It is also involved in the provision of solutions in the spheres of financing and international trade; financing and guidance of national and international projects; financial instruments to hedge against currency risks, interest risks, and fluctuations in commodities prices; financing of mergers and acquisitions; and organization of syndicates. The company's customers comprise mutual funds, provident funds, training funds, pension funds, commercial banks, and investment banks. It operates through 278 branches in Israel; and 60 branches, agencies, and representative offices in 17 countries internationally. The company was founded in 1902 and is headquartered in Tel-Aviv, Israel. [REDACTED]

1.1.2 In January 2014 PGGM, a Dutch investment firm announced it would divest from the Israeli bank due to concerns over the bank's financing of settlements in the occupied Palestinian territories (OPT).

1.1.3 [REDACTED]

2 GNZS holdings

2.1.1 Value: NZ\$ 684,842

2.1.2 Units: 132,794

2.1.3 Manager: [REDACTED]

s9(2)(ba)
s9(2)(b)(ii)
s9(2)(i)

2.1.4 ISIN: [REDACTED]

3 The Issues

3.1.1 Dutch asset manager PGGM has opted to divest from five Israeli banks, including Bank Leumi, citing the banks' involvement with financing Israeli settlements in the occupied Palestinian territories (OPT). A PGGM statement regarding the exclusion of Israeli Banks cited:

“concern, as the settlements in the Palestinian territories are considered illegal under international humanitarian law. Moreover, international observers have indicated that the settlements constitute an important obstacle to a peaceful (two-state) solution of the Israeli- Palestinian conflict. In 2004 the International Court of Justice concluded in an Advisory Opinion that the settlements in the Palestinian territories are in breach of Article 49 of the Fourth Geneva Convention relative to the Protection of Civilian Population in Time of War. This article prohibits an occupying power to transfer its own citizens to occupied territory. International bodies, including the UN General Assembly and the UN Human Rights Council have adopted various broadly supported resolutions, which state that the settlements are considered illegal. Israel disputes this interpretation of the applicability of international law.” [REDACTED]

C2 - Internal Use Only

[REDACTED]

s9(2)(b)(ii)
s9(2)(ba)
s9(2)(i)

[REDACTED] Research has shown that Bank Leumi and Bank Hapoalim are involved in financing commercial and private construction through mortgages (*WhoProfits.org*).

PGGM's engagement "dialogue showed however that, given the day-to-day reality and domestic legal framework they operate in, the banks have limited to no possibilities to end their involvement in the financing of settlements in the occupied Palestinian territories. Therefore, it was concluded that engagement as a tool to bring about change will not be effective in this case"

3.1.2 According to MFAT, New Zealand "has spoken out against actions by Israel including [the] expansion of settlements in the Occupied Palestinian Territory." Additionally, New Zealand accepts ICJ's jurisdiction as compulsory.

3.1.3

[REDACTED]

s9(2)(b)(ii)
s9(2)(ba)
s9(2)(i)

3.1.4

4 Breach of UN Global Compact

4.1.1 Bank Leumi's current actions in terms of financing OPT settlements puts the company in breach of certain human rights as alleged by the ICJ, as such these actions put the bank in breach of Principle one: *Businesses should support and respect the protection of internationally proclaimed human rights.*

4.1.2

[REDACTED]

s9(2)(g)(i)

5 Overall Summary

5.1.1 GNZS' preliminary research highlights that PGGM is the only investment fund thus far to have actively excluded Bank Leumi from its investment universe. It should also be noted that this has drawn controversy from the Dutch Foreign Minister. It should also be noted that PGGM's engagement "dialogue showed however that, given the day-to-day reality and domestic legal framework they operate in, the banks have limited to no possibilities to end their involvement in the financing of settlements in the occupied Palestinian territories."

[REDACTED] PGGM stated that it had gone through engagement in their press release.

s9(2)(g)(i)

5.1.2 Beyond the OPT controversy, as highlighted by PGGM's divestment, and the sentencing of the bank's former chair over fraudulent activities, there have been no controversies highlighted in the media.

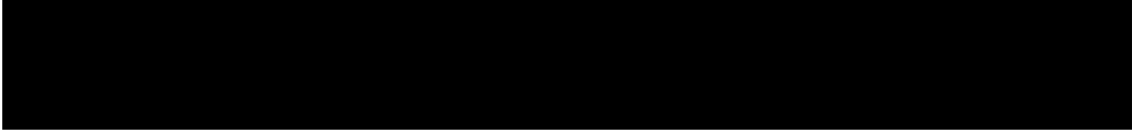
5.1.3

[REDACTED]

s9(2)(ba)
s9(2)(b)(ii)
s9(2)(i)

C2 - Internal Use Only

5.1.4



s9(2)(ba)
s9(2)(b)(ii)
s9(2)(i)

6 Next Steps

6.1.1 Continue to monitor for further controversies.

DRAFT
Released under the OIA

X January 2021

John Minto

Email: johnminto@orcon.net.nz

Kia ora Mr Minto

I acknowledge your letter dated 11 December 2020 and thank you for taking the time to write to me with your concerns. I also acknowledge our previous correspondence as referenced, along with correspondence between the Guardians and other individuals who have written to us in relation to the NZ Super Fund's investment in Israeli banks.

The Guardians has a long-standing commitment to responsible investment. In 2019 our responsible investing practice was independently assessed by Willis Towers Watson in the course of their independent review of the Guardians and Fund. Willis Towers Watson rated the Guardians' responsible investment approach as excellent, and noted our approach to exclusions (where reputation issues are concerned) as aligning with best practice standard. The Guardians' approach to responsible investment has been recognised internationally, including being named by the UNPRI in 2019 as one of 47 asset owners on the UNPRI Leaders' Group as demonstrating "a breadth of responsible investment excellence".

The Guardians has been monitoring the situation in the Occupied Palestinian Territories (OPT) for some time. In 2012 several companies whose activities were considered to directly and materially contribute to breaches of human rights in the OPT were excluded from the NZ Super Fund. We continue to analyse relevant and credible information as it comes to hand, including the list published in 2019 by the United Nations Human Rights Council (UNHRC) of companies involved in activities in the OPT, and to apply our [Statement of Investment Policies Standards and Procedures](#) (SIPSP) and Responsible Investment Framework (RIF) in the light of that information.

In your letter, you refer to a list released by the United Nations Human Rights Council (UNHRC) comprising 112 companies which it has identified as being connected to Israeli settlements in the Occupied Palestinian Territories. For your information, as at 30 November 2020 we held 30 of these companies in our investment portfolio. You can find a comprehensive list of the equities held by the NZ Super Fund on our external website [here](#). We update this list twice a year.

As was the case in mid-2018 at the beginning of our correspondence, we continue to apply our [Statement of Investment Policies Standards and Procedures](#) (SIPSP), including our Responsible Investment Framework (RIF), to our investment portfolio. This entails monitoring ongoing developments to determine whether a company is operating consistently with the relevant responsible investment standards set down in the SIPSP, and the materiality of any breach in standards identified.

The UNHRC list to which you refer is an example of one of many sources of information that we take into account in applying our SIPSP and ensuring that we meet all of our statutory obligations, as explained more fully in the SIPSP document linked above.

Applying these standards led to our decision in 2012 to exclude several companies from the portfolio because of their direct involvement in the construction of the separation barrier and Israeli settlements in the Occupied Palestinian Territories.

If sent after IC decision (in the event that a decision is made to exclude):

In late-January this year, the Chief Investment Officer approved a recommendation by the Guardians' Investment Committee to exclude securities issued by First International Bank of Israel, Israel Discount Bank, Bank Hapoalim, Bank Leumi and Bank Mizrahi-Tefahot from the portfolio. The decision to exclude was made applying considerations set down in the SIPSP and the RIF, and is expected to take effect from month 20201.

We will continue to monitor the situation as it relates to Israel and the Occupied Palestinian Territories and apply the principles set down in our SIPSP and RIF to the companies in our investment portfolio.

Noho ora mai,

Matt Whineray
Chief Executive Officer

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From: [REDACTED] s9(2)(a)
To: [REDACTED]
Subject: SV: OPT
Date: Wednesday, 20 January 2021 4:38:38 AM

Alert: External Email. If unknown sender or email address do not click links/attachments and never give out your username or password.

Hi there,

[REDACTED]

s9(2)(ba)
s9(2)(b)(ii)
s9(2)(g)(i)
s9(2)(i)

[REDACTED]

I am afraid I cannot be much more specific here.

Regards,

[REDACTED]

s9(2)(a)

Fr [REDACTED]

Sendt: 19. januar 2021 04:45

Til [REDACTED]

s9(2)(a)

Kopi [REDACTED]

Emne: OPT

Hi [REDACTED]

[REDACTED]

s9(2)(ba)
s9(2)(b)(ii)
s9(2)(g)(i)
s9(2)(i)

We are assessing the role played by a number of banks involved in OPT settlements. The context we believe sets their activities apart compared to banks involved in other controversial projects .

I was wondering if you have done further work on the issue of company involvement in the OPT?

We have found the UN 112 company list wide in its capture yet missing Construction/property companies we have excluded.

I understand if this is too confidential to discuss but it would be interesting to compare views if we can.

Best regards



s9(2)(a)

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From: [Conor Roberts](#)
To: [Responsible Investment](#); [REDACTED]; [Sarah Owen](#); [REDACTED]; [Matt Whineray](#); [Catherine Etheredge](#); [Stephen Gilmore](#)
Subject: UPDATE RE: Israeli bank exclusions - update on timing/actions
Date: Thursday, 25 February 2021 2:42:31 PM s9(2)(a)
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.png](#)

Hello,

I've just had a further call with MFAT. Notes below:

s6(a)&(b)
s9(2)(g)(i)

[REDACTED]

[REDACTED] we agreed to hold off sending the letters to banks until MFAT has briefed the ambassador tomorrow (same with managers/NT)

- We will issue the letters to banks at the same time (I'll confirm with [REDACTED] when this takes place) - meaning they will arrive with the respective investor relations teams overnight Thursday Israeli time.
- We will then send the letter to Minto, update exclusion list/publish IC paper on our website and publish internal comms at approx. 6pm

Thanks,

Conor

From: Conor Roberts
Sent: Thursday, 25 February 2021 1:33 PM
To: [Responsible Investment](#) <ResponsibleInvestment@nzsuperfund.co.nz>; [REDACTED]; s9(2)(a)
[REDACTED] [Sarah Owen](#) <SOwen@nzsuperfund.co.nz>; [REDACTED];
[REDACTED] [Matt Whineray](#) <mwhineray@nzsuperfund.co.nz>; [Catherine Etheredge](#) <CEtheredge@nzsuperfund.co.nz>; [Stephen Gilmore](#) <SGilmore@nzsuperfund.co.nz>
Subject: Israeli bank exclusions - update on timing/actions

Kia ora,

Here is the current state-of-play:

- I've had a couple of conversations with MFAT. It wants to brief the Israeli ambassador before letters are received by the banks and the issue becomes public. Following previous diplomatic incidents our respective governments agreed a no surprises approach to issues and MFAT feels this current matter fits that understanding. I have also briefed the Minister of Finance's office and Minister of Foreign Affairs' offices directly.

[REDACTED]

- Concurrent with the ambassador briefing, RI will issue letters to the banks. These will arrive at 3.45am Israeli time and so will be picked up first thing Thursday morning their time.
- This afternoon [REDACTED] will send exclusion letters to final managers (Robeco, Devon and Mint), and [REDACTED] will ask NT to turn on monitoring.

s6(a)&(b)
s9(2)(a)
s9(2)(g)(i)

[REDACTED]

clarification and will respond directly to the NZ government tomorrow.

- First thing tomorrow morning we will post the IC paper and update the exclusion list and on our website, then send a letter to Mr Minto and contact other correspondents. Internal comms will also be posted. These actions can be brought forward if there is an immediate reaction from the Israeli government or the matter somehow becomes public tonight.
- We have prepared reactive messaging for any media/public/social enquiries.

It is fair to say MFAT believes there is likely to be a strong response from Israel.

We expect the divestment decision will attract media interest once the activists release our communications with them.

Let me know if you have any questions.

Kind regards,

Conor

Conor Roberts
Senior Communications Strategist



s9(2)(a)

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From: [REDACTED]
To: [REDACTED] Catherine Etheredge; [REDACTED]@acc.co.nz; [REDACTED]
Cc: Conor Roberts; [REDACTED]
Subject: RE: Exclusion of companies with operations in the Occupied Palestinian Territory in relation to poor ESG practices
Date: Friday, 26 February 2021 11:55:30 AM
Attachments: image001.jpg
image002.png
image003.png

s9(2)(a)

Hi [REDACTED] – thanks for that.

Yes I can confirm that we have excluded 3 companies previously (and still exclude them).

These exclusions were done in Dec 2012. Here is the media release: <https://www.nzsuperfund.nz/news-and-media/new-zealand-superannuation-fund-excludes-three-companies-responsible-investment-grounds/>

Africa Israel Investments and subsidiary Danya Cebus	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.
Elbit Systems Limited	Elbit has been excluded because of its involvement in the construction of 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.
Shikun & Binui	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.

[REDACTED]

From: [REDACTED]@annuitas.co.nz>
Sent: Friday, 26 February 2021 11:42 AM
To: [REDACTED]@annuitas.co.nz; [REDACTED]
[REDACTED] Catherine Etheredge <[REDACTED]>
[REDACTED]@acc.co.nz; [REDACTED]@annuitas.co.nz>
Cc: Conor Roberts [REDACTED]@annuitas.co.nz>
Subject: RE: Exclusion of companies with operations in the Occupied Palestinian Territory in relation to poor ESG practices

s9(2)(a)

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Thanks [REDACTED]. Very comprehensive report. I cannot see any reason why GSFA would differ. Without checking can you confirm GNZS (and GSFA) already excludes other Israeli companies involved in OPT, eg builders and property developers. I know we have excluded suppliers of cameras for the wall but that's different.

[REDACTED]

From: [REDACTED]@nzsuperfund.co.nz>
Sent: Wednesday, 24 February 2021 2:32 p.m.
To: [REDACTED]@annuitas.co.nz; [REDACTED]@annuitas.co.nz; [REDACTED]
[REDACTED]@nzsuperfund.co.nz; Catherine Etheredge [REDACTED]
[REDACTED]@acc.co.nz; [REDACTED]@annuitas.co.nz>
Cc: Conor Roberts [REDACTED]
Subject: Exclusion of companies with operations in the Occupied Palestinian Territory in relation to poor ESG practices

PRIVATE AND CONFIDENTIAL

Hi CFIs,

As eluded to recently, we have been considering exclusion of a number of companies with operations in the Occupied Palestinian Territory in relation to poor ESG practices.

We are now in a position to share more detail with you – but please note this information is not yet in the public domain. However, our Minister and MFAT have been informed and our holdings in the excluded companies have been sold.

Background information

We have recently made the decision to exclude 5 Israeli banks with operations in the Occupied Palestinian Territory. These banks are:

Name	ISIN
<i>First International Bank of Israel</i>	<i>IL0005930388</i>
<i>FIBI Holdings</i>	<i>IL0007630119</i>
<i>Israel Discount Bank</i>	<i>IL0006912120</i>
<i>Bank Hapoalim</i>	<i>IL0006625771</i>
<i>Bank Leumi</i>	<i>IL0006046119</i>
<i>Bank Mizrahi-Tefahot</i>	<i>IL0006954379</i>

In broad terms, the decision was based upon credible evidence that the banks provide project finance for the construction of settlements in the Occupied Palestinian Territories (**OPT**) and, due to the human rights impacts associated with the construction of the settlements, we view this activity as being inconsistent with our RI standards.

Attached is the IC paper that **we plan to put on our website on Friday** (along with an updated exclusion list) that provides all the detail on our decision. Please note that we are not planning proactive communications but have prepared a reactive Q&A (also attached in this email).

We are planning to send letters to the companies tomorrow – informing them of our decision to divest.

Any questions – please don't hesitate to contact me.



s9(2)(a)



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Released under the OIA

From: [Conor Roberts](#)
To: [Responsible Investment](#); [Matt Whineray](#); [Sarah Owen](#); [Catherine Etheredge](#); [redacted] [Stephen Gilmore](#); [redacted]
Subject: Israeli bank exclusions - current/upcoming actions
Date: Friday, 26 February 2021 4:03:26 PM
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.png](#)

s9(2)(a)

Hello all,

Just confirming current/upcoming actions:

- Letters from RI to the banks have been sent. Note that Friday and Saturday are weekend days in Israel, so in the normal course of events they won't be picked up until Sunday evening NZ time
- The Ambassador of Israel has now been briefed by MFAT. [redacted]
- We have decided to delay posting the IC paper and updated exclusion list to our website until 9am on Monday morning. The email to Mr Minto and other correspondents will also go at this time. The IC paper envisages giving the companies the opportunity to respond. [redacted] and as such we felt it better to wait to keep faith with the paper
- However – we are ready to bring forward publishing the documents should there be an immediate response or the matter becomes public
- I have advised MFAT, offices of MoF and MoFA and Treasury of the updated timing. They were all supportive
- Internal comms will be posted to coincide with the document/exclusion publishing
- I have discussed front of house and public enquiry protocols [redacted]
- [redacted] is sending final exclusion letters to managers and [redacted] will process monitoring

s6(a)&(b)
s9(2)(a)
s9(2)(ba)
s9(2)(b)(ii)
s9(2)(g)(i)
s9(2)(h)

Let me know if you have any questions.

Kind regards,

Conor
Conor Roberts
Senior Communications Strategist
DDI: [redacted]
Mobile: [redacted]
Email: [redacted]

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From: [Conor Roberts](#)
To: [Paul Young](#); [Michael Eyre \[TSY\] \(Michael.Eyre@treasury.govt.nz\)](#); [Catherine Etheredge](#)
Subject: Re: Israeli banks - communication with MPs
Date: Tuesday, 2 March 2021 4:30:28 PM

s(9)(2)(a)

Further to this, the Palestine Solidarity Network Aotearoa has issued the following release:

<https://www.psna.nz/press-releases/nz-superfund>

Conor Roberts
NZ Super Fund
Senior Communications Strategist
+64 21 124 6004

From: Conor Roberts
Sent: Tuesday, March 2, 2021 3:49:01 PM
To: Paul Young; Michael Eyre [TSY]

Catherine Etheredge
Subject: Israeli banks - communication with MPs

s(9)(2)(a)

Hello,

Just a heads up - I received a text from Act leader David Seymore who asked if we had divested from Israeli banks. He has received communications from a pro-Palestinian organisation and wanted to check its veracity

I replied that it was correct and pointed him to the IC paper

I note labour MP Duncan Webb has just tweeted about it: https://twitter.com/duncan_webb_/status/1366580857738121223?s=21

I will advise if we have any media enquiries

Kind regards

Conor

Conor Roberts
NZ Super Fund
Senior Communications Strategist
+64 21 124 6004

From: [Matt Whineray](#)
To: [Board Member - Catherine Savage](#); [Board Member - Catherine Drayton](#)
Cc: [Conor Roberts](#); [Catherine Etheredge](#)
Subject: <https://www.pdna.nz/press-releases/nz-superfund>
Date: Tuesday, 2 March 2021 9:20:34 PM

Catherine and Catherine,

Our exclusions of the Israeli banks have hit the press.

Attached is a press release from a Palestinian support group covering it. We believe this has gone to all MPs, at least.

Duncan Webb, Chair of the FEC, has tweeted about the decision this afternoon.

We should expect to be asked about it tomorrow – although it could come from either side.

The message from Catherine S is as per the Q&A, in essence:

The Board has oversight of the Responsible Investment Framework, which is the basis on which the Guardians makes decisions regarding exclusions from the portfolio. This decision is a good example of our considered and thorough approach to responsible investment issues, and we have been transparent in publishing our rationale for the exclusions. In terms of the specifics of the application of the framework, I will hand this question to Matt.

See you tomorrow.

Matt

Released under the OIA

From: [Conor Roberts](#)
To: [Matt Whineray](#); [Anne-Maree O'Connor](#); [Sarah Owen](#); [Catherine Etheredge](#); [Adrien Hunter](#)
Subject: Notes from a call with MFAT
Date: Tuesday, 2 March 2021 10:52:43 PM
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.png](#)

Hello all,

Earlier this evening I had a call with [REDACTED] who I've been in to contact with at MFAT over the past few days. s9(2)(a)

- She noted the issue had reached MPs and was being communicated across social media. I said we'd picked that up
- I noted our appearance at select committee tomorrow and that this would certainly come up. I restated our messaging on this and noted broader RI issues
- MFAT has now had several meetings with the Israeli ambassador. [REDACTED]
[REDACTED] I had previously briefed MFAT on how our independence operates, which was conveyed to the ambassador – however it appears to be an ongoing point of discussion
- MFAT advises the ambassador would like a meeting with us. It believes the ambassador will seek to understand the nature of the relationship between the super fund and gov't, and to relitigate the exclusion decision.
- [REDACTED] said Israel's position is that the banks weren't properly consulted. I noted we had sent letters to the banks and delayed publicising the decision for several days, but haven't heard anything back. And in any event, the exclusion decision is made with consideration as to whether engagement would rectify our concerns and change the companies' behaviour. I noted the IC paper considers engagement to likely be ineffective, but that the letters to the banks state they can reply with any information relating to change activities that we ought to take into account s6(a)&(b)
s9(2)(ba)
s9(2)(g)(i)
- I said I would pass this request on. The ambassador is due to travel to Auckland next week (lockdown permitting), or otherwise we could suggest a Zoom engagement. MFAT felt it would be useful for the ambassador to hear directly from us about the nature of the independence – although they are comfortable with whatever we decide to do
- I mentioned this to Catherine and Sarah; their initial reaction was that our interest was in the companies – not the political ramifications, and Treasury is best placed to explain the independence structure.
- On the other hand – meeting with the ambassador allows us to say we have been upfront and transparent about our decision, and are willing to hear all sides

- [REDACTED]
- I mentioned we had received an OIA for all communications on the matter for the past 3 days. MFAT asked if it could be engaged on the response.

Thanks,

Conor

Conor Roberts
Senior Communications Strategist

[REDACTED] s9(2)(a)

PO Box 106 607, Auckland 1143, New Zealand
Level 12, 21 Queen Street, Auckland, New Zealand
Office: +64 9 300 6980 | Fax: +64 9 300 6981 | Web: www.nzsuperfund.nz

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Released under the OIA

From: Conor Roberts s9(2)(a)
To: [REDACTED]
Subject: RE: Israeli bank divestment
Date: Wednesday, 3 March 2021 8:41:04 AM
Attachments: R-GNZS-IC-Paper-Exclusion-of-Israeli-Banks-January-2021.pdf

Good morning [REDACTED]

In response:

- Yes it has happened. We have posted the Investment Committee paper that considered the matter to the proactive disclosure section of our website here (under the 2020/21 tab): <https://www.nzsuperfund.nz/publications/disclosures/oia/proactive-disclosure/>

- I have also attached a copy of the paper. It provides the rational for the decision. We have also updated our public exclusion list, which is available here: <https://www.nzsuperfund.nz/how-we-invest/responsible-investment/exclusions/>

- The scope of our remaining Israeli holdings is available on our portfolio disclosure section: <https://www.nzsuperfund.nz/publications/annual-equity-listings/> (this is the one I mentioned yesterday to 30 June 2020 and will be updated today or tomorrow to 31 Dec 2020)

- Here is a statement you are welcome to use on the matter:

Guardians excludes five Israeli banks on responsible investment grounds

The Guardians of New Zealand Superannuation, the manager of the NZ\$50 billion NZ Super Fund, has excluded five Israeli banks on responsible investment grounds. Decisions on investments in certain companies, sectors or countries are governed by our Responsible Investment Framework, which is guided by the UN's Principles for Responsible Investment, domestic and international law and policy positions of the New Zealand Government.

Company	NZ\$ value of divested holdings
First International Bank of Israel	\$856,971.65
Israel Discount Bank	\$1,049,063.83
Bank Hapoalim	\$2,100,072.45
Bank Leumi	\$2,407,309.85
Bank Mizrahi-Tefahot	\$927,205.18
Total	\$6,528,441.54

There is credible evidence that the excluded companies provide project finance for the construction of Israeli settlements in the Occupied Palestinian Territories, which is an integral aspect of settlement construction. We believe that without the banks' involvement the settlement activity would not be proceeding at the scale seen in recent times.

In 2016 New Zealand co-sponsored a UN Security Council resolution demanding the cessation of Israeli settlement activities in the Occupied Palestinian Territories and in December 2020 the United Nations called for an immediate cessation of settlement activity.

In June 2020 the New Zealand Government released the [following press statement](#): “New Zealand is a long-standing supporter of Israel’s right to live in peace and security. However, successive New Zealand governments have also been clear that Israeli settlements are in violation of international law and have negative implications for the peace process.”

In our view, based on the information available to us, the companies’ activities are inconsistent with the UN Global Compact, the key benchmark against which the Guardians measures corporate behaviour, and engagement with the companies is unlikely to be successful.

Given the small size of the holdings in the excluded companies the decision will not have a material financial impact on NZ Super Fund performance.

Further information is [available here](#).

ENDS

Please let me know if you need anything else.

Kind regards,

Conor

From: [REDACTED]@nbr.co.nz>

Sent: Wednesday, 3 March 2021 8:02 AM

s9(2)(a)

To: Conor Roberts [REDACTED]

Subject: Israeli bank divestment

Alert: External Email. If unknown sender or email address do not click links/attachments and never give out your username or password.

Hi Conor

I am writing something about this, this morning, you may have seen the paper was posted to Scoop this week

Can I ask

- has this actually happened
- if not, when will it happen
- how was this prompted
- why has the Fund not itself released this information
- As a totality, what are/were the holdings in these banks

- what are the scope of other Israeli holdings, and are they assessed regularly to ensure they comply with UN guidelines?

thanks



s9(2)(a)

Released under the OIA

From: [REDACTED]
To: [Conor Roberts](#)
Cc: [REDACTED] Michael Eyre [TSY]; [REDACTED]
Subject: RE: Israeli bank divestment
Date: Wednesday, 3 March 2021 3:01:27 PM
Attachments: Israel [REDACTED] NZ Super Fund Divestment March 2021.pdf
Guardians of New Zealand Superannuation - Governance and investment settings 02.03.2021 - Final.docx

s9(2)(a)

s6(a)&(b)
s9(2)(ba)
s9(2)(g)(i)

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[UNCLASSIFIED]

Kia ora Conor

Thank you for the media and OIA updates.

Officials met with the Israeli Ambassador His Excellency Ran Yaakoby yesterday. [REDACTED]

[REDACTED] We sought answers to some of the questions [REDACTED] from the New Zealand Treasury which we have provided to the Ambassador. Please find the Treasury's responses attached for background.

s6(a)&(b)
s9(2)(ba)
s9(2)(g)(i)

As you know Ambassador Yaakoby has sought a meeting with the NZ Super Fund. We have advised him that we have passed on the request to meet and will be in touch when we hear back.

Ngā mihi

[REDACTED]
Unit Manager (Middle East)
Middle East and Africa Division
MFAT
[REDACTED]

s9(2)(a)

From: Conor Roberts [REDACTED]
Sent: Wednesday, 3 March 2021 8:48 AM
To: Paul Young [REDACTED] Michael Eyre [TSY]

[REDACTED]
Catherine Etheredge [REDACTED]
[REDACTED]

s9(2)(a)

Subject: FW: Israeli bank divestment

Ata mārie,

s9(2)(a)

Under no surprises: I received a media enquiry from [REDACTED] at the NBR in relation to the Israeli bank exclusions and provided her with the reactive response (see below).

On a related note, yesterday we received an OIA for all communications relating to this matter for the previous 3 days. We will come back to you on the response.

Ngā mihi

Conor

From: [REDACTED]@nbr.co.nz>

Sent: Wednesday, 3 March 2021 8:44 AM

To: Conor Roberts [REDACTED]

s9(2)(a)

Subject: Re: Israeli bank divestment

Alert: External Email. If unknown sender or email address do not click links/attachments and never give out your username or password.

thank you Conor for this.

From: Conor Roberts [REDACTED]

Sent: 03 March 2021 08:41

To: [REDACTED]@nbr.co.nz>

Subject: RE: Israeli bank divestment

s9(2)(a)

Good morning [REDACTED]

In response:

- Yes it has happened. We have posted the Investment Committee paper that considered the matter to the proactive disclosure section of our website here (under the 2020/21 tab): <https://www.nzsuperfund.nz/publications/disclosures/oia/proactive-disclosure/>

- I have also attached a copy of the paper. It provides the rational for the decision. We have also updated our public exclusion list, which is available here: <https://www.nzsuperfund.nz/how-we-invest/responsible-investment/exclusions/>

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In our view, based on the information available to us, the companies' activities are inconsistent with the UN Global Compact, the key benchmark against which the Guardians measures corporate behaviour, and engagement with the companies is unlikely to be successful.

Given the small size of the holdings in the excluded companies the decision will not have a material financial impact on NZ Super Fund performance.

Further information is [available here](#).

ENDS

Please let me know if you need anything else.

Kind regards,

Conor

From: [REDACTED]@nbr.co.nz>

Sent: Wednesday, 3 March 2021 8:02 AM

To: Conor Roberts [REDACTED]

s9(2)(a)

Subject: Israeli bank divestment

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Hi Conor

I am writing something about this, this morning, you may have seen the paper was posted to Scoop this week

Can I ask

- has this actually happened
- if not, when will it happen
- how was this prompted
- why has the Fund not itself released this information
- As a totality, what are/were the holdings in these banks
- what are the scope of other Israeli holdings, and are they assessed regularly to ensure they comply with UN guidelines?

thanks

[REDACTED] s9(2)(a)

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Released under the OIA

High Level Statement:

- The Guardians of New Zealand Superannuation (the Guardians) has been established as an autonomous Crown entity.
- The legislative settings of the Guardians prohibit the Government (or the Minister of Finance) from issuing directions on individual investment decisions. The Guardians has operational independence to invest the New Zealand Superannuation Fund (the Fund). It is not required to consult with the Government on investment decisions.
- This investment independence is considered a global best practice governance setting for sovereign wealth funds to allow investment decisions to be made without political interference.

Additional detail:

- The Guardians are governed by the New Zealand Superannuation and Retirement Income Act 2001 (NZSRI Act) and the Crown Entities Act 2004 (CE Act). These Acts establish that the Guardians are an autonomous Crown Entity.
- The Minister of Finance can only recommend a person for appointment as a board member from the pool of candidates nominated by a nominating committee. Essentially, this means that the Guardians operates at 'double-arm's-length' from the Minister of Finance.
- The Board of the Guardians are responsible for investing the Fund, it has operational independence to make individual investment decisions in the Fund.
- In terms of Ministerial direction powers:
 - The NZSRI Act sets out that the Minister can only give directions to the Guardians regarding the Government's expectations as to the Fund's performance, including the Government's expectations as to risk and return.
 - The CE Act prohibits a Minister from directing any autonomous Crown entity (including the Guardians) "requiring the performance or non-performance of a particular act, or bringing about of a particular result, in respect of particular person or persons".
- The Minister of Finance must not give a direction that is inconsistent with the Guardians' duty to invest the Fund on a prudent, commercial basis, in with a manner consistent with:
 - (a) best-practice portfolio management; and
 - (b) maximising return without undue risk to the Fund as a whole; and
 - (c) avoiding prejudice to New Zealand's reputation as a responsible member of the world community.

- The obligation to invest in a manner consistent with “avoiding prejudice to New Zealand’s reputation as a responsible member of the world community” has led to the Guardians establishing its responsible investment framework as part of its investment policies, standards and procedures, which the Board is responsible for developing and adhering to.
- The Guardians responsible investment framework considers ten factors in making exclusion decisions. These are set out in the Guardians investment committee paper¹ on this decision. One factor is “significant policy positions of the New Zealand Government” which has already been factored into the decision-making process.

Released under the OIA

¹ <https://nzsuperfund.nz/assets/documents/responsible-investment/R-GNZS-IC-Paper-Exclusion-of-Israeli-Banks-January-2021.pdf>

From: [Conor Roberts](#)
To: [REDACTED]
Cc: [Catherine Etheredge](#); [REDACTED] [Michael Eyre \[TSY\]](#); [REDACTED]
[Paul.Young@parliament.govt.nz](#)
Subject: RE: Israeli bank divestment
Date: Wednesday, 3 March 2021 5:01:02 PM s9(2)(a)

Tēnā koe [REDACTED]

Thank you for the email.

Firstly, I mistakenly said the OIA covered the previous 3 days yesterday; it is in fact the previous 3 years. As stated, we will come back to you on the response on a no surprises basis.

We are meeting internally tomorrow to discuss the OIA response, our response to a letter from the Israel Institute of NZ, [REDACTED]. However, I should point out that most of the answers [REDACTED] relating to the rationale for the divestment decision and our internal policy for matters such as this can be found in the [Investment Committee paper here](#) and our [Responsible Investment Framework here](#).

s6(a)&(b)
s9(2)(ba)
s9(2)(g)(i)

In terms of a meeting with the Ambassador, we will respectfully decline the invitation. Our relationship is with companies in our investment portfolio, and we believe state-level contacts are best managed by MFAT, with Treasury able to provide a core-Crown view of the structure of independence and how it operates in practice.

I note we wrote to the companies involved and provided them with several days to reply. We have not heard anything back. The letter we sent states that the banks are welcome to provide us with information to show they have ceased financing development and construction of settlements in the Occupied Palestinian Territories, which we would then take into account in a decision to rescind the exclusion.

The IC paper states that engagement with the companies is unlikely to be effective given the banks have continued their involvement in the face of international criticism over a long period and have reported that they believe their activity is legal. It is for this reason that we decided on exclusion rather than engagement as our approach.

We are also happy to receive information from the Ambassador relating to the cessation of financing for development activity in the OPT.

Mā te wā,

Conor

From: [REDACTED] <[REDACTED]@mfat.govt.nz>

Sent: Wednesday, 3 March 2021 2:58 PM

s9(2)(a)

To: Conor Roberts [REDACTED]

Cc: Catherine Etheredge [REDACTED]

[REDACTED] [Michael Eyre \[TSY\]](#) <[REDACTED]>

s9(2)(a)

Subject: RE: Israeli bank divestment

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[UNCLASSIFIED]

Kia ora Conor

Thank you for the media and OIA updates.

Officials met with the Israeli Ambassador His Excellency Ran Yaakoby yesterday.

We sought answers to some of the questions from the New Zealand Treasury which we have provided to the Ambassador. Please find the Treasury's responses attached for background.

s6(a)&(b)
s9(2)(ba)
s9(2)(g)(i)

As you know Ambassador Yaakoby has sought a meeting with the NZ Super Fund. We have advised him that we have passed on the request to meet and will be in touch when we hear back.

Ngā mihi

Unit Manager (Middle East)
Middle East and Africa Division
MFAT

s9(2)(a)

From: Conor Roberts

Sent: Wednesday, 3 March 2021 8:48 AM

To: Paul Young

Michael Eyre [TSY]

s9(2)(a)

Catherine Etheredge

Subject: FW: Israeli bank divestment

Ata mārie,

Under no surprises: I received a media enquiry from [REDACTED] at the NBR in relation to the Israeli bank exclusions and provided her with the reactive response (see below).

s9(2)(a)

On a related note, yesterday we received an OIA for all communications relating to this matter for the previous 3 days. We will come back to you on the response.

Ngā mihi

Conor

From: [REDACTED]@nbr.co.nz>

Sent: Wednesday, 3 March 2021 8:44 AM

To: Conor Roberts [REDACTED]

s9(2)(a)

Subject: Re: Israeli bank divestment

Alert: External Email. If unknown sender or email address do not click links/attachments and never give out your username or password.

thank you Conor for this.

From: Conor Roberts [REDACTED]

Sent: 03 March 2021 08:41

To: [REDACTED]@nbr.co.nz>

s9(2)(a)

Subject: RE: Israeli bank divestment

Good morning [REDACTED]

In response:

- Yes it has happened. We have posted the Investment Committee paper that considered the matter to the proactive disclosure section of our website here (under the 2020/21 tab):

<https://www.nzsuperfund.nz/publications/disclosures/oia/proactive-disclosure/>

- I have also attached a copy of the paper. It provides the rational for the decision. We have also updated our public exclusion list, which is available here: <https://www.nzsuperfund.nz/how-we-invest/responsible-investment/exclusions/>

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Given the small size of the holdings in the excluded companies the decision will not have a material financial impact on NZ Super Fund performance.

Further information is [available here](#).

ENDS

Please let me know if you need anything else.

Kind regards,

Conor

From: Dita De Boni <dita@nbr.co.nz>

Sent: Wednesday, 3 March 2021 8:02 AM
To: Conor Roberts <CRoberts@nzsuperfund.co.nz>
Subject: Israeli bank divestment

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Hi Conor

I am writing something about this, this morning, you may have seen the paper was posted to Scoop this week

Can I ask

- has this actually happened
- if not, when will it happen
- how was this prompted
- why has the Fund not itself released this information
- As a totality, what are/were the holdings in these banks
- what are the scope of other Israeli holdings, and are they assessed regularly to ensure they comply with UN guidelines?

thanks

s9(2)(a)

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New Zealand Superannuation) or in its attachments, are those of the individual sender and may not necessarily reflect our views. Please also note that this email and any of its attachments may contain personal information about identifiable individuals, and such information is subject to the Privacy Act 2020 (NZ). You are not permitted to use or disclose this personal information for any purposes other than for the purposes which you have already agreed with us or as otherwise permitted under the Privacy Act 2020 (NZ). Additionally, while we use standard virus checking software, we accept no responsibility for viruses or anything similar in this email or any attachment after it leaves our information systems.

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Released under the OIA

From: Catherine Etheredge
Sent: Thursday, 4 March 2021 2:57 PM
To: Board Member - Catherine Drayton; Board Member - Catherine Savage; Board Member - Doug Pearce; Board Member - Henk Berkman; Board Member - John Williamson; Board Member - Rosemary Vilgan; Board Member - Simon Botherway
Cc: Cushla Gray; Matt Whineray; Sarah Owen; Conor Roberts; Anne-Maree O'Connor; Stephen Gilmore
Subject: Guardians Board Communications Update
Attachments: NZ Super excludes Israeli banks over financing activities in Occupied Territories.pdf; FW: Attn: Catherine Savage; RE: Your decision to single out the only Jew... (17.7 KB); Guardians of New Zealand Superannuation - Governance and investment settings 02.03.2021 - Final.docx; Israel - [REDACTED] NZ Super Fund Divestment_March 2021.pdf

s6(a)&(b)
s9(2)(ba)

Good afternoon,

As requested by Sarah Owen, please find a Guardians Board Communications update below.

Select Committee links

Yesterday we appeared in front of Parliament's Finance and Expenditure Select Committee. You can [watch a recording of proceedings here](#) and [read our post-appearance release here](#).

Reaction to Israeli Bank exclusions

- The Israel Institute of NZ has written to Catherine Savage (see attached). We have also received an OIA from them. We are working on responses to both of these.
- We continue to keep MFAT and Ministers updated on developments. Yesterday MFAT passed on a request from the Israeli ambassador to meet, which we have declined by stating our relationship is with the companies in our portfolio and state-to-state engagements are best left to the Ministry.

s6(a)&(b)
s9(2)(ba)
s9(2)(g)(i)

[REDACTED] and a note prepared by Treasury on our independence are attached.

We had a couple of media enquiries about the exclusions ([our reactive release is here](#)). Mainstream media coverage, to date, has been restricted to the NBR only. See below for more details.

Material coverage on the above matters:

NBR - [NZ Super Fund divests from Israeli banks involved in settlements](#)

NBR - [NZ Super Fund now re-considering Chinese investments linked to Uyghurs](#)

Out of Scope

Responsible Investor - [NZ Super excludes Israeli banks over financing activities in Occupied Territories](#) [paywalled - pdf attached]

Social media coverage:

There has been considerable social media activity following announcement of the divestment. Local pro-Israel and pro-Palestinian (including Labour MP and Chair of Finance and Expenditure Select Committee Duncan Webb and Greens MP Julie Anne Genter) accounts have reacted strongly, with several high-profile accounts tweeting praise or criticism. Internationally the coverage comes from pro-Palestinian accounts (some with considerable followings) who have simply repeated the news, as well as Responsible Investor linking to its story (above). Here is a selection of tweets – it is important to note many of these turn into considerable ‘conversations’ with multiple replies etc.





Electronic Intifada @Intifada · 9h

"The ethical decision by the New Zealand Superannuation Fund to disinvest in **Israeli banks** should be followed by our government," said the Palestine Solidarity Network Aotearoa



New Zealand state pension fund divests from Israeli banks
Firms finance the theft and colonization of Palestinian land.
electronicintifada.net

15 30



Responsible Investor @RI_News_Alert · 2h

NZ Super excludes **Israeli banks** over financing activities in Occupied Territories

responsible-investor.com/articles/nz-su...



1



Julie Anne Genter @JulieAnneGenter · 22h

This is fascinating. Nicola Willis says in finance select committee that Superfund pulling out of Israeli banks - bc they are funding settlements that violate international law - is potentially 'aligning themselves with an anti semitic movement'.

40 34 274



David Cumin @KiwiDaveC · 21h

This is the group that @NZSuperFund looks to for moral leadership.



Hillel Neuer @HillelNeuer · 23h

The UN Human Rights Council just began its 2021 session.

60% of its members fail to meet minimal human rights standards.

UNHRC members include:

- Mauritania
- Venezuela
- Cameroon
- Pakistan
- Somalia
- Eritrea
- Russia
- China
- Libya
- Cuba

I am not making this up.

Show this thread

3 6 14



Prof Gerald M Steinberg

@GeraldNGOM

Replying to @KiwiDaveC and @NZSuperFund

Hating Israel is a major industry; for 20 years, BDS groups have spent tens of millions annually promoting lies and discrimination. Fund managers that go along either fail due diligence or are part of this political warfare. The stakeholders pay the cost. Also in 🇺🇸

8:19 AM · Mar 4, 2021 · Twitter for Android

2 Retweets 4 Likes

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Juliet Moses
@JulietMosesNZ



This is a great piece on the @NZSuperFund divestment from Israeli banks. The paper laying out the decision is amateurish, flawed and odd eg. it refers repeatedly to the proposed annexation that never occurred, and to the farcical UN Human Rights Council.



NZ Super Fund undermines NZ's reputation as a fair actor
israelinstitute.nz

9:46 PM · Mar 3, 2021 · Twitter for iPhone

4 Retweets 1 Quote Tweet 13 Likes



Damien Grant @damienmgrant · 10h



Replying to @JulietMosesNZ and @NZSuperFund

I read the document. Listening obscure Jewish banks by name that they won't deal with despite probably never having a reason to ever deal with them.

Just appalling. All for social justice credits.



Juliet Moses @JulietMosesNZ · 10h



Yeah, it reads like it's been put together by a school student who knows how to use Wikipedia. Very shoddy.



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Kiwiwit @kiwiwit · 41m

@NZSuperFund shouldn't be acting as an activist organisation. NZ Govt has diplomatic relations with Israel, so why is a NZ Govt organisation boycotting it? It is a double standard that certainly looks like anti-semitism. Shame on you, NZ Super.



Mark Hubbard @MarkHubbard33 · 48m

Very good read. Why isn't there a furor over an antisemitic @NZSuperFund ? And does the fund care to respond to this piece, please?

NZ Super Fund undermines NZ's reputation as a fair actor
israelinstitute.nz/2021/03/nz-sup...



Juliet Moses @JulietMosesNZ · 20h

Re @NZSuperFund divesting from Israeli banks, an online 2018 OIA shows it has met and corresponded A LOT with the Palestine solidarity network (under various names) - the group that obsesses over the (((Zionist lobby))) wielding outside power over politicians, public bodies etc.

Accession Number	Requester	Subject	Response	Notes
1	1000001	Use of language in 2017 New Zealand election	Released in full	
2	1000002	Accession of information relating to the US General Consulate in NZ December 2017	Released in full	
3	1000003	Who is the Open Market Political Foundation (OMP) and its activities	Released in full with some redactions	Section 5(1)(b) - Privacy
4	1000004	Who is the Open Market Political Foundation (OMP) and its activities	Released in full with some redactions	Section 5(1)(b) - Privacy
5	1000005	Who is the Open Market Political Foundation (OMP) and its activities	Released in full with some redactions	Section 5(1)(b) - Privacy
6	1000006	Who is the Open Market Political Foundation (OMP) and its activities	Released in full with some redactions	Section 5(1)(b) - Privacy
7	1000007	Who is the Open Market Political Foundation (OMP) and its activities	Released in full with some redactions	Section 5(1)(b) - Privacy
8	1000008	Who is the Open Market Political Foundation (OMP) and its activities	Released in full with some redactions	Section 5(1)(b) - Privacy
9	1000009	Who is the Open Market Political Foundation (OMP) and its activities	Released in full with some redactions	Section 5(1)(b) - Privacy
10	1000010	Who is the Open Market Political Foundation (OMP) and its activities	Released in full with some redactions	Section 5(1)(b) - Privacy
11	1000011	Who is the Open Market Political Foundation (OMP) and its activities	Released in full with some redactions	Section 5(1)(b) - Privacy
12	1000012	Who is the Open Market Political Foundation (OMP) and its activities	Released in full with some redactions	Section 5(1)(b) - Privacy
13	1000013	Who is the Open Market Political Foundation (OMP) and its activities	Released in full with some redactions	Section 5(1)(b) - Privacy
14	1000014	Who is the Open Market Political Foundation (OMP) and its activities	Released in full with some redactions	Section 5(1)(b) - Privacy
15	1000015	Who is the Open Market Political Foundation (OMP) and its activities	Released in full with some redactions	Section 5(1)(b) - Privacy
16	1000016	Who is the Open Market Political Foundation (OMP) and its activities	Released in full with some redactions	Section 5(1)(b) - Privacy
17	1000017	Who is the Open Market Political Foundation (OMP) and its activities	Released in full with some redactions	Section 5(1)(b) - Privacy
18	1000018	Who is the Open Market Political Foundation (OMP) and its activities	Released in full with some redactions	Section 5(1)(b) - Privacy
19	1000019	Who is the Open Market Political Foundation (OMP) and its activities	Released in full with some redactions	Section 5(1)(b) - Privacy
20	1000020	Who is the Open Market Political Foundation (OMP) and its activities	Released in full with some redactions	Section 5(1)(b) - Privacy



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Taxpayers' Union @TaxpayersUnion · Mar 2

Incredible - @NZSuperFund divesting from Israeli banks, but has no qualms about investing in Chinese, Saudi Arabian, Turkish, or Russian companies or banks. Stamping their personal politics on taxpayer (our) investments needs to be called out.

Israel Institute of NZ @IsraelInstNZ · Mar 2

The NZ Superfund has joined the discriminatory #BDS campaign and divested from Israeli Banks for "Poor environmental, social and governance practices" on the basis that they lend money for construction of Jewish homes in Area C of Judea and Samaria. (nzsUPERfund.nz/assets/documen...)

Show this thread

2 5 23



Israel Institute of NZ @IsraelInstNZ · Mar 2

This is partly why the German government likened BDS to the Nazi tactics against Jews.

The extra insult, of course, is that @MFATNZ continue to fund antisemitism via UNRWA as @NZSuperFund duvest from companies associated with Jews building homes.

1 1 9

Show this thread



Israel Institute of NZ @IsraelInstNZ · Mar 2

Though @NZSuperFund apparently has no qualms about investing in Chinese, Saudi Arabian, Turkish, or Russian companies or banks.

The double-standard is clear. And clearly out of step with traditional allies.

@USAmbNZ @AusAmbIsrael @IsraelinNZ @CanadaFP

5 4 26



Juliet Moses @JulietMosesNZ · Mar 2

Good to see that @NZSuperFund supports ethnic cleansing of Jews from the West Bank, where their cradle of civilisation is, they have lived for millennia and the UN Charter (the only binding instrument of international law on this matter) entitles them to live.

Duncan Webb @Duncan_Webb_ · Mar 2

Good to see that due to human rights concerns @NZSuperFund will end its investment in Israeli banks that are funding settlements in the Palestinian Occupied West Bank. nzsUPERfund.nz/assets/documen...

1 5 15

Catherine Etheredge
Head of Communications

s9(2)(a)

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NZ Super excludes Israeli banks over financing activities in Occupied Territories

NZ Super says banks' financing of Israeli settlements 'inconsistent' with UN Global Compact



A wall between Israel and the West Bank

country: New Zealand | by: Paul Verney | Mar 3rd, 2021

New Zealand's sovereign wealth fund NZ Super has announced that it has pulled its money from five Israeli banks over their financing of Israeli settlements in the Occupied Palestinian Territories.

The exclusions apply to: First International Bank of Israel, Israel Discount Bank, Bank Hapoalim, Bank Leumi and Bank Mizrahi-Tefahot.

The same five banks were divested by Dutch pension fund PFZW in 2014 – a decision that sparked a diplomatic incident at the time, including protests and the Israeli Government summoning a Dutch ambassador to “clarify” the decision.

NZ Super, which announced its decision yesterday, pointed to “credible evidence” that the banks are providing project finance for the construction of Israeli settlements in occupied Palestinian territories.

“We believe that without the banks' involvement, the settlement activity would not be proceeding at the scale seen in recent times,” it said in a statement on its website.

NZ Super regards such financing as “inconsistent” with the UN Global Compact's principles, which the fund uses as the “key benchmark” to measure corporate behaviour.

In a separate document expanding on its rationale for the exclusions, the sovereign fund also points to reports describing the banks involvement in the settlements as “active and direct partners” rather than “passive lenders”.

NZ Super said it gave the banks an opportunity to respond to its concerns before the exclusion was undertaken, but that engagement was not likely to be effective given their “involvement in the face of international criticism over a long period” and their view that the activity is legal.

The total value of the excluded holdings is just NZ\$6.5m (€3.9m) and will not have a material financial impact on performance, the fund said.

‘We believe that without the banks' involvement, the settlement activity would not be proceeding at the scale seen in recent times’ - NZ Super

But the move does appear to mark a departure from NZ Super's historic approach to exclusions linked to Occupied Territories. In 2012, when the fund's investment committee recommended excluding construction companies involved in the settlements, it differentiated between companies with a direct and indirect involvement – banks, at that time, were deemed to be providing “a service and less direct than the construction firms

themselves”.

NZ Super said that its responsible investment framework is guided by policy positions of the New Zealand Government, which in 2016 co-sponsored a UN Security Council resolution demanding the cessation of Israeli settlement activities in the Occupied Palestinian Territories.

Last summer, the New Zealand Government stated publicly that: “New Zealand is a long-standing supporter of Israel’s right to live in peace and security. However, successive New Zealand governments have also been clear that Israeli settlements are in violation of international law and have negative implications for the peace process.”

Yesterday, RI reported that the leaders of New Zealand’s Green Party had publicly pulled their money out of the voluntary pension scheme Kiwi Saver - part-owned by NZ Super - because it refused to divest Raytheon Technologies, which has been accused of providing munitions to the Saudi military.

Earlier today, NZ Super’s outgoing Chair, Catherine Savage, also appeared before the Government’s Finance and Expenditure Select Committee and revealed that at the “height of the COVID-19 uncertainty in March 2020”, the fund lost NZ\$13.4bn (€8bn) of its value. But she assured the Committee that the fund has “since rebounded strongly”, returning 53% from that point to now. The fund’s value currently stands at NZ\$54bn (€32bn).

Savage also revealed that the fund no longer holds “material long term shareholdings of fossil fuel reserves” and is not contemplating any “future investments in fossil fuel reserves”. She also said that the fund had achieved its 2016 goal to reduce its exposure to carbon emissions by 40%.

tagged with: Global Compact, NZ Super, Palestine, Israel, Occupied Territories

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From: Enquiries
Sent: Wednesday, 3 March 2021 1:18 PM
To: Catherine Etheredge
Subject: FW: Attn: Catherine Savage; RE: Your decision to single out the only Jewish nation for special treatment

s9(2)(a)

From: Dr [REDACTED]@israelinstitute.nz>
Sent: Wednesday, 3 March 2021 1:11 PM
To: Enquiries <E2@nzsuperfund.co.nz>
Cc: grant.robertson@parliament.govt.nz; nanaia.mahuta@parliament.govt.nz
Subject: Attn: Catherine Savage; RE: Your decision to single out the only Jewish nation for special treatment

Alert: External Email. If unknown sender or email address do not click links/attachments and never give out your username or password.

Dear Ms Savage,

We write with respect to your decision to divest from Israeli banks.

Why have you chosen to single out Israel for divestment, while continuing to invest in companies (and banks) in Turkey, Saudi Arabia, Russia, and China?

Your decision to single out the only Jewish nation for special treatment mirrors the disproportionate and biased focus on Israel at the United Nations - which is where the majority of evidence for your decision was obtained.

Racial or identity bias, from whichever source, simply cannot be "best practice" that the NZSF must, by law, attempt to achieve. The advice you have relied on was heavily influenced by biased reports and controversial resolutions like UNSC 2334 that New Zealand co-sponsored and then admitted "we got it wrong" two years later (see <https://israelinstitute.nz/2018/07/new-zealand-got-it-wrong-over-2334-simon-bridges/>). Your advice also wrongly states that the resolution is binding on Israel, among other misinformation.

It is clear that Israel is treated differently to numerous other "occupying" nations in the NZSF's investable universe (see analysis by Prof Eugene Kontorovich at <https://academic.oup.com/jla/article/9/2/285/4716923>).

By participating in a similar double-standard and discrimination, you are likely in breach of S61(d) of the New Zealand Superannuation and Retirement Income Act 2001 that mandates your "...investment policies, standards, and procedures must cover ethical investment, including policies, standards, or procedures for avoiding prejudice to New Zealand's reputation as a responsible member of the world community."

UN resolutions are not a best practice for a default ethical standard - they cannot be, because it cannot be that NZ dispenses with its own sense of fairness, kindness and human rights justice in lieu of a racially biased de facto supranational standard determined by whichever group of non-democracies are able to pass resolutions at the UN for the NZSF to swallow and mis-apply. The NZSF must still exercise its own common sense judgement when it sees, and knows, that something is odd. This is more than odd.

None of the democratic "world community" - surely that is what the NZSF's constituting Act is referring to, rather than the 'world community' that includes North Korea, Iran, Sudan, etc - has taken the biased steps you have taken in your de facto racial categorisation.

Thus, the NZSF positions New Zealand as an outlier of democracies. This will surely place our reputation at more risk

with, for example, the USA, than the holding of the stocks would for perceptions in Iran. It is unclear which members of the global community you are trying to align with. We have written more about this at <https://israelinstitute.nz/2021/03/nz-super-fund-undermines-nzs-reputation-as-a-fair-actor/> also.

We have CC'd in the Minister of Finance as he is the responsible Minister identified in the Act and the Foreign Minister as she will have to consider how to manage New Zealand's reputation in light of your move.

Before we consider a complaint to the ombudsman, and responses to queries from the world's media, we would like to hear from you about:

- 1) how you can suggest that biased resolutions at the UN are legitimate a de facto best practices for the NZSF ethical and responsible investment standards; and
- 2) how you can justify a special de facto exclusive category for the only Jewish state in your exclusion set?

Sincerely,

s9(2)(a)

The Israel Institute of New Zealand

[Website](#) | [Facebook](#) | [Twitter](#)

The Israel Institute of New Zealand is an independent think tank dedicated to providing New Zealanders with a better understanding of the State of Israel through accurate analysis, insightful commentary, and effective advocacy.

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High Level Statement:

- The Guardians of New Zealand Superannuation (the Guardians) has been established as an autonomous Crown entity.
- The legislative settings of the Guardians prohibit the Government (or the Minister of Finance) from issuing directions on individual investment decisions. The Guardians has operational independence to invest the New Zealand Superannuation Fund (the Fund). It is not required to consult with the Government on investment decisions.
- This investment independence is considered a global best practice governance setting for sovereign wealth funds to allow investment decisions to be made without political interference.

Additional detail:

- The Guardians are governed by the New Zealand Superannuation and Retirement Income Act 2001 (NZSRI Act) and the Crown Entities Act 2004 (CE Act). These Acts establish that the Guardians are an autonomous Crown Entity.
- The Minister of Finance can only recommend a person for appointment as a board member from the pool of candidates nominated by a nominating committee. Essentially, this means that the Guardians operates at 'double-arm's-length' from the Minister of Finance.
- The Board of the Guardians are responsible for investing the Fund, it has operational independence to make individual investment decisions in the Fund.
- In terms of Ministerial direction powers:
 - The NZSRI Act sets out that the Minister can only give directions to the Guardians regarding the Government's expectations as to the Fund's performance, including the Government's expectations as to risk and return.
 - The CE Act prohibits a Minister from directing any autonomous Crown entity (including the Guardians) "requiring the performance or non-performance of a particular act, or bringing about of a particular result, in respect of particular person or persons".
- The Minister of Finance must not give a direction that is inconsistent with the Guardians' duty to invest the Fund on a prudent, commercial basis, in with a manner consistent with:
 - (a) best-practice portfolio management; and
 - (b) maximising return without undue risk to the Fund as a whole; and
 - (c) avoiding prejudice to New Zealand's reputation as a responsible member of the world community.

- The obligation to invest in a manner consistent with “avoiding prejudice to New Zealand’s reputation as a responsible member of the world community” has led to the Guardians establishing its responsible investment framework as part of its investment policies, standards and procedures, which the Board is responsible for developing and adhering to.
- The Guardians responsible investment framework considers ten factors in making exclusion decisions. These are set out in the Guardians investment committee paper¹ on this decision. One factor is “significant policy positions of the New Zealand Government” which has already been factored into the decision-making process.

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¹ <https://nzsuperfund.nz/assets/documents/responsible-investment/R-GNZS-IC-Paper-Exclusion-of-Israeli-Banks-January-2021.pdf>