

15 April 2021

[REDACTED]  
The Israel Institute of New Zealand  
[REDACTED]

Dear [REDACTED]

## **REQUEST UNDER THE OFFICIAL INFORMATION ACT 1982**

Thank you for your request to the Guardians of New Zealand Superannuation (“Guardians”), as the manager of the New Zealand Superannuation Fund (“Fund”) dated 16 March 2021 made pursuant to the Official Information Act 1982 (“OIA”).

### **Your Request**

You have requested the complete, unredacted version of the 14 January document that we proactively published on our website (being an Investment Committee paper relating to the exclusion of certain entities from the Fund’s portfolio).

### **Our Response**

We are declining your request based on a number of applicable grounds from the OIA, as summarised below. In arriving at this decision, we have considered whether the public interest in favour of disclosing the information outweighs our reasons for withholding it, and we have concluded that it does not.

In terms of the public interest, we note that the core reasons informing our decision to exclude the Israeli banks from the Fund are set out in the aspects of the Investment Committee paper which we have released. There are also public interest considerations in not disclosing the information, in that disclosure could have an adverse impact on our ability to undertake our commercial activities, which we explain further below.

Attached separately at **Appendix 1** is the document you have requested, the Investment Committee paper titled “Israeli banks and construction of settlements in the Occupied Palestinian Territories” with the core applicable withholding grounds noted beside each of the redactions.

Attached at **Appendix 2** are the minutes that were taken at the meeting of the Investment Committee where this paper was presented. We have determined that this document falls within scope of your first request (dated 02/03/2021). We are releasing the minutes to you now, in advance of making our decision in respect of the remainder of that request, alongside the relevant Investment Committee paper.

### **Applicable Withholding Grounds**

We summarise the core withholding grounds below. Please note that some of the issues/impacts we have described under one ground are relevant under several grounds. Where that is the case, for brevity we have not repeated the issue/impact under each ground.

**A. Section 9(2)(a) – *Protect the privacy of natural persons.***

In the interests of protecting the privacy of individuals, we have redacted the names of certain individuals mentioned in the documents. We do not believe that releasing this information in aid of the public's interest in transparency and accountability of the Guardians' decisions can be said to outweigh the potential injury and other implications that may be done by releasing this information and potentially subjecting these individuals to disproportionate contact and attention.

**B. Section 9(2)(b)(ii) – *Protect information where the making available of the information would be likely to unreasonably prejudice the commercial position of the person who supplied or who is the subject of the information.***

We engage with a number of peers and other counterparties on a range of responsible investment issues, which can be sensitive in nature. It is critical that we are able to do this to ensure that we continue to apply our leading responsible investment practices. If information regarding these organisations in our internal papers was disclosed, it is likely to unreasonably prejudice their commercial position, which could inhibit future collaboration and knowledge-sharing efforts with these parties. The continued supply of such information is important to the Guardians as a means of accessing valuable insights and benchmarking ourselves against global best practice. It is in the public interest that the Guardians can continue to access this information in order to manage its portfolio effectively.

Additionally, as part of investing the Fund we partner with various suppliers, including responsible investment screening, research and engagement agencies. These agencies are commercial entities, and their subscription-based business model depends on developing and providing information, and carrying out engagement on behalf of other entities. These agencies are concerned about protecting non-public information provided only to subscribers and signatories. Disclosing such information or information concerning their strategies to members of the public could undermine continued engagement efforts and impinge upon the ongoing viability of their business.

**C. Section 9(2)(ba)(i) – *Protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied.***

The provision of information regarding engagement with specific companies on responsible investment issues is subject to an obligation of confidence. The organisations that supply this information to the Guardians are not likely to work with us if the confidentiality of both the fact of the engagement and the information supplied as part of the engagement process cannot be upheld. It is in the public interest that we can continue to maintain standards of confidentiality with those we work with, in order to compete on a level playing field with other investors and maximise returns to the Fund.

**D. Section 9(2)(i) – *Enable a Minister of the Crown or any department or organisation holding the information to carry out, without prejudice or disadvantage, commercial activities.***

Investing the Fund is a commercial activity. Our ability to carry out our responsible investment responsibilities as manager of the Fund will be prejudiced or disadvantaged if non-public

information concerning internal advice, opinions, strategies and likely future actions were disclosed.

In carrying out our duties, we work with many partners, including investment advisers, responsible investment screening agencies, engagement providers, and peer funds. As stated above, potential future counterparties to responsible investment activities, peers that we collaborate and share knowledge with on responsible investment issues, and other suppliers will be discouraged from dealing with the Guardians if they do not have trust in our ability to maintain the confidentiality of sensitive information provided by them to us over the course of our working relationship.

**E. Section 9(2)(g)(i) – *Maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty.***

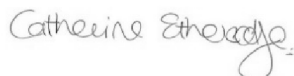
It is important for our efficient and effective operations that Guardians' staff are able to express their opinions freely and frankly. This is particularly important in the context of our responsible investment decision-making. The purpose of an Investment Committee paper is to lay out all considerations associated with the relevant matter in consideration in order to allow the Investment Committee to arrive at a fully-informed position. The specified paragraphs contain elements of opinion and the release of such information is likely to inhibit frankness and candour in the future, which we consider will be detrimental to good investment decision-making and contrary to the public interest.

**General**

You have the right to seek a review by the Ombudsman's Office of our response to your request.

Please note that we may choose to publish our response to your request on our website at [www.nzsuperfund.nz](http://www.nzsuperfund.nz).

Yours sincerely



Catherine Etheredge  
Head of Communications  
Guardians of New Zealand Superannuation