

Section 9(2)(a) Privacy

Section 9(2)(g)(ii) improper pressure or harassment

**From:** [redacted]  
**To:** Matt Whineray; [redacted] Sarah Owen; Catherine Etheredge; [redacted]  
**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,

Section 9(2)(g)(ii) improper pressure or harassment

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

Section 9(2)(g)(ii) improper pressure or harassment

- [redacted] 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] with the ambassador debating the Fund's decision and questioning the nature of the relationship between Government and the Fund. I had previously briefed MFAT on how our independence operates, [redacted]
- MFAT advises the ambassador would like a meeting with us. [redacted]
- [redacted] 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
- 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. [redacted]
- 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.
- [redacted]
- [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.

Section 6(a) Avoid prejudicing international relations

Thanks,

[redacted signature block]



Section 9(2)(g)(ii) improper pressure or harassment

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**From:** [REDACTED]  
**To:** [REDACTED]  
**Cc:** Catherine Etheredge; [REDACTED]  
**Subject:** RE: Israeli bank divestment  
**Date:** Wednesday, 3 March 2021 3:01:27 pm  
**Attachments:** Israel - Israeli Embassy's Non-Paper on NZ Super Fund Divestment March 2021.pdf  
Guardians of New Zealand Superannuation - Governance and investment settings 02.03.2021 - Final.docx

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[UNCLASSIFIED]

Kia ora [REDACTED]

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Thank you for the media and OIA updates.

Officials met with the Israeli Ambassador His Excellency Ran Yaakoby yesterday. At the meeting the Ambassador passed across a non-paper he had prepared with questions in relation to the divestment decision. We sought answers to some of the questions posed in the non-paper from the New Zealand Treasury which we have provided to the Ambassador. Please find the Treasury's responses attached for background.

As you can see a number of the questions are specific to the NZ Super Fund so we wanted to pass the non paper to you should you wish to respond to the Fund specific questions.

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]

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MFAT

[REDACTED]

Section 9(2)(a) Privacy

Section 9(2)(g)(ii) improper pressure or harassment

From: [REDACTED]@nzsuperfund.co.nz>  
Sent: Wednesday, 3 March 2021 8:48 AM  
To: [REDACTED]@parliament.govt.nz>; [REDACTED]@treasury.govt.nz)  
[REDACTED]@treasury.govt.nz>; [REDACTED]@parliament.govt.nz>;  
[REDACTED]@mfat.govt.nz>; Catherine Etheredge  
[REDACTED]@nzsuperfund.co.nz>; ..... [REDACTED]@parliament.govt.nz>  
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).

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

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Section 9(2)(a) Privacy

From: [REDACTED]@nbr.co.nz>  
Sent: Wednesday, 3 March 2021 8:44 AM  
To: [REDACTED]@nzsuperfund.co.nz>  
Subject: Re: Israeli bank divestment

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thank you [REDACTED] for this.

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From: [REDACTED]@nzsuperfund.co.nz [REDACTED]@nzsuperfund.co.nz>>  
Sent: 03 March 2021 08:41  
To: [REDACTED]@nbr.co.nz [REDACTED]@nbr.co.nz>>  
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 rationale 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<<https://www.beehive.govt.nz/release/new-zealand-expresses-concerns-over-proposed-israeli-annexation-plans>>: "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<<https://www.nzsuperfund.nz/assets/documents/responsible-investment/R-GNZS-IC-Paper-Exclusion-of-Israeli-Banks-January-2021.pdf>>.

ENDS

Please let me know if you need anything else.

Kind regards,

[Redacted]

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From: [Redacted]@nbr.co.nz<[Redacted]@nbr.co.nz>>

Sent: Wednesday, 3 March 2021 8:02 AM

To: [Redacted]@nzsuperfund.co.nz<[Redacted]@nzsuperfund.co.nz>>

Subject: Israeli bank divestment

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Hi [Redacted]

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

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Section 6(a) Avoid prejudicing international relations

Section 6(b)(i) passing of information from another government

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

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**From:** [REDACTED]  
**To:** [REDACTED]  
**Cc:** Catherine Etheredge;  
[REDACTED]  
@parliament.govt.nz  
**Subject:** RE: Israeli bank divestment  
**Date:** Wednesday, 3 March 2021 5:01:13 pm

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, and will also consider the non-paper. However, I should point out that most of the answers to his questions relating to the rational 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](#).

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,

[REDACTED] Section 9(2)(a) Privacy

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