

5 September 2022

By email: [REDACTED]

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Dear [REDACTED]

Official information requests regarding Metlifecare.

I refer to your official information requests dated 8 July 2022 (and subsequently clarified on 12 July 2022), for certain information pertaining to the two Metlifecare Schemes of Arrangement over the course of 2019 and 2020. As you requested, we have treated these as eight separate requests.

On 13 July we responded to your requests numbered five through eight; on 28 July we notified you of an extension until 5 September to respond to your other requests; and on 9 August we responded to your first request.

This response relates to your requests numbered two through four, for:

- 2) *All internal emails pertaining to those two schemes of arrangement, with attachments;*
- 3) *All correspondence between NZ Super and Metlifecare (and/or its advisers), pertaining to those two schemes of arrangement. This includes any information received by the Super Fund about the value of any indicative bids received by Metlifecare (including its advisers) when Metlifecare was effectively up for sale in late 2019; and*
- 4) *To the extent not included above, all correspondence between NZ Super and Carolyn Steele (the Metlifecare director who was nominated by NZ Super onto the Metlifecare Board), pertaining to those two schemes of arrangement.*

Part of the information we have identified as falling within your request is enclosed. We have withheld certain information on the basis that we have good reason for doing so under section 9 of the OIA. We considered whether the public interest in favour of disclosure outweighs our reasons for withholding such information and concluded that it does not.

We note that, as the relevant requests relate to a public markets scheme of arrangement, there is already comprehensive information concerning the merits of the transaction within the public arena, including via Metlifecare's continuous disclosure obligations, the scheme booklet provided to Metlifecare shareholders and other sources.

The core grounds we have relied upon, and a brief explanation of why they apply, are set out below. Please note that the explanation for certain different grounds overlap, and where this is the case we have included the explanation under one ground only (but it should be considered to apply to all grounds, as relevant).

A. Section 9(2)(a) – “protect the privacy of natural persons”

In the interests of protecting the privacy of individuals, we have redacted certain personal information including the names and identifying details of certain individuals together with certain private information that did not appear to be the main focus of your request but rather

caught by inclusion within email correspondence. We note that the relevant individuals are not decision-makers in respect of this matter.

We cannot see any public interest in, or public benefit from, the release of this personal information. It is not required for the purposes of transparency and accountability. There is no good reason why these individuals in particular should be subjected to potential public scrutiny. Our redactions of names and contact details is also based on a data security perspective. Misuse of personal information by cyber criminals is a key risk for us and for some parties mentioned in the enclosed documents. For this reason, we do not want individual personal information to be available where it has not otherwise been disclosed.

B. Sections 9(2)(b)(ii) and 9(2)(i) – “protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information” and “enable... any... organisation holding the information to carry out, without prejudice or disadvantage, commercial activities”.

Some of the information concerning Metlifecare, which operates in a very competitive market, is commercially sensitive. Non-public information that relates to Metlifecare’s commercial position, such as our views on its strategies, risks, earnings potential and future prospects, has been withheld where disclosure would diminish the value of that information or disadvantage Metlifecare in making the information known to its competitors.

Some of information has also been withheld because it is commercially sensitive in respect of the NZ Super Fund. Disclosing analyses and discussions contained in the materials would prejudice our ability to undertake our commercial activities by providing potential counterparties and competitors with insights into how we make investment decisions and the particular factors we consider when doing so. These insights and factors represent our ‘know how’ and competitive advantage in the investment market.

Furthermore, disclosing our interactions with prospective acquirers of our investments or analyses of investee companies and the detailed rationale behind the buy/sell decisions that we make would have a chilling effect on other investor or companies’ willingness to work with us, should they believe we would release such information pertaining to them in the future. It is very much in the public interest that we are able to operate as a commercially-focused investor and to keep this sensitive information confidential.

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”.

Some of the information you have requested has been provided to us on a confidential basis because it is commercially sensitive. We operate in a competitive market and if we cannot uphold the confidentiality of commercially sensitive information provided to us, the supply of such information will be jeopardised.

If we were to disclose this confidential information, other entities we may wish to contract with will be reluctant to engage with us because of the perceived risk of disclosure of their confidential information.

It is also important that, as a significant investor in NZ and other equities markets, we are able to interact on a confidential basis with directors/boards. Similarly, disclosure of such interactions may impede our ability to interact with directors/boards in the future, which is an important part of our investment and (more generally) sustainable finance activities.

It is in the public interest that we can maintain the highest standards of confidentiality and commercial sensitivity with those we work with, in order to compete on a level playing field

with other investors, maximise returns to the Fund (and therefore taxpayers) and fulfil other aspects of our legislative mandate.

D. 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 department or organisation in the course of their duty”.

It is important for our efficient and effective operations that our staff and officers, and the people that we work with when investing the Fund, are able to express their opinions freely and frankly in respect of complex investment decisions. This is fundamental to good investment decision-making. Our emails regarding Metlifecare include opinions of staff members and others who prepared those materials. The release of such information is likely to inhibit frankness and candour in the future which will be detrimental to good investment decision-making and contrary to the public interest.

E. Section 9(2)(h) – “maintain legal professional privilege”.

It is necessary that we withhold certain information to maintain legal professional privilege. Legal professional privilege is an important protection that will not be set aside except in the clearest cases. In this case, we do not consider that there is a public interest in releasing the relevant information that outweighs our interest in protecting our legal privilege.

We attach in **Appendices 1-3** the documents we have identified in our searches which we consider to be within the scope of your requests and which we are releasing to you, either in full or in part. Please note that we have not included duplicates (e.g. emails duplicated in email correspondence chains) or certain parts of emails/documents which were outside the scope of your request.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Please note that it is our policy to proactively release our responses to official information requests where we consider the request to be a material one. Our response to your requests will be published shortly at <https://www.nzsuperfund.nz/publications/disclosures/oia/>, with your personal information removed.

Yours sincerely



Catherine Etheredge

Head of Communications

Enclosed:

Appendix 1 – Internal emails

Appendix 2 – Emails with Metlifecare and advisors

Appendix 3 – Emails with Carolyn Steele