

11 October 2024

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██████████
 Stop Arming Israel NZ
 ██████████

Dear ██████████

Official information request for information regarding the New Zealand Superannuation Fund's investments in companies on the 30 June 2023 OHCHR published list of companies conducting business in illegal Israeli settlements

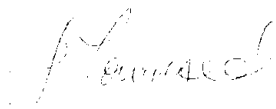
I refer to your official information request dated 30 September 2024. Our responses to your four questions are set out below.

Question	Response
<p>1. What was the specific process undertaken by the Guardians to review the decision to maintain their investments in the nine companies registered on the United Nations list of companies conducting business in illegal Israeli settlements post the ICJ Advisory Opinion (19th July 2024) declaring the settlements in the occupied Palestinian territories as unlawful?</p>	<p>The process to establish whether a company meets our exclusion criteria requires significant time and resources. We therefore focus on the most significant and material breaches of corporate environmental and social standards (including human rights). This approach aligns with international best practice guidelines for investors.</p> <p>In 2021 we excluded five companies (First International Bank of Israel, Israel Discount Bank, Bank Hapoalim, Bank Leumi, and Bank Mizrahi-Tefahot) from the NZ Super Fund due to what we consider to be a direct and material involvement in the development and construction of illegal settlements in the Occupied Palestinian Territories.</p> <p>In this case, we cross-checked the NZ Super Fund's holdings against the 30 June 2023 OHCHR list, both after the list was updated and more recently. We determined that the NZ Super Fund is invested in three of the companies on the list. The three companies are: Airbnb, Booking.com and Expedia.</p> <p>In our assessment, based on the information available to us, Airbnb, Booking.com and Expedia are not directly nor materially contributing to the development and construction of the illegal settlements, which was the key issue in our 2021 exclusion process and decision.</p> <p>We note also that the OHCHR list does not provide detail of the extent or materiality of the companies' involvement in any of the listed activities or make a determination on the legal status of any of the listed activities or companies, or provide guidance on how the list should be used.</p> <p>On this basis we consider these three companies have not reached the materiality threshold to be considered for exclusion from the NZ Super Fund.</p> <p>The ICJ Advisory Opinion relates primarily to international law and the obligations of States. We note that none of the</p>

	<p>companies are subject to UN Security Council or New Zealand government sanctions. If such sanctions were to be issued then we would comply with them.</p> <p>Further information about our exclusion process is available on our website at: https://nzsuperfund.nz/how-we-invest/sustainable-finance/exclusions/.</p>
<p>2. Has there been any correspondence relating to the application of s 58(2)(c) of the New Zealand Superannuation and Retirement Income Act 2001 since 19th July 2024? Please attach any relevant documents, emails and/or transcripts. Please include any advice the Guardians have received in relation to their duties under s 58 in relation to investment in business in illegal Israeli settlements.</p>	<p>Please see Appendix 1. Note: We have withheld all advice received relating to duties under section 58 of the NZSRI under section 9(2)(h) of the Act as it is necessary to maintain legal professional privilege.</p> <p>Except for the correspondent's email address, which is withheld under section 9(2)(a) of the Act (privacy), all other documents have been released in full.</p> <p>We considered whether the public interest in favour of disclosure outweighs our reasons for withholding such information and concluded that it does not.</p> <p>Note: we have not included correspondence with yourself.</p>
<p>3. Has there been any communications between the Minister of Finance to the Guardians in relation to investment in business in illegal Israeli settlements and/or the effect of the ICJ Advisory Opinion (19th July 2024)? If so, please attach all correspondence.</p>	<p>No.</p>
<p>4. Have the Guardians considered the present circumstances in light of their past decision to divest from five Israeli-owned banks in 2021? If so, why have the Guardians divested in one case but not the other? Please provide any documents which explain any difference in determinations relevant to each decision by the Guardians.</p>	<p>Please refer to our answer to Question 1. For further information on the 2021 decision please refer to our Media Release and Investment Committee paper.</p>

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 request will be published shortly at <https://www.nzsuperfund.nz/publications/disclosures/oia/>, with your personal information removed.

Yours sincerely



Jo Townsend

Chief Executive Officer

Encl John Minto letter 3 May 2024
John Minto response 10 June 2024
John Minto letter 12 September 2024
John Minto response 2 October 2024