

4 February 2025

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Stop Arming Israel

By email: [REDACTED]

Dear [REDACTED]

Official information request regarding companies on UNOCHCR list

I refer to your official information request dated 10 January 2025, on matters relating to NZ Super Fund holdings in companies on the Office of the United Nations High Commissioner for Human Rights (OHCHR) database of businesses involved in activities relating to the Israeli settlements in the Occupied Palestinian Territories.

Our answers to your questions are set out below.

Question	Response
<p>1. In response to question 2 of my last OIA dated 30 October you said that the Fund remains invested in the parent company Motorola Solutions Inc and such investment 'was omitted from the explanation of our decision process in our letter to you of 11 October'. Can you please elaborate on why that information was originally omitted? In addition, when compared with your 30 June 2024 disclosure, your investments in Motorola Solutions Inc have increased by \$29,727,642. Given this sizable increase and the fact that there was no confusion or lack of clarity in my original OIA, I do not think that this is acceptable practice from a public entity with a duty to act in good faith. This omission unnecessarily limited the scope of my original request. Further, there has never been any mention of Motorola Solutions Israel Inc in your portfolio disclosures; as such, it appears that there has been an illegal act</p>	<p>The omission from our response to you was an oversight, as a result of human error, for which we apologise. While the NZ Super Fund's holdings in Motorola Solutions Inc and Alstom SA, both of which are on the UN OHCHR list, were not included in our response to you, we can confirm that our Sustainable Investment team were aware of the holdings alongside the other companies named.</p> <p>We note that the Fund's holding of Motorola Solutions Inc and Alstom SA are included in the portfolio disclosures on our website; there is no lack of transparency on our part. Motorola Solutions Israel Inc is not included in the portfolio disclosures for the simple reason that the NZ Super Fund is not invested in it – we understand it is one (of many) subsidiary companies of Motorola Solutions Inc. In our portfolio disclosures we do not list the subsidiaries of the companies in which we are invested, and it would not be usual or practicable to do so. However, this information would usually be able to be discerned from publicly available information should users of the portfolio disclosures have an interest in such information.</p> <p>We note also that according to Who Profits Research Center, Alstom SA has no existing contracts or business</p>

<p>to attempt to obfuscate public understanding and access to information. Given this, could you please provide a formal apology?</p>	<p>activities in the OPT and has been removed from their database accordingly.</p>
<p>2. In the letter responding to OIA requests from John Minto dated 2 October you refer to “Statutory and legal reviews” that verify the organisations sustainable investment policies and practices align with international best practice and meet the requirements of the Act. Please provide copies of these reviews including the period to which they apply and the dates reviews were completed.</p>	<p>This request is declined, under section 18(d) of the Official Information Act on the basis that the information is publicly available:</p> <p>2024 Five-yearly independent statutory review: https://nzsuperfund.nz/publications/papers-reports-reviews/2024-independent-review-by-wtw/</p> <p>2021 Judgement of Justice Woolford: https://nzsuperfund.nz/assets/Uploads/Mohamed-v-Guardians-of-NZ-Superannuation.pdf</p>
<p>3. At 3.15 of the SIF, the policy document states that the Guardians may take account of a number of considerations in determining whether to invest or remove investment. Please advise:</p> <p>(a) whether all considerations listed were taken into account;</p> <p>(b) which considerations were not taken into account if any;</p> <p>(c) whether the analysis includes balancing the considerations taken into account against one another and if so, whether particular weight was given to specific considerations over others.</p>	<p>Section 3.15 of our Sustainable Investment Framework (SIF) provides that “We exercise judgement in making our sustainable investment decisions. Analysis to support our monitoring, engagement and exclusion decisions may take account of, as relevant:...” a range of factors.</p> <p>This section of our SIF highlights that our sustainable investment practices involve judgement and identifies a range of matters we may take into account in our monitoring, engagement and exclusion decisions as we determine relevant in the particular circumstances.</p> <p>In line with our SIF, the Guardians’ process that leads to possible engagement or exclusion is an iterative one and can take some time, particularly in complex cases. No case for exclusion has been prepared in respect of the relevant companies, nor has a decision <u>not</u> to exclude been made.</p> <p>We have excluded a number of companies historically on the basis that in our view, based on the information available to us, there was an unacceptable risk that those companies were in severe breach of human rights standards due to a direct and material involvement in the development and construction of illegal settlements in the OPT, and that engagement would not be a successful course of action.</p> <p>We note that the relevant companies on the OHCHR database that we continue to hold are all listed in main indices and are very widely held, including by peer funds with strong sustainable investment reputations. In many instances the indices themselves include ESG-related</p>


	<p>criteria as part of their eligibility rules which prevent entities not meeting those criteria being included.</p> <p>The relevant companies are not currently red-flagged by the specialist services that we use to screen companies for potential breaches of ESG standards.</p>
<p>4. Please provide details about all/any instances in the last three years where the Guardians have made a decision to 'engage with' organisations, where there have been sufficient concerns about the companies connection to human rights breaches including the rationale for engagement.</p>	<p>Extensive information on our engagement programme over the last three years, including in respect of human rights specifically, is publicly available. We refer you to:</p> <ul style="list-style-type: none"> • 2024 Stewardship Report: https://nzsuperfund.nz/assets/Publications/Annual-Reports/2024-Stewardship-Report.pdf?Search=Stewardship%20Report • 2023 Annual Report: https://nzsuperfund.nz/assets/Uploads/Annual-Report-2022-23.pdf • 2022 Annual Report: https://nzsuperfund.nz/assets/Publications/Annual-Reports/Annual-Report-2021-22.pdf • Ongoing quarterly reports from our global engagement provider CTI, available at: https://nzsuperfund.nz/how-we-invest/sustainable-finance/engagement/ <p>The specific details you request have been withheld, under sections:</p> <p>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”.</p> <p>9(2)(i) “enable... any public service agency or organisation holding the information to carry out, without prejudice or disadvantage, commercial activities”.</p> <p>The details you have requested include information about our sustainable investment engagement programme in connection with specific companies.</p> <p>While we proactively disclose significant information around our sustainable investment approach (including engagement) generally, it is crucial that we conduct our</p>

	<p>specific engagements with investee companies on sustainable investment issues on a confidential basis as part of our commercial activities.</p> <p>For engagements to be as effective as possible, we need to have a relationship of trust with the investee company in order to deepen our information and influence. The companies we wish to engage with will not work with us if we cannot uphold the confidentiality of both the fact of the engagements and the information supplied as part of the engagement process. This creates a very real risk that the supply of information from the companies concerned would be jeopardised and would put future engagements on sustainable investment issues at risk. This would also jeopardise the willingness of other investors/organisations to work with us in engagement collaborations, which is an essential part of our sustainable investment framework.</p> <p>There is a strong public interest in enabling the Guardians to undertake its engagement activities in an effective manner.</p>
<p>5. What is the Guardians definition of 'direct and material' and 'severe breach of human rights standards'? Given that this criteria does not exist in the New Zealand Superannuation and Retirement Income Act 2001, can you please explain how this standard is consistent with the explicit language of the Act?</p>	<p>The New Zealand Superannuation and Retirement Income Act 2001 provides the Guardians with broad discretion as to how to implement its statutory mandate (as the High Court has confirmed in <i>Mohamed v Guardians of New Zealand Superannuation</i> [2021] NZHC 512 at [27]). Our SIF uses the term "material" in its ordinary sense, and it is not required to be defined.</p> <p>For an example of how this concept has been applied in practice in this context, refer to https://nzsuperfund.nz/assets/Disclosures/Proactive-Disclosures/R-GNZS-IC-Paper-Exclusion-of-Israeli-Banks-January-2021.pdf.</p>

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

Yours sincerely

A handwritten signature in black ink, appearing to read "Adrien Hunter".

Adrien Hunter
Associate General Counsel