

4 February 2025

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[REDACTED]
 Palestine Solidarity Network Aotearoa

By email: [REDACTED]

Dear [REDACTED]

Official information request regarding NZSF investee companies on UN OHCHR Database

I refer to your official information request dated 27 November 2024 and received by us on 18 December 2024.

Our responses to your questions are set out below.

Request	Response
1) Confirmation that references in prior correspondence to investments in “Expedia Inc” refer to “Expedia Group Inc”	Correct.
2) Confirmation that the NZSF has no investments in companies on the UN OCHR Database, other than those previously disclosed in Airbnb, Booking Holdings, Expedia Group and Motorola Solutions	We interpret “investments” as equity and/or debt holdings in the relevant companies. NZSF is also invested in Alstom SA. We apologise that our earlier correspondence overlooked this, although we note the fact of NZSF’s investment in Alstom SA is listed in the portfolio disclosures on our website and so is (and was) already available. We note also that according to Who Profits Research Center, Alstom SA has no existing contracts or business activities in the OPT and has been removed from their database accordingly.
3) Advise, for each of the above four companies, whether NZSF’s investments are held directly or via a Collective Investment Vehicle	In all cases the investments we have disclosed are held directly by NZSF, whether trading is managed by our in-house team or by an external supplier.
4) Advise whether the Guardians has	In line with our Sustainable Investment Framework, the Guardians’ process that leads to possible engagement or

<p>considered ethical exclusion of each of the above four companies</p>	<p>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 listed on the UN OHCHR Database (i.e. the four you refer to plus Alstom SA), nor has a decision <u>not</u> to exclude been made.</p> <p>We have been monitoring (and will continue to monitor) the situation in the OPT. We source information on the OPT and corporate involvement from multiple sources, including the UN OHCHR Database.</p> <p>It is important, however, to note that the UN OHCHR Database is one source of information and it was neither designed specifically for investors nor intended to act as an automatic investment exclusion list. Importantly, the UN OHCHR itself stated in the 30 June 2023 update that the Database “is not and does not purport to constitute a judicial or quasi-judicial process of any kind, or to provide any legal characterization of the listed activities or business enterprises’ involvement therein”. It does not provide detail as to the nature and extent of any involvement.</p> <p>As we have previously advised, 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 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 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>Our focus has been on the development and construction of settlements in the OPT as the key activity that is likely to have an unacceptable risk of a direct and material breach of human rights. The relevant companies have not been identified, in information available to us, as materially involved in the development and construction activity to build the settlements.</p> <p>While we do not comment on any particular companies that form part of our global focus list given the commercial sensitivity and potential to undermine our ability to implement our sustainable</p>
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	investment engagement effectively, in appropriate instances we do include certain companies on our global focus list for further research and monitoring.
5) Copies of all documents relating either to the undertaking of such assessments (if conducted), and equally relating to any decisions not so (if that is the case).	Refer to Appendix 1. We have included working note summaries on certain of the issuers, which were prepared internally to assist NZSF to monitor for evidence of relevant involvement in the development and construction of the settlements. Note that there is no working note for Expedia Group Inc. This is because we only hold corporate bonds in respect of this company, and have paused further consideration of a number of bond holdings pending a planned change to the broader investment methodology of our bond portfolio to a benchmark with ESG and climate criteria, which is likely to change the makeup of the bonds that comprise our portfolio. It is possible that the Expedia Group Inc bonds may leave NZSF's portfolio after this change.

We attach in **Appendix 1** the documents we have identified in our searches which we consider to be within the scope of your request and which we are releasing to you in part. We have withheld certain information (redacted in the documents) on the basis that we have good reason for doing so under section 9 of the Official Information Act 1982 (OIA). We considered whether the public interest in favour of disclosure outweighs our reasons for withholding such information and concluded that it does not.

The core grounds we have relied upon, and a brief explanation of why they apply, are set out below.

- A. 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”.** As part of our investment activity we contract with various suppliers, including responsible investment/ethical screening and research agencies. These agencies are commercial entities in their own competitive markets, and their business model depends upon developing and selling proprietary advice and research.

Given the reports are central to their business model and developed at considerable expense, these agencies are naturally very concerned about protecting their intellectual property and proprietary analysis, including because disclosing such information can cause them loss of revenue opportunities or make their research available to competitors.

Furthermore, because the information is often produced with recourse to third party sources, our suppliers could be in breach of their own licensing agreements should this information become subject to public distribution.

Given this, releasing the information to the public would limit the ability of our suppliers to sell research to clients in the future, and may expose them to financial litigation which in our view would unreasonably prejudice their commercial position. (We refer to section 9(2)(b)(ii) and – “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".)

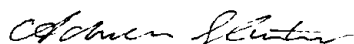
- B. Section 9(2) (i)** – *“Enable a ... organisation holding the information to carry out, without prejudice or disadvantage, commercial activities”*. Our legislation requires us to invest the fund, including to manage or enable the management of the fund, on a commercial basis. Fund investments and their management are accordingly expressly commercial activities. In investing the Fund we compete in a global market for access to the best investment managers, investment opportunities, co-investors, advisers and other service providers (including sustainable investment service providers).

These entities operate in their own highly competitive markets and are very concerned about protecting their sensitive commercial and/or proprietary information. They will not work with us if we cannot uphold the confidentiality of this information. Releasing this information would therefore prejudice and/or disadvantage our ability to undertake our commercial activities.

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



Adrien Hunter
Associate General Counsel

Encl Appendix 1