

**To Norges Bank**

July 2, 2025

UNOFFICIAL ENGLISH TRANSLATION

**Recommendation to exclude  
Bank Hapoalim BM from the  
Norwegian Government Pension  
Fund Global**

## Summary

The Council on Ethics recommends that Bank Hapoalim BM (BHBM) be excluded from investment by the Norwegian Government Pension Fund Global (GPFG) due to an unacceptable risk that the company is contributing to serious violations of the rights of individuals in situations of war or conflict.

BHBM is an Israeli bank, which provides financial services and products to businesses and individuals in Israel and the Israeli settlements in the West Bank, including East Jerusalem.

At the close of 2024, the GPFG owned 1.39 per cent of the company's shares, worth NOK 2.5 billion. The company is listed on the Tel Aviv Stock Exchange (TASE).

BHBM provides financial services in the form of guarantees to building contractors which construct apartment buildings in the West Bank, including East Jerusalem. The guarantees are legally mandatory and are intended to safeguard homebuyers in the event that the building contractor collapses into administration. BHBM has issued such guarantees in connection with residential property projects in the Occupied Palestinian Territory (OPT) on several occasions in recent years, most recently in 2024. The guarantees are a necessary precondition for the construction of residential property in the OPT in violation of international law.

The Council therefore considers there to be an unacceptable risk that BHBM is contributing to the violation of international law in a way that constitutes grounds for exclusion from investment by the GPFG.

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# 1 Introduction

The Council on Ethics for the Norwegian Government Pension Fund Global (GPFG) has assessed the Fund's investments in Bank Hapoalim BM<sup>1</sup> (BHBM or the company) against the Guidelines for Observation and Exclusion of Companies from the Government Pension Fund Global (the ethical guidelines).<sup>2</sup>

At the close of 2024, the GPFG owned 1.39 per cent of the company's shares, worth NOK 2.5 billion.

The Council's assessment was prompted by information received concerning BHBM's provision of financial services in connection with the construction of Israeli settlements in the West Bank, including East Jerusalem (the Occupied Palestinian Territory or OPT).

## 1.1 Matters considered by the Council

The Council has considered whether there is an unacceptable risk that BHBM is contributing to serious violations of the rights of individuals in situations of war or conflict under section 4(b) of the ethical guidelines, according to which:

*Companies may be excluded or placed under observation if there is an unacceptable risk that the company contributes to or is responsible for:*

*[...]*

*b) serious violations of the rights of individuals in situations of war or conflict*

*[...]*

In 2020, the Norwegian government tasked the Commission on Ethics to review the GPFG's ethical guidelines and make recommendations regarding their amendment and interpretation. In its report NOU 2020: 7, the Commission discussed how the ethical guidelines should be applied to financial institutions' contribution to serious norm violations through their financing activities. The Commission took the view that the threshold for exclusion should be operationalised on the basis of the seriousness of the norm violations and the closeness of the institution's involvement in them. The Commission stated that

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<sup>1</sup> Issuer ID: 162474

<sup>2</sup> Guidelines for Observation and Exclusion of Companies from the Government Pension Fund Global:

[https://www.regjeringen.no/contentassets/9d68c55c272c41e99f0bf45d24397d8c/2022.09.05\\_gpf\\_g\\_guidelines\\_observation\\_exclusion.pdf](https://www.regjeringen.no/contentassets/9d68c55c272c41e99f0bf45d24397d8c/2022.09.05_gpf_g_guidelines_observation_exclusion.pdf).

closeness may arise *"if a company's actions or its failure to act may be said to lead to, facilitate or encourage its business associate to commit a norm violation. In connection with particularly serious or foreseeable norm violations, the requirement for closeness may be reduced."*

The Commission further stated that project funding or other forms of asset-based financing exemplify forms of financing where such a closeness may typically exist, although the Commission did not limit the possibility of exclusion solely to such cases.<sup>3</sup>

The Council on Ethics has recommended the exclusion of several companies as a result of their business connections with Israeli settlements in the OPT. The starting point for these recommendations is that the settlements constitute a violation of international law, which is Norway's official position and that of large parts of the international community. The extent to which companies are deemed to contribute to the establishment or expansion of the settlements depends on a specific and multifaceted assessment, a key factor in which is how closely the company concerned is involved in the norm violation.

In light of the Advisory Opinion issued by the International Court of Justice (ICJ) on 19 July 2024, which declared the Israeli occupation of Palestinian territory per se to be illegal, the Council considers that there are grounds to tighten the requirement for due diligence in connection with companies that have links to or operate in these areas.

## 1.2 Sources

Information concerning the settlements' funding model and their financing comes from non-government organisations.<sup>4</sup> Via the Association of Banks in Israel (ABI), BHBM has explained the company's position in greater detail, most recently in a letter dated 10 January 2025, as well as in a meeting with the Council in February 2025 and subsequent emails.

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<sup>3</sup> NOU 2020: 7 – Verdier og ansvar, pp. 159–160:

<https://www.regjeringen.no/no/dokumenter/nou-2020-7/id2706536/>; For a summary in English, please see:

<https://www.regjeringen.no/contentassets/86dac65c22384dda9584dc2b1a052a91/en-gb/pdfs/nou202020200007000engpdfs.pdf>.

<sup>4</sup> See, for example, Human Rights Watch, 29 May 2018, *Bankrolling Abuse Israeli Banks in West Bank Settlements*: <https://www.hrw.org/report/2018/05/29/bankrolling-abuse/israeli-banks-west-bank-settlements>; and Who Profits Research Center: [Who Profits - The Israeli Occupation Industry - First International Bank of Israel](#).

When assessing the status of the OPT under international law, the Council has relied on statements issued by various UN bodies, the International Court of Justice (ICJ) and the International Committee of the Red Cross.

## 2 Background

### 2.1 Israeli settlements in the West Bank and East Jerusalem

The *West Bank* is the term used for the area of land that lies west of the River Jordan and east of the 1949 demarcation line. The territory was occupied by Israel during the Six-Day War in 1967. Before that, the area was occupied by Kingdom of Jordan. Following the signing of the Oslo Accords, authority for parts of the West Bank, the so-called A and B areas, was transferred to a Palestinian self-governing authority. A large part of the West Bank is designated as Area C and remains under Israeli civilian and military authority.

It has been reported that, as of February 2024, more than 500,000 Israelis were living in settlements in Area C. It is forecast that this number will continue to grow and that the number of Israeli settlers in the West Bank will exceed 600,000 by 2030.<sup>5</sup> For its part, the Association of Banks in Israel claims that the number of Israelis living in the West Bank is falling.<sup>6</sup> In addition, as of October 2024, just over 230,000 Israeli settlers were living in East Jerusalem. A report published by the UN Human Rights Council on 6 March 2025 found that, in the period November 2023 to October 2024, Israeli authorities had approved, or were in the process of approving, a further 10,360 housing units in existing settlements in Area C of the West Bank, and were also planning the expansion of existing and construction of new settlements in East Jerusalem.<sup>7</sup> Israel's present government has confirmed plans for further expansion of the settlements.<sup>8</sup>

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<sup>5</sup> Times of Israel, 12 February 2024, *West Bank settler population grew by nearly 3% in 2023*: <https://www.timesofisrael.com/west-bank-settler-population-grew-by-nearly-3-in-2023-report/>.

<sup>6</sup> Email from the Association of Banks in Israel to the Council on Ethics, dated 1 April 2025.

<sup>7</sup> UN Human Rights Council (UNHRC), 6 March 2025, *Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan*, p. 5: <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session58/advance-version/a-hrc-58-73-aev-1.pdf>.

<sup>8</sup> BBC, 6 March 2024, *Israel approves plans for 3,400 new homes in West Bank settlements*: <https://www.bbc.com/news/world-middle-east-68490034>; The Guardian, 29 May 2025, *Israel confirms plans to create 22 new settlements in occupied West Bank*:

In 2022, the Palestinian population in the West Bank totalled around 3.2 million, with some 300,000 living in Area C.<sup>9</sup> The Israeli settlements and associated areas cover around 10 per cent of the West Bank's land mass.<sup>10</sup>

On behalf of BHBM, the Association of Banks in Israel has claimed that the term "settlement" cannot be used as a uniform descriptor for the Israeli presence in the OPT, unless a concomitant assessment is made of the individual settlement's geographic location.<sup>11</sup>

## **2.2 Legality of Israel's occupation of and settlements in the West Bank and East Jerusalem**

### **2.2.1 Advisory Opinion issued by the International Court of Justice**

In 2022, the UN General Assembly asked the International Court of Justice (ICJ) to assess the implications under international law of Israel's occupation of the Palestinian Territory, including the question of whether the Israeli occupation must be deemed to violate international law. In this connection, the General Assembly expressed grave concern about the human rights situation in the OPT.<sup>12</sup>

On 19 July 2024, the ICJ issued its opinion. The ICJ found that the occupation of Palestinian areas must be considered a violation of the rules governing the use of force and a violation of the Palestinian people's right to self-determination. As a result, the occupation per se is illegal.<sup>13</sup>

The Court concluded that the restrictions imposed by Israel on the Palestinians in the West Bank and East Jerusalem constitute systematic discrimination on the grounds of race, religion or ethnic origin, in violation of Article 2 and Article 3 of

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[https://www.theguardian.com/world/2025/may/29/israel-new-settlements-occupied-west-bank-palestinian-state?CMP=Share\\_iOSApp\\_Other](https://www.theguardian.com/world/2025/may/29/israel-new-settlements-occupied-west-bank-palestinian-state?CMP=Share_iOSApp_Other); Haaretz, 26 May 2025, *Netanyahu Minister Threatens U.K., France With West Bank Annexation if Palestinian State Recognized*:

<https://www.haaretz.com/israel-news/2025-05-26/ty-article/.premium/netanyahus-top-ally-threatens-west-bank-annexation-if-palestinian-state-declared/00000197-0c1f-dc94-ab97-0e1f0c110000>.

<sup>9</sup> Palestinian Central Bureau of Statistics:

[https://www.pcbs.gov.ps/portals/\\_pcbs/PressRelease/Press\\_En\\_InterPopDay2022E.pdf](https://www.pcbs.gov.ps/portals/_pcbs/PressRelease/Press_En_InterPopDay2022E.pdf).

<sup>10</sup> United Nations Office for the Coordination of Humanitarian Affairs (OCHA): The Humanitarian Impact of Israeli Settlement Activities:

<https://www.ochaopt.org/content/west-bank-humanitarian-impact-israeli-settlement-activities>

<sup>11</sup> Letter from the Association of Banks in Israel to the Council on Ethics, dated 10 January 2025.

<sup>12</sup> ICJ, Request for Advisory Opinion, 30 December 2022:

<https://www.icj-cij.org/sites/default/files/case-related/186/186-20230117-REQ-01-00-EN.pdf>

<sup>13</sup> ICJ, Advisory Opinion, 19 July 2024, para. 261: <https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf>.

the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).<sup>14</sup>

The Court determined that Israel's settlement policy and the way Israel exploits the territory's natural resources violate international law. The Court points to the expansion of Israel's settlements in the West Bank and in East Jerusalem as involving the confiscation or requisitioning of large areas of land, with associated natural resources. The Court also pointed to the fact that the Israeli Defence Force (IDF) have implemented measures that intensify the pressure on the Palestinian population to leave certain areas. The Court found that the nature of Israel's actions indicates that the measures are not of a temporary nature, and can therefore not be deemed to constitute a lawful evacuation under the terms of the Fourth Geneva Convention. The Court concluded that Israel's policies and practices must be considered a violation of the prohibition on forcible transfers set out in Article 49 of the Fourth Geneva Convention.

Among the legal consequences of this, the Court underlines that Israel must, as soon as possible, terminate its presence in the OPT. This includes halting all new settlement activity.<sup>15</sup>

On behalf of BHBM, the Association of Banks in Israel has pointed out that the State of Israel did not participate in the process that led up to the ICJ's Advisory Opinion, and that certain matters may therefore have been inadequately enlightened. In addition, the ABI points out that the ICJ judges were not wholly unanimous in their opinions and that certain international law experts have criticised the decision.<sup>16</sup>

### **2.2.2 Fourth Geneva Convention**

The point of departure for assessing the legality of the settlements in the West Bank, including East Jerusalem, is the Fourth Geneva Convention (Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War). The Convention establishes, *inter alia*, the rights and duties that an occupying power has in an occupied territory. The Convention came into effect in 1950, and Israel became a signatory to it, without reservations, in 1951.

The Convention's Article 4 sets out who it is intended to protect: *"Persons protected by the Convention are those who, at a given moment and in any manner whatsoever,*

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<sup>14</sup> ICJ, Advisory Opinion, 19 July 2024, paras. 213, 222 and 229: <https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf>.

<sup>15</sup> ICJ, Advisory Opinion, 19 July 2024, paras. 267 and 268: <https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf>.

<sup>16</sup> Letter from the Association of Banks in Israel to the Council on Ethics, dated 10 January 2025.



*find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals. [...]*<sup>17</sup>

Article 49(1) of the Convention states that: *"Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive."*<sup>18</sup> Such actions are deemed to constitute a grave breach of the Fourth Geneva Convention.<sup>19</sup>

The legality of the settlements may be assessed against the provisions of Article 49(6), which states: *"[...] The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies."* The purpose of this provision is to prevent an occupying power from absorbing occupied areas and to protect local populations from any worsening of their economic situation.<sup>20</sup> Such acts are deemed a war crime under the Rome Statute of the International Criminal Court.<sup>21</sup>

### **2.2.3 International bodies' views on the legality of the settlements**

There is broad international consensus that the Israeli settlements in the West Bank and East Jerusalem constitute a violation of international law. This position has also formed the starting point for previous recommendations to exclude companies operating in the OPT issued by the Council.

The UN Security Council has passed a number of resolutions on the settlements. Security Council Resolution 465, which was passed unanimously on 1 March 1980, states, *inter alia*, that Israel's policy and practice with respect to building settlements in occupied areas are without legal validity and *"constitute a flagrant violation"* of the Fourth Geneva Convention.<sup>22</sup> Most recently, this was repeated in Resolution 2334 from 2016:

*[...] the establishment by Israel of settlements in the Palestinian territory occupied since 1967, including East Jerusalem, has no legal validity and constitutes a flagrant violation*

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<sup>17</sup> Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, Article 4: <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-4?activeTab=>.

<sup>18</sup> Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, Article 49(1): <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-49?activeTab=>.

<sup>19</sup> Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, Article 147: <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-147?activeTab=>.

<sup>20</sup> International Committee of the Red Cross, Commentary on the Fourth Geneva Convention (1958), Article 49, p. 283.

<sup>21</sup> Rome Statute of the International Criminal Court of 1998, Article 8(2)(b)viii.

<sup>22</sup> Security Council Resolution 465, 1 March 1980: <https://unispal.un.org/UNISPAL.NSF/0/5AA254A1C8F8B1CB852560E50075D7D5>.

*under international law and a major obstacle to the achievement of the two-State solution and a just, lasting and comprehensive peace; [...]*<sup>23</sup>

A statement from the High Contracting Parties to the Fourth Geneva Convention, issued in 2001, stipulates:

*The participating High Contracting Parties call upon the Occupying Power to fully and effectively respect the Fourth Geneva Convention in the Occupied Palestinian Territory, including East Jerusalem, and to refrain from perpetrating any violation of the Convention. They reaffirm the illegality of the settlements in the said territories and of the extension thereof.*<sup>24</sup>

## **2.2.4 Norway's position on the legality of the settlements**

Norway's official position with respect to the settlements has always been that they constitute a violation of international law. This is rooted in the resolutions passed by the UN Security Council and the opinions published by the ICJ. Norway's statement to the ICJ in February 2024 reaffirmed this view.<sup>25</sup> The Norwegian government further reiterated its position in a press release published in March 2024.<sup>26</sup>

In October 2024, the Norwegian government advised Norwegian businesses even more strongly not to engage in business activities that contribute to sustain Israel's occupation of Palestine.<sup>27</sup>

## **2.2.5 Israel's view of the settlements' legality**

In Israel, the various branches of government express slightly diverging positions on the legality of the settlements. The Israeli Foreign Ministry asserts that the settlements are not illegal and that claims to this effect are politically motivated. Israel refers, *inter alia*, to the fact that the relocation of Israelis to the settlements is voluntary and that the settlements do not displace other population groups in the area. Moreover, Israel points out that several of the settlements have been

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<sup>23</sup> Security Council Resolution 2334, 23 December 2016:

<https://www.un.org/webcast/pdfs/SRES2334-2016.pdf>.

<sup>24</sup> Conference of High Contracting Parties to the Fourth Geneva Convention Declaration, Geneva, 5 December 2001: <https://www.icrc.org/en/doc/resources/documents/article/other/5fldpj.htm>.

<sup>25</sup> Norway's statement to the Court, ICJ, Public Proceedings, Verbatim, 23 February 2023, p. 20 et seq.: <https://icj-cij.org/sites/default/files/case-related/186/186-20240223-ora-01-00-bi.pdf>.

<sup>26</sup> Norwegian government, Press release, 14 March 2024:

<https://www.regjeringen.no/no/aktuelt/regjeringen-frarader-handel-og-naringsvirksomhet-med-israelske-bosettinger/id3028680/>.

<sup>27</sup> Norwegian government, Press release, 17 October 2024:

<https://www.regjeringen.no/no/aktuelt/skjerper-fraradningen-til-norsk-naringsliv-unnga-handel-som-bidrar-til-a-oppretholde-israels-okkupasjon-av-palestina/id3061358/>.

established in areas where Jewish communities were located in ancient times.<sup>28</sup> As mentioned above, the current Israeli government plans to establish new settlements.

## 2.3 The settlements' humanitarian impact

In previous recommendations, the Council has referred to statements by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA),<sup>29</sup> which has repeatedly highlighted the negative impact on social and economic conditions caused by the settlements and their associated infrastructure on the population in the occupied territory.<sup>30</sup> In 2023 it was reported that several hundred road blocks and checkpoints that prevented free movement and access to farmland.<sup>31</sup>

A large proportion of these measures have been established to protect the Israeli settlements. On 6 March 2025, the UN Human Rights Council (UNHRC) published a status report on the human rights situation in the OPT, including East Jerusalem and the occupied Golan Heights. The report, which covered the period November 2023 to October 2024, describes a deterioration of Palestinians' freedom of movement compared with the year before, and therefore a restriction of the ability of Palestinian olive growers in the West Bank, including East Jerusalem, to harvest their olives.

According to the report, this is largely due to an increase in the number of violent clashes between Palestinians and Israeli settlers during the period. The majority of those killed in these clashes were Palestinian (612 people), while 24 Israelis are reported to have been killed.<sup>32</sup> In a letter to the Council, the Association of Banks

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<sup>28</sup> Israel Ministry of Foreign Affairs: Israeli Settlements and International Law: <https://mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/israeli%20settlements%20and%20international%20law.aspx>.

<sup>29</sup> United Nations Office for the Coordination of Humanitarian Affairs: <https://www.unocha.org/>.

<sup>30</sup> See, for example, the Council on Ethics' 2021 recommendation to exclude the companies Elco Ltd and Electra Ltd: <https://etikkradet.no/elco-ltd-and-electra-ltd/>.

<sup>31</sup> United Nations Office for the Coordination of Humanitarian Affairs (OCHA), 25 August 2023, *Movement and Access in the West Bank*: <https://www.unocha.org/publications/report/occupied-palestinian-territory/fact-sheet-movement-and-access-west-bank-august-2023>.

<sup>32</sup> UN Human Rights Council (UNHRC), 6 March 2025, *Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan*: <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session58/advance-version/a-hrc-58-73-aev-1.pdf>

in Israel has pointed out that there is no link between BHBM and the violence taking place in the West Bank.<sup>33</sup>

## **2.4 The occupying power's rights and obligations**

The Convention (IV) respecting the Laws and Customs of War on Land, adopted in The Hague on 18 October 1907,<sup>34</sup> lays out an occupying power's obligations under international law. This may involve a duty to build and maintain infrastructure in the territory under occupation. However, any such duty is circumscribed by the strict limitations imposed on the occupying power's right to use land and real-estate property under the law of occupation.<sup>35</sup>

The decisive element is whether the infrastructure is necessary for military purposes or, alternatively, whether it is being constructed to meet the basic needs of the occupied population.<sup>36</sup>

In its Advisory Opinion from 2024, the ICJ found that Israel's enduring occupation does not exempt it from its obligations as the occupying power under the law of occupation. Nor does long-term occupation increase the occupying power's rights over the occupied territory.<sup>37</sup> An occupying power cannot acquire for itself increased rights to operate in or regulate an occupied territory simply by maintaining its occupation over a long period of time. The ICJ also took the position that the Oslo Accords cannot be understood to place any restrictions on Israel's obligations under international law.<sup>38</sup>

## **2.5 Previous exclusions based on business activities in the West Bank**

Several companies have been excluded from investment by the GPFG at the recommendation of the Council on Ethics, due to their business links with Israeli

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<sup>33</sup> Letter from the Association of Banks in Israel to the Council on Ethics, dated 10 January 2025.

<sup>34</sup> The relevant provisions (Articles 42–56 of the Regulations concerning the Laws and Customs of War on Land) are considered to constitute common law and are therefore binding on all states.

<sup>35</sup> Hague Convention (IV) of 1907, Article 55: <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-55>.

<sup>36</sup> International Committee of the Red Cross, Commentary on the Fourth Geneva Convention (1958), Article 49, p. 283.

<sup>37</sup> The ICJ's Advisory Opinion, 19 July 2024, 19 July 2024, para. 108: <https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf>

<sup>38</sup> The ICJ's Advisory Opinion, 19 July 2024, para. 102: <https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf>

settlements in the West Bank.<sup>39</sup> These include construction companies which build settlements and related roads, and companies which supply critical infrastructure to the settlements in the form of telecom and energy services. Companies which lend out commercial premises in industrial zones linked to settlements in the West Bank have also been excluded.<sup>40</sup>

In previous cases, the Council has attached importance to whether the company's activities enable the norm violation to take place and the probability of the company persisting in or remaining linked to activities that qualify for exclusion. The Council has further attached importance to whether the company has a permanent presence in the OPT or only does sporadic business there, as well as whether it produces and sells generic products or provides products and services that are specially tailored for use in the OPT.

## 2.6 Banks' role in the construction of Israeli settlements

Financial services are a prerequisite for obtaining the capital needed to complete building projects. Banks play a key role in the provision of loans and credit.

In addition, Israeli law requires contractors building apartment blocks to enter into an *Accompanying Agreement* (AA agreement) with a financial institution, normally a bank.<sup>41</sup> This legislation also applies in the occupied areas of the West Bank, including East Jerusalem. Building contractors must have entered into an AA agreement with a financial institution before they are allowed to receive deposits from private individuals wishing to purchase housing units in a construction project. The bank normally takes a security interest in the project concerned. The bank receives the funds paid in by the private buyer and transfers these to the builder in line with the project's progress towards completion. The arrangement is intended to protect the private homebuyer in the event the builder collapses into administration.<sup>42</sup>

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<sup>39</sup> See, for example, the Council on Ethics' recommendation to exclude the companies Elco Ltd and Electra Ltd (2021): <https://etikkradet.no/elco-ltd-and-electra-ltd/>; the Council's recommendation to exclude Bezeq Corp Ltd (2024): <https://etikkradet.no/bezeq-the-israeli-telecommunication-corp-ltd-2/>; and the Council's recommendation to exclude Paz Retail and Energy Ltd (2025): <https://etikkradet.no/paz-retail-and-energy-ltd-2/>.

<sup>40</sup> See, for example, the Council on Ethics' recommendation to exclude Ashtrom Group Ltd (2021): <https://etikkradet.no/ashtrom-group-ltd-2/>.

<sup>41</sup> Sale Law (Apartments) (Guaranteeing Investments of Home Buyers), 1974.

<sup>42</sup> The AA agreement scheme and the role of the banks is described in the report *Bankrolling Abuse – Israeli Banks in West Bank Settlements*, Human Rights Watch, 2018: [https://www.hrw.org/sites/default/files/report\\_pdf/israel0518\\_web.pdf](https://www.hrw.org/sites/default/files/report_pdf/israel0518_web.pdf).

In this recommendation, the Council has sought answers to the following questions:

- i. What connection has BHBM had to construction projects in the OPT?
- ii. Is the extent of BHBM's contribution to the norm violation through its provision of financing, including guarantees, loans and credit, sufficiently serious and foreseeable for it to qualify as a contribution under the ethical guidelines and thereby constitute grounds for exclusion?

### **3 The Council's investigations**

#### **3.1 Documentation**

The Council has reviewed the available information concerning BHBM's links to the OPT and the financial services the bank provides there. According to this review, these links relate primarily to legally mandatory AA agreements. The Council has found that BHBM issued guarantees or loans in connection with the construction of residential property in the Efrat settlement, and in connection with construction/development projects in the Zufim (also known as Tzufim or Tzofim) settlement and the Ariel West settlement. In March and August 2024, BHBM is said to have issued guarantees in connection with the construction of 54 homes in the Gilo settlement. According to the information available, BHBM has, or has had, a security interest in respect of these guarantees.<sup>43</sup> At a meeting between the Council and the Association of Banks in Israel, representing BHBM, the ABI maintained that the matter concerned AA agreements.

According to the NGO Who Profits, BHBM also provides loans, credit and banking services to several settlements' regional and local governments, in addition to providing financial services to building contractors via AA agreements. The Association of Banks in Israel has, on behalf of BHBM, stated that it cannot evaluate the sources, methods or political goals and attitudes of Who Profits. It further claimed that this organisation is not independent and that its research is driven by a particular political conviction.<sup>44</sup>

The Council has found no information indicating that banks outside of Israel provide funding to projects within the OTP, but cannot rule out that this may be the case.

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<sup>43</sup> Who Profits, Hapoalim Bank: <https://www.whoprofits.org/companies/company/3825> (last visited 18 June 2025)

<sup>44</sup> Letter from the Association of Banks in Israel to the Council on Ethics, dated 10 January 2025.

### 3.2 Information provided by the company

The Council first wrote to BHBM on 27 April 2022. In the letter, the Council asked whether the company, in the years from 2020 until that date, had granted loans or provided other types of financing, including AA agreements, to contractors building residential property in settlements in the West Bank.<sup>45</sup> BHBM was then notified that it could be excluded from investment by the GPFG on the basis of the previously mentioned AA agreements and asked to comment on a draft recommendation to that effect. At that point the Association of Banks in Israel (ABI) took over communication with the Council and, in a letter dated 16 January 2023, commented on the Council's draft recommendation to exclude BHBM.<sup>46</sup>

Writing on behalf of BHBM, the ABI stated that banks in Israel are not permitted to deny funding on the grounds that the customer's need for capital is associated with projects in the West Bank. The ABI further argued that the AA agreements could obviously not be construed as project financing or serious enough to warrant exclusion under the ethical guidelines. No indication was given that BHBM was involved in other types of financing for housing projects in the West Bank.

On 26 November 2024, BHBM was sent a new and revised recommendation to exclude the company. This was prompted by the ICJ's Advisory Opinion from July 2024, combined with new information indicating that BHBM had provided financing for the construction of residential properties in the OPT after 2022.

On this occasion, too, BHBM communicated via the ABI, which, in a letter dated 10 January 2025, pointed out that neither BHBM nor other banks in Israel are permitted to deny financing to projects in the OPT solely on the grounds that the project is located there. In addition, the ABI contested that the ICJ's Advisory Opinion constitutes a legal development that justified a new examination of the matter. The ABI also stated that BHBM's activities relating to the West Bank are marginal and decreasing. The ABI further asserted that BHBM's activities are remote, indirect and do not constitute a material contribution to construction in the OPT, and that neither BHBM nor any other banks initiate projects or encourage their initiation, but contribute to them once the projects are already underway.<sup>47</sup>

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<sup>45</sup> Letter from the Council on Ethics to First International Bank of Israel, dated 27 April 2022.

<sup>46</sup> Letter from the Association of Banks in Israel, dated 16 January 2023.

<sup>47</sup> Letter from the Association of Banks in Israel to the Council on Ethics, dated 10 January 2025.

## 4 The Council's assessment

On the basis of the information available, the Council on Ethics has assessed whether there is an unacceptable risk that BHBM is contributing to serious violations of the rights of individuals in situations of war or conflict.

Although humanitarian law is binding on states, companies may be said to contribute to actions taken by states in violation of international law. The Council has previously assessed the GPFG's investments in several companies operating in the West Bank, including East Jerusalem. The starting point for such assessments has always been that the Israeli settlements in the West Bank, including East Jerusalem are a violation of international law. This view remains unchanged.

The question is whether BHBM's involvement with the norm violations in question, its contribution thereto, is sufficiently close to exceed the high threshold for exclusion from investment by the GPFG. This threshold is operationalised through an assessment of the norm violation's seriousness and the extent of the company's involvement in its perpetration.

In July 2024, the ICJ found that the occupation itself must be deemed to violate international law and determined that the settlements are a crucial tool with which to cement the occupation and extend its duration. Furthermore, several UN bodies, most recently the UN Human Rights Council in March 2025, have documented that the Israeli settlements, both directly and indirectly, cause considerable harm to the Palestinian population of the West Bank, including East Jerusalem, and that this situation has worsened over the past year. The norm violations taking place in the West Bank, including East Jerusalem, have thus been described by several authoritative sources as serious and foreseeable. The Council takes the position that legal as well as actual developments heighten companies' duty to exercise due diligence when operating in or in association with the OPT.

With respect to the company's involvement in the norm violations, the Council has assessed BHBM's role in light of the guidance given with respect to interpreting the ethical guidelines in the Ethics Commission's report NOU 2020:7 Values and Responsibility. Here, project funding or other asset-based financing is highlighted by the Commission as a situation in which the closeness of the link between bank and customer may be such that the bank can be said to contribute to the customer's norm violation. The Council cannot see that the Commission has limited the possibility of excluding banks solely to cases where they provide project funding, and points to the fact that this is highlighted as an example. Nor has the Council any basis for concluding whether BHBM's services actually constitute project funding and therefore falls back on the more general guidance relating to the seriousness of the norm violations and the closeness of BHBM's



links thereto. In relation to financing as a form of contribution, the Commission took the position that in connection with *particularly serious and foreseeable* norm violations, a more distant connection may be sufficient. In such cases the requirement for due diligence is higher.

BHBM has played a necessary role as the provider of financial services which are a legal requirement for building contractors in connection with various projects relating to settlements reserved for Israelis in the OPT. The Council considers that the construction of settlements to maintain an illegal occupation is such a serious norm violation that a lower threshold applies with respect to the closeness of a company's involvement therewith – particularly in light of developments over the past year. In the Council's view, therefore, the type of financing being assessed in this case, the *AA agreements*, are in and of themselves a contribution that falls within the scope of the ethical guidelines' meaning.

The Council has also attached some importance to the lack of information indicating that banks outside of Israel provide financing for construction projects in the OPT. In the Council's view, this indicates that BHBM's services may be deemed to be a specially tailored product. The fact that the services provided by the company cannot easily be replaced by other providers is an element that links the company more closely to the norm violation.

Israeli banks are probably unable to deny financing on the grounds that the customer's needs relate to projects in the OPT. The Ethics Commission highlighted that it may, in some circumstances, *"be difficult for a bank to refrain from financing a project"*. The Commission nevertheless concluded that, in such cases, companies *"may be excluded from the Fund if the norm violation in question is particularly serious"*. The Council therefore presumes that banks which provide financial services to operations in the OPT may be excluded from investment by the GPFG even though the bank's freedom of action is limited.

The Council has noted that BHBM, through the answers provided by the Association of Banks in Israel, emphasises that its OPT-related business constitutes a very small proportion of its overall business and that this proportion is declining. Although the Council has also performed a materiality assessment, it considers that no significant weight may be accorded to the size of the bank's business operations in the West Bank, including East Jerusalem, as a proportion of the bank's overall customer portfolio. What the Council has attached importance to, however, is the number of housing units for which the bank has issued guarantees, seen in light of the total volume of building activity in the West Bank, including East Jerusalem.

BHBM has not disclosed its contribution in absolute figures, in other words its services as a proportion of the total financial contribution relating to construction

in the OPT. However, publicly available information indicates that BHBM has provided guarantees in connection with construction projects for a variety of purposes over relatively large areas – repeatedly and over several years. In consequence, the Council considers that BHBM makes a not inconsiderable contribution to the construction work.

The Council disagrees with BHBM's assertion that the settlements cannot all be assessed in the same way. The Council considers it important that the ICJ, in its Advisory Opinion, does not distinguish between the legality of different settlements, nor has the Council noted that any international bodies assess the legality of the settlements in light of historical factors.

The Council's mandate is to assess future risk. The announced establishment of new settlements creates a significant and unacceptable risk that BHBM will provide financial services that aid in their construction and thereby perpetuate the illegal occupation. Grounds for exclusion will exist as long as the Israeli authorities continue to build settlements in the West Bank, including East Jerusalem, and the banks continue to finance this activity.

## 5 Recommendation

The Council on Ethics recommends that Bank Hapoalim BM be excluded from investments by the Government Pension Fund Global.

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Svein Richard  
Brandtzæg  
Leder

(Sign.)

Siv Helen Rygh  
Torstensen

(Sign.)

Cecilie  
Hellestveit

(Sign.)

Vigdis Vandvik

(Sign.)

Egil Matsen

(Sign.)