

Office of Attorney General
Commonwealth of Kentucky



Daniel Cameron
Attorney General

Office of Attorney General
State of West Virginia



Patrick Morrissey
Attorney General

August 23, 2022

Jean Paul Bradshaw II
Lathrop GPM
2345 Grand Blvd., Suite 2200
Kansas City, MO 64108

Dear Mr. Bradshaw:

As the attorneys general and chief law enforcement officers of Kentucky, West Virginia, Arizona, Arkansas, Florida, Georgia, Indiana, Kansas, Louisiana, Mississippi, Nebraska, Ohio, Oklahoma, South Carolina, Texas, Utah, and Virginia, we write with serious concerns related to reports that Morningstar—through its wholly owned subsidiary, Sustainalytics—may be furthering the boycott, divestment, and sanctions (BDS) movement against Israel.

The BDS movement is an anti-Semitic campaign to intimidate the Jewish people and delegitimize the State of Israel. The movement advances these aims through academic, cultural, and economic initiatives that punish people and firms for doing business with Israel.¹ According to the co-founder of BDS, it “oppose[s] a Jewish state in any part of Palestine.”² Another anti-Israel activist explained that “[t]here’s no Israel. . . . That’s what [BDS is] really about.”³ The States we represent stand with Israel and with the Jewish people. It is why, to date, 35 States have adopted laws, executive orders, or resolutions in opposition to BDS.⁴

In March 2021, Morningstar conducted an internal review to determine whether the company’s practices furthered the BDS movement. In Morningstar’s own

¹ Seffi Kogen, *Behind the Boycott: The History of the Hateful Campaign Against Israel*, AMERICAN JEWISH COMMITTEE, at 7–9, <https://viewer.joomag.com/behind-the-boycott/0190622001479405073> (last visited Aug. 1, 2022) [hereinafter *Behind the Boycott*].

² Steven A. Cook, *The BDS Movement Has Already Lost*, FOREIGN POLICY (May 19, 2022), <https://foreignpolicy.com/2022/05/19/bds-movement-boycott-israel-palestine-harvard-crimson/> (last visited Aug. 1, 2022).

³ *Behind the Boycott* at 3.

⁴ *Anti-Semitism: State Anti-BDS Legislation*, JEWISH VIRTUAL LIBRARY <https://www.jewishvirtuallibrary.org/anti-bds-legislation> (last visited Aug. 1, 2022).

words, that review “was overly dismissive of the serious bias concerns raised.”⁵ So the company hired the law firm of White & Case to conduct a more thorough investigation. Their investigation revealed a number of alarming issues.⁶

First, Sustainalytics is an “ESG ratings and research firm”⁷ that assesses certain products, services, and businesses to determine the extent to which they meet left-wing ESG goals. Sustainalytics publishes its findings via a system of risk ratings. These risk ratings influence the investment decisions of government agencies and financial managers.

Sustainalytics’s ratings rely on a guidance document on “Occupied Territories.” That document asserts that “in occupied territories where human rights are being systematically violated, any business activity in that region is connected to [human rights] violations in some direct or indirect way.”⁸ Sustainalytics considers East Jerusalem, the West Bank, the Gaza Strip, and the Golan Heights as “Occupied . . . Territories.”⁹ Therefore, Sustainalytics inexplicably considers any business activity in East Jerusalem, the West Bank, the Gaza Strip, and the Golan Heights to advance human rights abuses.

Second, Sustainalytics places companies on a “Watchlist” for activities related to “surveillance/security for the checkpoints or wall,” which appears to be a reference to counter-terrorism checkpoints and barriers used to prevent suicide bombers and other threats from entering Israel.¹⁰ Israel has a right to secure its borders, and no company should be watchlisted for supporting Israel’s efforts to do so.

Third, Sustainalytics places companies on the Watchlist for “the supply of arms” to Israel.¹¹ It is not clear what type of arms are covered by this definition. Regardless, Israel has a right to defend itself, and no company should be watchlisted for lawfully providing resources so Israel can safeguard its citizens.

⁵ Letter from Joe Mansueto and Kunal Kapoor (Jun. 2, 2022), available at <https://www.morningstar.com/company/esg-research-integrity> (last visited Aug. 1, 2022) [hereinafter Mansueto & Kapoor Letter].

⁶ Tara Lee, *Report of Independent Investigative Counsel Regarding Alleged Anti-Israel Bias in Morningstar, Inc. ESG Products and Services* (May 11, 2022), [https://assets.contentstack.io/v3/assets/blt4eb669caa7dc65b2/blt14225aa50ae4fa4d/2022-05-11_Report_of_Independent_Investigative_Counsel_\(Final\).pdf](https://assets.contentstack.io/v3/assets/blt4eb669caa7dc65b2/blt14225aa50ae4fa4d/2022-05-11_Report_of_Independent_Investigative_Counsel_(Final).pdf) (last visited Aug. 1, 2022) [hereinafter White & Case Report]. Unfortunately, Morningstar appears to be repeating the mistake of its earlier investigation by downplaying White & Case’s findings. See Mansueto & Kapoor Letter (admitting only to “limited areas of bias” that are “outliers over the span of [Morningstar’s] work”).

⁷ Mansueto and Kapoor Letter.

⁸ White & Case Report at 80.

⁹ White & Case Report at 76.

¹⁰ White & Case Report at 79.

¹¹ White & Case Report at 79.

Fourth, Sustainalytics places companies on the Watchlist for involvement in “large infrastructure projects” in East Jerusalem, suburban Jerusalem, and other Israeli neighborhoods.¹² By impeding such projects, Sustainalytics is endorsing one of BDS’s direct objectives: the removal of Jewish people from certain parts of Israel.¹³ Furthermore, it is categorically anti-Semitic to make it more difficult for Jewish people to live in a neighborhood—one need not be an historian to understand the severe ramifications of previous attempts to confine Jewish people to particular and limited areas.¹⁴

Fifth, Sustainalytics’s ratings draw no distinction between companies that operate in certain parts of Israel and those that operate in countries responsible for horrific human rights abuses. White & Case found that “the percentage of companies [Sustainalytics] rated . . . for alleged violations . . . related to the Israeli/Palestinian conflict areas is comparable to ratings for other high-risk countries/territories.”¹⁵ Such “high risk” countries include China, Iran, Myanmar, Saudi Arabia, South Sudan, and Pakistan.¹⁶ Likewise, Sustainalytics’s “engagements with companies related to the Israeli/Palestinian conflict areas did not substantively differ from the number [of] engagements with companies operating in China, Myanmar, Russia, Saudi Arabia, and Western Sahara.”¹⁷

Therefore, Sustainalytics considers operating a company in certain parts of Israel the same as operating in China (where the Chinese Communist Party has targeted ethnic minorities for coercive population control, arbitrary detention in internment camps, torture, and physical and sexual abuse);¹⁸ Myanmar (where in 2021 a military junta overthrew the democratically elected government and shot its own people “in the head, burned [them] to death,” and “arbitrarily arrested, tortured, or used [them] as human shields”);¹⁹ and Russia (where a dictator is leading an invasion of Ukraine and committing appalling war crimes).²⁰ But Israel is not like China, Myanmar, Russia, and other nations led by despots. Rather, Israel remains a

¹² White & Case Report at 79.

¹³ *Behind the Boycott* at 4.

¹⁴ See, e.g., *Ghettos: History & Overview*, JEWISH VIRTUAL LIBRARY, <https://www.jewishvirtuallibrary.org/history-and-overview-of-ghettos> (last visited Aug. 1, 2022).

¹⁵ White & Case Report at 93.

¹⁶ White & Case Report at 92–93.

¹⁷ White & Case Report at 93.

¹⁸ *The Chinese Communist Party’s Human Rights Abuses in Xinjiang*, U.S. DEPARTMENT OF STATE (2017-2021), <https://2017-2021.state.gov/ccpabuses/index.html> (last visited Aug. 1, 2022).

¹⁹ *Myanmar: ‘Appalling’ Violations Demand ‘Unified and Resolute International Response,’* UNITED NATIONS (Mar. 15, 2022), <https://news.un.org/en/story/2022/03/1113972#:~:text=The%20report%2C%20released%20for%20the,or%20used%20as%20human%20shields> (last visited Aug. 1, 2022).

²⁰ Yaroslav Lukov, *Ukraine War: 21,000 Alleged War Crimes Being Investigated, Prosecutor Says*, BBC NEWS (Jul. 7, 2022), <https://www.bbc.com/news/world-europe-62073669> (last visited Aug. 1, 2022).

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diverse democracy with “strong and independent institutions that guarantee political rights and civil liberties.”²¹ In fact, Israel is the only nation among those in the aforementioned lists that Freedom House rates as “Free.”²² Sustainalytics’s failure to draw a distinction between Israeli democracy and repressive regimes shocks our collective conscience.

Sixth, Sustainalytics’s research and ratings depend on information from known supporters of the BDS movement. Sustainalytics pulls data from Who Profits, which was founded to promote BDS goals;²³ Amnesty International, which accuses Israel of “apartheid”;²⁴ and Human Rights Watch, which accuses Israel of “crimes against humanity” and “persecution against millions.”²⁵ Reliance on such inherently biased data inevitably leads to anti-Israel bias.

As the chief law enforcement officers of our States, we ask that Morningstar submit by August 31, 2022, a written response to the concerns expressed in this letter.

Sincerely,



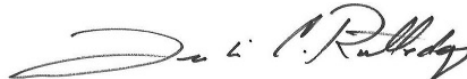
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Attorney General of Kentucky



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Attorney General of West Virginia



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Attorney General of Arkansas

²¹ *Israel*, FREEDOM HOUSE (2021), <https://freedomhouse.org/country/israel/freedom-world/2021> (last visited Aug. 1, 2022).

²² *Global Freedom Status*, FREEDOM HOUSE (2021), <https://freedomhouse.org/explore-the-map?type=fiw&year=2022> (last visited Aug. 1, 2022).

²³ White & Case Report at 98; *see also Who Profits: Foundation for the UN BDS Blacklist*, NGO MONITOR (Jan. 24, 2019), <https://www.ngo-monitor.org/reports/who-profits-foundation-for-the-un-bds-blacklist/> (last visited August 1, 2022).

²⁴ White & Case Report at 69–70; *see also Israel’s Apartheid Against Palestinians*, AMNESTY INTERNATIONAL (Feb. 1, 2022), <https://www.amnesty.org/en/latest/campaigns/2022/02/israels-system-of-apartheid/> (last visited Aug. 1, 2022).

²⁵ White & Case Report at 69; *see also Israel/Palestine*, HUMAN RIGHTS WATCH, <https://www.hrw.org/middle-east/north-africa/israel/palestine> (last visited Aug. 1, 2022).

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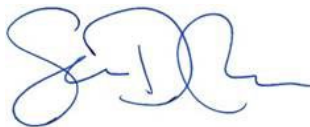
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