

# Supplemental Risk Briefing: Palantir Technologies, Inc.

## I. Introduction

Last year, the Investor Alliance for Human Rights published a [human rights risk briefing](#) for investors on Palantir Technologies, Inc. (Palantir), a privately-owned U.S. software company that provides big data analytics to government agencies and private companies in the United States and internationally, including contracts to design software systems for Immigration and Customs Enforcement (ICE), an agency with a track record of human rights abuses. The briefing concluded that “the human rights risks posed by Palantir’s business relationship with the U.S. government and ICE are significant.” The report identified material, legal, reputational, and human capital management risks posed by Palantir’s known business activities, governance practices and business relationships, and provided guidance for investors to use when engaging Palantir to implement stronger governance mechanisms, policies, and practices to avoid these risks, in line with the [UN Guiding Principles on Business and Human Rights](#).

On August 25, 2020, Palantir filed a [S-1 registration document](#)<sup>1</sup> with the U.S. Securities and Exchange Commission in preparation of its proposed direct listing (and not an underwritten IPO) targeted for September 24, 2020, on the New York Stock Exchange (NYSE). Palantir provides information in the S-1 about significant material risks associated with the company’s business which both reinforces the findings of our previous briefing and illuminates new risks — including environmental, social, and governance (ESG) risk factors.

The purpose of this supplemental briefing is to highlight and contextualize some of these new risks.

***Disclaimer: This report is intended as a basis for constructive engagement to promote respect for human rights throughout business activities. All research and analysis contained herein is based on publicly available information and is not represented as original research. The report is for informational purposes only and should not be construed as investment advice or an equity research report, and should not be considered a recommendation to buy or sell any of the securities mentioned. The views expressed herein are not intended to be a forecast of future events or a guarantee of future results and the information and viewpoints contained herein may change over time. This report does not claim to represent a comprehensive assessment of corporate policies or practices. It is important that potential investors do their own analysis before making any investment and take independent financial advice from a professional before making an investment decision.***

<sup>1</sup> Palantir Technologies, SEC Form S-1 Registration Statement, August 25, 2020

## II. Risk Factors

In its S-1 filing, the company highlights risk factors that “could adversely impact our business, financial condition, and results of operations”; in other words, the below risks could be considered material to investors. These highlighted risks fall into two broad categories: Human Rights and Governance.

### ➔ HUMAN RIGHTS

#### a) The Nature of Palantir’s Business Relationships with Certain Government Agencies Poses Significant Human Rights Risks

**From the S-1:** *“Some [Artificial Intelligence] AI scenarios present ethical issues”* and Palantir may enable or offer *“AI solutions that are controversial because of their purported or real impact on human rights, privacy, employment or other social issues”*.

One of these AI contracts is for work on the classified Project Maven, which Google abandoned in 2018 after its own employees protested the project. Palantir has since become a major contractor on Project Maven, developing AI for object identification by military drones, which generates a reported \$40 million annually for the company.<sup>2</sup>

**From the S-1:** *“[R]elationships with government customers and customers that are engaged in certain sensitive industries, including organizations whose products or activities are, or are perceived to be, harmful.”*

Palantir has large contracts with various agencies at the U.S. Department of Defense, which, considered as a single entity, is Palantir’s largest client.<sup>3</sup> Palantir reports that a pillar of its business strategy is to attempt to become “the central operating system for all U.S. defense programs”. Palantir’s Gotham platform, constructed for analysts at defense and intelligence agencies, enables users to identify patterns to help U.S. and allied military personnel. Whether on Project Maven or other military initiatives, such as the company’s work in Iraq and Afghanistan, Palantir CEO Alex Karp has acknowledged in the media that, “our product is used on occasion to kill people.”<sup>4</sup>

Palantir’s work for ICE exposes the company to significant human rights risks as a result of its mission critical role in that agency’s surveillance practices, mass raids, and de facto family separations, as outlined in our previous investor briefing. For example, in 2017, Palantir software was used to track down and arrest 443 family members of migrant children who crossed the border alone, a precursor

<sup>2</sup> Cade Metz, “What’s a Palantir? The Tech Industry’s Next Big I.P.O.,” *New York Times*, August 26, 2020, [www.nytimes.com/2020/08/26/technology/palantir-ipo.html](http://www.nytimes.com/2020/08/26/technology/palantir-ipo.html).

<sup>3</sup> Federal contracting data, [USASpending.gov](https://www.usaspending.gov). See also: Cade Metz, “What’s a Palantir? The Tech Industry’s Next Big I.P.O.,” *New York Times*, August 26, 2020, [www.nytimes.com/2020/08/26/technology/palantir-ipo.html](http://www.nytimes.com/2020/08/26/technology/palantir-ipo.html).

<sup>4</sup> Isobel Asher Hamilton, “‘Our product is used on occasion to kill people’: Palantir’s CEO claims its tech is used to target and kill terrorists,” *Business Insider*, May 26, 2020, [www.businessinsider.com/palantir-ceo-alex-karp-claims-the-companys-tech-is-used-to-target-and-kill-terrorists-2020-5](https://www.businessinsider.com/palantir-ceo-alex-karp-claims-the-companys-tech-is-used-to-target-and-kill-terrorists-2020-5).

to the current family separation policy.<sup>5</sup> Palantir has received approximately \$200 million to develop, maintain, host and operate two key systems for ICE’s Homeland Security Investigations (HSI).<sup>6</sup> The Investigative Case Management (ICM) system is HSI’s principal case management system, built on Palantir’s Gotham software. This ICM system allows ICE agents to access a vast amount of invasive and unauthorized personal data to facilitate discovering targets and creating and administering cases against them. Palantir’s FALCON mobile app is used by ICE agents during workplace and other mass raids, for which Palantir provides real-time technical support at ICE facilities in Northern Virginia and has also provided on-the-ground support. ICE has used ICM and FALCON in high-profile cases.<sup>7</sup> For more details on the ICE contracts and the adverse human rights impacts, please refer to our [human rights risk briefing on Palantir](#).

## **b) Palantir May Face Challenges Complying with Data Privacy and Anti-Corruption Laws**

**From the S-1:** “[E]xisting and proposed laws and regulations [regarding privacy, data protection and security] can be costly to comply with and can make our platforms and services less effective or valuable, delay or impede the development of new products, result in negative publicity, increase our operating costs, require us to modify our data handling practices, limit our operations, impose substantial fines and penalties, require significant management time and attention, or put our data or technology at risk.”

For example, Palantir has coronavirus-related contracts with the U.S. Department of Health and Human Services<sup>8</sup> (HHS) and other federal agencies.<sup>9</sup> Fifteen members of the Congressional Hispanic Caucus sent a letter to HHS Secretary Alex Azar outlining concerns with the department’s \$24.9 million coronavirus-related contracts<sup>10</sup> with Palantir, stating that, “The public does not know what safeguards HHS has put in place to protect their data and HHS has failed to share, among other items, what data goes into the system, how it can be used, or with whom it can be shared.”<sup>11</sup>

**From the S-1:** By Palantir’s own assessment, “Failure to comply with anti-bribery and anti-corruption laws” poses risks. “We have operations, deal with and make sales to governmental or quasi-governmental entities in the United States and in non-U.S. countries, including those known to experience corruption, particularly certain emerging countries in East Asia, Eastern Europe, Africa, South America, and the Middle East....”

5 Sam Biddle and Ryan Deveraux, “Peter Thiel’s Palantir Was Used to Bust Relatives of Migrant Children, New Documents Show,” The Intercept, May 2, 2019, <https://theintercept.com/2019/05/02/peter-thiels-palantir-was-used-to-bust-hundreds-of-relatives-of-migrant-children-new-documents-show>.

6 Federal contracting data, USASpending.gov.

7 Investor Alliance for Human Rights, Human Rights Risk Briefing: Palantir Technologies, November 2019.

8 Federal contracting data, USASpending.gov. See also: Dave Nyczepir, “HHS cites coronavirus ‘urgency’ in speedy Palantir contract awards,” FedScoop, May 8, 2020, [www.fedscoop.com/hha-covid-funds-palantir](http://www.fedscoop.com/hha-covid-funds-palantir).

9 Palantir has received contracts for coronavirus-related work from HHS, the Department of Veterans Affairs, and the U.S. Coast Guard. Source: Federal contracting data, USASpending.gov.

10Ibid.

11 April Glaser, “Latino House Democrats demand answers on government coronavirus contracts with Palantir,” NBC News, June 25, 2020, [www.nbcnews.com/tech/tech-news/latino-house-democrats-demand-answers-government-coronavirus-contracts-palantir-n1232156](http://www.nbcnews.com/tech/tech-news/latino-house-democrats-demand-answers-government-coronavirus-contracts-palantir-n1232156).

Palantir reportedly works for the government of Qatar,<sup>12</sup> where it has a registered subsidiary, but the S-1 provides no information on its work in the country. Qatar faces criticisms from Human Rights Watch<sup>13</sup> and Amnesty International<sup>14</sup> for human rights concerns in the areas of labor rights, women's rights, refugee rights, sexual orientation and morality laws, and "extensive powers to conduct surveillance by any means for 90 days prior to any judicial review."<sup>15</sup> The U.S. Department of State recognizes similar, widespread human rights concerns in Qatar, a constitutional monarchy.<sup>16</sup>

## ➔ GOVERNANCE RISKS

### c) Founders' Control of Voting Shares Poses Governance Risks

**From the S-1:** *"The multiple class structure of our common stock, together with the Founder Voting Trust Agreement and the Founder Voting Agreement, have the effect of concentrating voting power with certain stockholders, in particular, our Founders and their affiliates, which will effectively eliminate your ability to influence the outcome of important transactions."*

Palantir proposes to use a multi-class share structure, with Class A, Class B and Class F common stock. Class A shares, the stock that is being listed for resale to public investors will carry one vote. Class B shares will carry 10 votes, while Class F shares are to be held by a trust established by co-founders Peter Thiel, Alex Karp, and Stephen Cohen. Class F common stock will have variable voting power, meaning that these three individuals will retain up to 49.999999% of the total voting power, and that, "for the foreseeable future, the control of our company will be concentrated with our Founders."

This variable share structure is a more extreme version of the multi-class share structures used by companies like Google and Facebook to maintain insider and founder control. Those companies received negative publicity for their 10-vote share classes, and even prompted Standard & Poor's to announce that it would no longer accept companies with multi-class share structures in its major indexes, most notably the S&P 500.<sup>17</sup> Palantir warns investors that its anticipated exclusion from S&P indexes may have a material impact on its valuation: "as a result, mutual funds, exchange-traded funds, and other investment vehicles that attempt to passively track these indices would not invest in our stock. These policies may depress our valuation compared to those of other similar companies that are included."

### d) Palantir's Exemption from Certain Reporting Structures Limits its Financial Disclosures to Shareholders

<sup>12</sup> "Palantir handles data for Qatar," Intelligence Online, March 28, 2018, [www.intelligenceonline.com/corporate-intelligence/2018/03/28/palantir-handles-data-for-doha,108300695-bre](http://www.intelligenceonline.com/corporate-intelligence/2018/03/28/palantir-handles-data-for-doha,108300695-bre).

<sup>13</sup> Human Rights Watch, "Qatar 2019," [www.hrw.org/world-report/2020/country-chapters/qatar](http://www.hrw.org/world-report/2020/country-chapters/qatar).

<sup>14</sup> Amnesty International, "Qatar 2019," [www.amnesty.org/en/countries/middle-east-and-north-africa/qatar/report-qatar](http://www.amnesty.org/en/countries/middle-east-and-north-africa/qatar/report-qatar).

<sup>15</sup> Ibid.

<sup>16</sup> U.S. Department of State, Qatar 2019 Human Rights Report.

<sup>17</sup> S&P Dow Jones Indices, "S&P Dow Jones Indices Announces Decision on Multi-Class Shares and Voting Rules," press release, July 31, 2017.

Palantir has invoked its qualification as an “emerging growth company” under the 2012 JOBS Act<sup>18</sup>, which exempts the company from various reporting requirements applicable to other public companies. The company affirms that its independent registered public accounting firm “will not be required to provide an attestation report on the effectiveness of our internal control over financial reporting,” and that Palantir “may take advantage of some of the other reduced regulatory and reporting requirements that will be available” to it.

#### **e) Lack of Board Independence**

Palantir’s current board of directors does not comprise a majority of independent directors, which is a requirement for listing on the NYSE<sup>19</sup> that must be met within one year of listing.<sup>20</sup> Of the six board members, three are co-founders who between them will exercise near-complete control of the company, while a fourth, Alexander Moore, was Palantir’s first employee and Director of Operations from 2005 to 2010.<sup>21</sup>

Moore is currently a partner at venture capital firm 8VC, founded and controlled by Palantir co-founder Joseph Lonsdale, who currently has a commercial relationship with Palantir.<sup>22</sup> Nonetheless, Palantir deems Moore an independent board member in its amended S-1 registration form<sup>23</sup> who does “not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director.” Moore has also been named to the audit, nominating, governance and compensation committees, which under NYSE rules must be composed entirely of independent directors.

Palantir’s board has yet to comply with NYSE Rule 303A.01. Considering that at least three board members are not independent, the company would have to add three legitimately independent new board members within one year of listing on the NYSE in order to comply.

### **III. Conclusion**

For investors, holding portfolio companies to account and encouraging them to implement meaningful systems that guard against real and potential adverse human rights impacts is crucial to upholding their responsibility to respect human rights in line with the UN Guiding Principles. Information from Palantir’s S-1 filing strongly suggests that Palantir’s business relationships and product offerings, its operations and its key customer-base, pose significant ESG risks, including salient human rights risks. The S-1 also reveals notable governance risks, and together with its proposed multi-class stock structure, suggest that

<sup>18</sup> <https://www.investopedia.com/terms/j/jumpstart-our-business-startups-act-jobs.asp>

<sup>19</sup> NYSE Rule 303A.01.

<sup>20</sup> NYSE Rule 303A.00.

<sup>21</sup> Palantir’s board of directors is currently made up of Peter Thiel, Alex Karp, Stephen Cohen, Alex Moore, Spencer Rascoff and Alexandra Schiff.

<sup>22</sup> Palantir has a commercial relationship with Lonsdale Enterprises Inc., and 8VC holds more than 5% of Class A Palantir stock. Lonsdale is also a member of Disruptive Technology Solutions II, LLC, part of a group of companies that owns more than 5% of Class A Palantir stock and received \$6.8 million in commissions from sales of Palantir stock to parties that it introduced to the company. Source: Palantir Technologies, SEC Form S-1 Registration Statement, August 25, 2020.

<sup>23</sup> Palantir Technologies, Amendment No 1 to SEC Form S-1, September 3, 2020



potential investors would have limited access to material information and leverage to influence corporate outcomes.

### **About the Investor Alliance for Human Rights**

The Investor Alliance for Human Rights is a collective action platform for responsible investment that is grounded in respect for people’s fundamental rights. Its members include asset management firms, public pension funds, trade union funds, faith-based institutions, family funds, and endowments. Collectively, they represent nearly US\$5trillion in assets under management and 19 countries. The Investor Alliance is an initiative of the Interfaith Center on Corporate Responsibility.

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