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EXECUTIVE BRIEFING Investment Risks in Occupied Palestinian Territory

For Senior Investment Decision Makers

The Decision Point

Recent International Court of Justice rulings, combined with extensive UN documentation and shifting public sentiment in major markets, have created a materially altered risk environment for Israel-linked investments. This briefing addresses the core dilemma facing non-US institutional investors: how to navigate conflicting obligations between evolving EU regulatory enforcement and informal US political pressure against divestment.

Major third-party risk rating providers (Sustainalytics, MSCI) have systematically withdrawn Israel/Palestine human rights coverage during 2024-2025, creating unscreened exposure in portfolios relying on standard human rights screening.

The question is not whether these risks are material. The question is how to act decisively whilst managing political and operational constraints.

The Regulatory Collision

EU Regulatory Enforcement

Existing EU due diligence laws (Germany's Supply Chain Act 2023, France's Duty of Vigilance Law 2017) already impose binding human rights due diligence obligations. The EU's active review of the Association Agreement with Israel - potentially suspending trade provisions via qualified majority voting - and expanding arms export restrictions across multiple member states create immediate compliance pressure. ICJ rulings (July 2024, October 2025) determined Israel's occupation unlawful and prohibited the use of starvation as warfare, establishing legal foreseeability.

Beyond core International Humanitarian Law (IHL) violations, investors face compounding exposure through sanctions enforcement (BNP Paribas $8.9bn precedent), corporate complicity frameworks (Lafarge, Dutch cases), and supply chain due diligence obligations across multiple overlapping legal regimes.

For EU-based institutions, ignoring these signals creates foreseeable compliance exposure.

US Political Pressure

The current US administration applies informal pressure to discourage divestment. This is not binding regulation but carries perceived weight given historic US enforcement in other domains. Boards treat these signals as credible, creating decision paralysis.

The Compliance Trap

EU regulatory enforcement and legal obligations expect risk mitigation. US politics informally punish it. Meanwhile, markets continue pricing legal, reputational, and operational risks through credit downgrades and litigation exposure.

Two US Future Scenarios - One Solution

Prudent risk management requires planning for both potential US policy directions:

Scenario 1: US Aligns with IHL Enforcement

Jurisdictional conflict resolves. Litigation spikes. Institutions that delayed action face severe retrospective liability: fiduciary breach claims, complicity exposure, misrepresentation regarding human rights and legal compliance screening.

Scenario 2: Prolonged US Adversarial Posture

The US sustains opposition to EU regulatory aims and IHL compliance frameworks. Retaliation becomes sustained. Decision delays increase liability as hostility becomes structural.

Time Asymmetry

Divest now: Short-term US political friction; zero long-term liability. Maintain exposure: Short-term political comfort; severe litigation exposure once policy shifts.

IHL-grounded exclusion is the only strategy that protects institutions under both scenarios.

Managing US Retaliation: Real vs Theatre

Most perceived US threats lack legal durability:

- Financial retaliation: Limited impact; fiduciary defences strong
- Capital market exclusion: Requires statutory authority, breaches WTO commitments
- Visa disruption: Manageable through dual headquarters
- Congressional pressure: Low operational impact with disciplined messaging

Real Risk: Documentation Gaps:

Investment committee records showing delay due to political pressure create liability when regulatory conditions change.

The Collective Action Defence:

When major non-US investors move together, they become impossible to punish. Coordinated action transforms retaliation risk into political noise.

The Social License Shift

Public attitudes toward Israel have measurably deteriorated across major European markets. Recent polling shows 63-70% unfavorable views of Israel across the UK, France, Germany, Italy, Spain, and Denmark, with only 13-21% holding favorable views in any country. In Germany, 82% oppose military support for Israel. This matters for investment risk through three channels:

Reputational Flashpoints: Cultural and sporting controversies (recent Eurovision confrontation exemplifies) create unpredictable viral moments that force institutional positioning. These incidents operate outside normal stakeholder engagement cycles and demand immediate response.

Retail and Charitable Exposure: University endowments, charitable foundations, and retail investment products face distinct vulnerability. Coordinated campaigns targeting specific holdings have proven effective (historical precedent: fossil fuel divestment, South Africa). Your institution may not be the primary target, but can become collateral exposure if holdings overlap with campaign focus.

Amplification Effect: Changing social norms accelerate litigation appetite, strengthen regulatory enforcement resolve, and embolden peer institutions to move.

This is not about ethics. This is about recognising that **what was politically manageable 24 months ago may not be operationally sustainable 24 months forward**.

Meanwhile, Third-Party Risk Assessment Infrastructure Infrastructure is Collapsing

MSCI (2024-2025) and Morningstar Sustainalytics (December 2024) have withdrawn human rights coverage for Israel/Palestine following sustained political pressure. Companies previously flagged for severe controversies - Israeli banks financing settlements, defense contractors - now

pass through standard human rights compliance screens despite unchanged operations and mounting international legal findings. Investors relying on human rights-screened portfolios have unhedged exposure requiring proprietary due diligence capabilities. Publicly available industry surveys suggest that MSCI and Morningstar Sustainalytics together account for a significant share of the global ESG ratings market, with some estimates putting their combined share at around 40%.

Investors Are Already Moving

- Dutch pension funds: EUR 840bn combined AUM, divested from companies identified in the UN's September 2025 database of 158 businesses involved in settlement activities
- Norway GPFG: Excluded Caterpillar ($2.1bn) and five Israeli banks
- UK USS: Sold £80m Israeli bonds, framed as financial risk
- Denmark Akademiker: Excluded Israeli state assets
- United Methodist Church: First major denomination to divest from Israeli bonds
- Church of England Pensions Board excludes Israeli sovereign debt and settlement-linked companies while conducting active engagement with multinationals

Historical precedent (Puma, SodaStream) demonstrates strategic disengagement need not destroy shareholder value.

Key Exposures Requiring Assessment

Sovereign Debt

Israeli government bonds represent minimal index weight. February 2025 $5bn issuance explicitly for war costs. Exclusion represents straightforward risk mitigation with negligible portfolio impact.

Corporate Holdings - Tiered Approach

- Tier 1: Settlement-linked operations, defence contractors - immediate review
- Tier 2: Material exposure - time-bound engagement with clear consequences
- Tier 3: Minor exposure - enhanced monitoring

Reconstruction Finance

Proposed Trump Plan governance frameworks create new exposure channels. The Gaza Humanitarian Foundation (GHF), positioned as a working prototype, collapsed after five months (May-October 2025) following OHCHR documentation of over 2,100 deaths at aid distribution

sites and along convoy routes, with the majority at GHF-operated sites. This resulted in Boston Consulting Group terminating its contract and firing participating partners. Reconstruction contracts operating through externally-imposed structures without Palestinian institutional participation carry elevated long-term instability risk based on Iraq/Afghanistan precedent. Projects lacking local institutional legitimacy face 40% higher disruption rates, creating timing mismatch between initial investment stability and delayed operational collapse.

Tech Firms - Structural Challenge

Major technology firms present distinct challenges due to index concentration and governance structures. Recommended: demonstrate rigour on manageable exposures first, pursue forceful time-bound engagement, communicate nuanced position transparently.

Immediate Actions

Next 30 Days:

- Conduct comprehensive exposure audit (sovereign debt, corporates, reconstruction finance)
- Commission cross-border legal opinion addressing EU obligations vs US pressure
- Establish review governance with senior accountability
- Document all decision processes
- Board-level acknowledgment that third-party human rights risk assessors have withdrawn Israel/Palestine coverage

Next 90 Days:

- Prepare stakeholder communications
- Benchmark against peer approaches
- Coordinate with peer institutions
- Policy gap analysis: audit which holdings violate stated policies but pass through collapsed human rights screening mechanisms

Next 6 Months:

- Establish exclusion criteria mirroring Russia precedent
- Update manager mandates
- Create operational resilience package
- Develop proprietary/alternative due diligence capabilities to replace compromised third-party human rights risk assessment infrastructure

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The Resilience Package

Institutions adopting IHL-grounded exclusion should implement:

- Cross-border legal opinions documenting fiduciary basis
- Political risk insurance for directors
- Non-US custodians reducing US infrastructure dependence
- Formalised peer coordination agreements
- Comprehensive documentation eliminating evidence gaps

Bottom Line for Boards

All major international legal signals establish foreseeability. Multiple overlapping legal regimes create compounding exposure. In both US future scenarios, institutions that delay face severe liability.

Transparent IHL-grounded exclusion, supported by a resilience package, is the safest strategy across all political timelines. Delay is the riskiest choice.

Board Decision Required:

1. Adopt IHL-grounded exclusion with resilience package (recommended)
2. Time-bound engagement with hard escalation triggers
3. Maintain exposure (highest long-term liability)

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