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Investment Risks in Occupied Palestinian Territory: Corporate and Sovereign Debt Exposure

A Legal and Fiduciary Risk Framework for Institutional Investors

SUMMARY

Recent International Court of Justice rulings, combined with extensive UN documentation and shifting public sentiment, have created a materially altered risk environment for Israel-linked investments. This briefing provides comprehensive legal and fiduciary risk analysis for institutional investors.

Key Findings:

- **Authoritative international legal determinations create binding obligations:** The ICJ's July 2024 and October 2025 Advisory Opinions, UN Commission of Inquiry genocide findings (September 2025), and UN Special Rapporteur reports establish legal frameworks that fundamentally alter sovereign debt and corporate investment risk profiles.
- **EU regulatory enforcement is accelerating:** Existing due diligence laws (German Supply Chain Act, French Duty of Vigilance Law) create immediate compliance obligations. The EU-Israel Association Agreement review has advanced to formal suspension proposals requiring only Qualified Majority Voting - not unanimity - significantly lowering the threshold for mandatory divestment triggers.
- **Non-US investors face regulatory collision:** EU legal obligations require risk mitigation following ICJ determinations, while US political pressure discourages divestment. International Humanitarian Law (IHL)-grounded exclusion protects institutions under both future US scenarios (policy alignment with IHL enforcement or sustained adversarial posture).
- **Third-party risk assessment infrastructure has systematically collapsed:** Major third-party risk rating providers agencies (Sustainalytics, MSCI) withdrew Israel/Palestine human rights coverage during 2024-2025 precisely when legal risk crystallised, creating unscreened exposure in portfolios marketed as incorporating human rights considerations and requiring proprietary due diligence using ICJ, UN, and EU sources.



- **Leading institutions are already repositioning:** Dutch pension funds (ABP, PFZW, PME - €840bn combined AUM), Norway's GPF and KLP, Denmark's Akademiker Pension, USS (£80m Israeli sovereign debt divestment), Wespath, and Church of England Pension Board demonstrate emerging precedent among investors despite limited media coverage.

Structure:

- **Section 1:** Navigating the EU-US regulatory collision
- **Section 2:** International legal framework - authoritative determinations and regulatory triggers
- **Sections 3-6:** Investment exposure channels (overview, reconstruction finance, sovereign debt, corporate holdings)
- **Sections 7-8:** Market response patterns and investor case studies
- **Sections 9-11:** Risk management framework, due diligence requirements, and implementation guidance

For Board-Level Decision Makers: A concise 2-page executive briefing summarizing key risks and recommended actions is available as a companion document [see [here](#)].

About The Authors: This document has been prepared by volunteer contributors concerned with fiduciary standards and international law compliance in institutional investment. All participants contributed their time and expertise without compensation.

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Disclaimer: This document represents a collaborative effort by individuals with diverse perspectives, all contributing in their personal capacity. The views and opinions expressed are those of the contributors in their individual capacity and do not reflect the official position of any affiliated organisation. This document outlines general risk management principles and processes and should not be construed as specific investment advice or recommendations for individual circumstances. Organisations should adapt these frameworks to their specific risk profiles, regulatory requirements, and business objectives.

Broader Applicability: Broader Applicability: This briefing focuses on Israel/Palestine given recent International Court of Justice (ICJ) rulings and market developments. However, the risk assessment framework applies to any conflict where authoritative legal determinations exist. Investors analysing exposure to other conflict or post-conflict situations, including Russia/Ukraine, Syria, Sudan, or Myanmar should consider adapting this methodology to their



specific context. We encourage civil society organisations working on those conflicts to develop parallel briefings using this template.



SECTION 1: Navigating the Regulatory Collision: EU Law vs US Political Pressure

Global investors with Israel-linked exposure face a structural regulatory conflict that creates decision paralysis: Existing EU due diligence laws and evolving regulatory enforcement are creating compliance pressure following recent International Court of Justice rulings, whilst the U.S. political environment is pressuring institutions to maintain exposure, with signals of potential informal retaliation against divesting entities.

This divergence creates a compliance trap: EU regulatory frameworks expect risk mitigation, whilst U.S. politics punish it informally. This section addresses why even sophisticated non-US investors remain frozen despite clear legal signals, and provides a framework for breaking through the paralysis.

1.1 The Structural Trap: Two Conflicting Obligations

EU Regulatory Direction

Existing EU due diligence laws already impose binding obligations. Germany's Supply Chain Act (2023) and France's Duty of Vigilance Law (2017) require human rights due diligence across supply chains.¹ The EU's active review of the Association Agreement with Israel² - with potential suspension of trade provisions via qualified majority voting - and expanding arms export restrictions across multiple member states³ create immediate compliance pressure. Under OECD Guidelines, ICJ provisional measures, ICC activity, and extensive UN documentation, several Israeli-linked sectors - especially settlement-linked or occupation-dependent activities - are classified as high-risk. The EU Corporate Sustainability Due Diligence Directive (CSDDD), formally adopted in May 2024, reinforces this trend⁴ despite ongoing debates over implementation details. For EU-based institutions, ignoring these indicators presents foreseeable compliance exposure.

¹ Germany: Supply Chain Due Diligence Act (Lieferkettensorgfaltspflichtengesetz), entered into force January 1, 2023. France: Law on the Duty of Vigilance of Parent Companies and Outsourcing Companies (Loi relative au devoir de vigilance), March 27, 2017.

² European Parliamentary question, September 2025, confirmed the review concluded there are indications Israel was in breach of Article 2: https://www.europarl.europa.eu/doceo/document/E-10-2025-003098-ASW_EN.html

³ European Parliamentary motion, September 2025, urges all Member States to align with the European Council position and welcomes recent calls by France and Germany to halt arms export to Israel: https://www.europarl.europa.eu/doceo/document/B-10-2025-0374_EN.pdf

⁴ The European Commission Omnibus proposal, February 2025, reiterates that companies will continue to have a responsibility to respect human rights along their value chains in the future when they have information pointing to adverse impacts (p.13 of pdf): [https://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/com/2025/0081/COM_COM\(2025\)0081_EN.pdf](https://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/com/2025/0081/COM_COM(2025)0081_EN.pdf)



U.S. Political Direction

The current U.S. administration applies informal political pressure to discourage divestment.⁵ This is not binding regulation; it is political influence. Its impact stems from the historic force of U.S. enforcement actions in other domains (sanctions, anti-money laundering, foreign policy alignment). Boards treat these signals as credible given past precedent.

Market Reality

Regardless of U.S. political pressure, markets continue pricing legal, reputational, and operational risk: litigation exposure, credit downgrades, insurance volatility, supply chain fragility, and sovereign risk. Quiet de-risking is underway across global financial institutions through defensive compliance measures.

Governance Impact

Conflicting jurisdictional signals force escalation to boards, trigger cross-border legal opinions, slow onboarding processes, and create documentation-heavy internal processes. Compliance functions default to delay, escalation, or paralysis.

1.2 Assessing US Retaliation Risk: Real vs Theatre

Boards are concerned about retaliation from the current U.S. administration. Most perceived threats sound dramatic but lack legal durability or operational feasibility.

Financial Retaliation

Threats of blacklisting, political hearings, or loss of state mandates.

Assessment: Limited material impact. Anti-divestment legislation in U.S. states have raised borrowing costs for those states and exposed them to legal challenges. Fiduciary defences remain strong across jurisdictions. Non-U.S. pension funds have limited exposure to U.S. state-level political decisions.

Capital Market Retaliation

Fear of exclusion from U.S. financial markets or corporate partnerships.

Assessment: Low feasibility. Would require statutory authority, breach WTO commitments, and invite heavy corporate backlash. U.S. capital markets depend on global liquidity; excluding major European pension funds would be self-destructive.

⁵ The US State Department expressed that it was “very troubled” by the Norwegian sovereign wealth fund’s decision to divest from Caterpillar, September 2025: <https://www.timesofisrael.com/us-very-troubled-by-norways-divestment-from-caterpillar-for-selling-to-israel/>



Visa and Mobility Disruption

Administration could slow visas or increase bureaucratic friction for fund executives.

Assessment: Possible but manageable. Broad visa bans on EU or G7 nationals are legally and politically untenable. Mitigation through dual headquarters locations and cross-border staffing is straightforward.

Congressional and Media Pressure

Predictable political theatre through hearings and media campaigns.

Assessment: Low operational impact when institutions keep messaging disciplined and grounded in fiduciary duty and legal compliance. Media cycles are short; documented legal rationales are durable.

Real Risk: Documentation Gaps

The greatest vulnerability is inconsistent or politically influenced internal documentation that later becomes evidence in litigation when regulatory conditions change. If investment committees delay action due to U.S. political pressure rather than substantive risk assessment, those records create liability when policy shifts occur.

1.3 The Collective Action Defence: Creating an "Unretaliable Zone"

Stakeholder Awareness Weakens Threats

MAGA-style retaliation only works if investors' clients, members, or stakeholders perceive the threats as credible. Clear internal and external communication explaining the limited legal or operational risk of U.S. political pressure significantly reduces leverage. Non-U.S. institutions that proactively inform their governance bodies and beneficiaries effectively defuse much of the perceived risk, complementing coordinated market action.

Collective Action Transforms Retaliation into Noise

Retaliation works only when a target is isolated. When major non-U.S. investors move together, they become politically and operationally impossible to punish. The U.S. cannot simultaneously sanction multiple major European pension funds without destabilising markets and provoking widespread litigation. Coordinated divestment by Dutch, Norwegian, Danish, and UK pension funds (already underway in 2024-2025) demonstrates this principle.

1.4 The Retail Risk Channel

Institutional investors often underestimate vulnerability to coordinated campaigns by civil society because they focus on mandate constraints and fiduciary defenses. But European public



opinion has shifted materially: YouGov polling (June 2025) shows 63-70% unfavorable views of Israel across major markets,⁶ with German opposition to military support reaching 82%. These conditions create risk exposure through:

- Targeted fund campaigns mirroring fossil fuel divestment tactics
- University endowment pressure (US precedent: 50+ student divestment campaigns; European equivalents emerging)
- Charitable foundation exposure (particularly acute for organisations with social mission statements)
- Cultural and sporting flashpoints forcing rapid institutional positioning without preparation

The Eurovision Song Contest confrontation⁷ demonstrates how cultural controversies create institutional pressure points - moments where silence or delayed response becomes untenable and hasty reactions create documentation risk.

Key Insight: Even if an institution has strong mandate defenses, portfolio holdings that become campaign targets create operational disruption. Proactive risk management means anticipating which exposures could become focal points before campaigns organise. With two-thirds of the European public holding unfavorable views, the pool of potential campaign participants is substantial.

1.5 Two US Future Scenarios - Why IHL-Grounded Exclusion Works in Both

A future U.S. administration may take one of two paths. Prudent risk management requires planning for both scenarios.

Scenario 1: US Aligns with IHL Enforcement (Retrospective Liability)

If a future administration aligns U.S. policy with international humanitarian law enforcement:

- Jurisdictional conflict resolves; EU and U.S. regulatory signals converge
- Risk ratings escalate; settlement-linked activity becomes near-prohibited
- Secondary sanctions logic flips; complicity with IHL violations is penalised
- Corporate exits accelerate; major technology firms, insurers, and defence contractors unwind exposure
- Litigation spikes; aiding-and-abetting claims, misrepresentation regarding human rights screening, and beneficiary lawsuits become viable

⁶ YouGov EuroTrack survey, June 2025: Net favourability toward Israel reached record lows: Germany (-44), France (-48), Denmark (-54), Italy (-52), Spain (-55). 63-70% unfavourable across countries surveyed. <https://yougov.co.uk/international/articles/52279-net-favourability-towards-israel-reaches-new-lows-in-key-western-european-countries>

⁷ Five countries (Spain, the Netherlands, Ireland, Slovenia and Iceland) will boycott the event and 2014 winner Nemo has returned the trophy in protest at Israel's participation: <https://www.euronews.com/culture/2025/12/11/swiss-eurovision-champion-nemo-returns-winners-trophy-to-protest-israels-inclusion>



- Markets move first; bond yields widen, credit default swap spreads rise, liquidity tightens

Institutions that delayed action face severe retrospective liability: shareholder/beneficiary claims for fiduciary breach, complicity exposure for holding sovereign bonds linked to occupation-related agencies, and claims regarding misrepresentation of human rights and legal compliance screening for funds holding occupation-linked assets. Precedent from South Africa, Sudan, Myanmar, and Russia demonstrates that delay is costly.

Scenario 2: Prolonged US Adversarial Posture (Resilience Needed)

Alternatively, the U.S. may adopt a long-term adversarial posture toward EU regulatory aims, human rights due diligence frameworks, IHL-aligned due diligence, and coordinated non-U.S. investor action. This scenario involves:

- Undermining EU regulatory authority systematically
- Discouraging coordinated action by European pension funds
- Elevating "patriotic" or illiberal European parties politically
- Opposing IHL-based due diligence as "lawfare"
- Framing EU governance frameworks as threats to "civilisation" and "liberty"
- Installing an Ambassador to the EU who is hostile to EU governance and due diligence frameworks

In this scenario:

- Retaliation becomes sustained, not episodic
- Legal defences remain strong but require more frequent use
- Collective action remains valuable but must be formalised
- Operational exposure to U.S. market infrastructure becomes more material
- Decision-making delays increase liability, as U.S. hostility becomes structural rather than cyclical

Time Asymmetry: The Critical Insight

Divest now: Short-term U.S. political friction; zero long-term liability

Maintain exposure: Short-term political comfort; severe litigation and enforcement exposure if U.S. policy shifts

IHL-grounded exclusion is the only strategy that protects institutions under both scenarios. It withstands legal scrutiny if the U.S. aligns with IHL enforcement (Scenario 1), and it provides defensible documentation if the U.S. sustains adversarial posture (Scenario 2).



1.6 The Resilience Package for Non-US Investors

Institutions adopting IHL-grounded exclusion should implement a resilience package to manage operational risks during any period of U.S. political hostility:

- Cross-border legal opinions mapping EU obligations against U.S. political pressure
- Political risk insurance for directors and officers
- Non-U.S. custodians and settlement alternatives to reduce dependence on U.S. financial infrastructure
- Contingency plans for counterparty withdrawal or service disruption
- Formalised coordination with peer institutions to maximise collective action benefits
- Hardened communications strategy anchored in fiduciary duty, legal obligations, and risk management
- Comprehensive documentation eliminating gaps that become liabilities in future enforcement or litigation

This resilience package transforms IHL-grounded exclusion from a legally sound strategy into an operationally robust one. It addresses the legitimate concern that boards have about U.S. retaliation whilst maintaining full compliance with EU law and fiduciary obligations.



SECTION 2: International Legal Framework: Authoritative Determinations and Regulatory Triggers

The investment risk landscape has been fundamentally reshaped by authoritative determinations from international legal bodies and emerging regulatory responses. These developments create material legal and compliance obligations that extend beyond conventional risk screening to create binding legal and compliance obligations.

2.1 Public Sentiment Solidifies Around Legal Findings

An emerging legal consensus (see below) is no longer confined to activists but has been absorbed into mainstream public consciousness in major European markets, fundamentally altering the political and reputational landscape. Germany provides a particularly stark example: despite decades of "Staatsräson" (state doctrine) supporting Israel, public opinion has dramatically shifted. A September 2025 YouGov poll found that 62% of German voters now believe Israel is committing genocide in Gaza.⁸ This represents a fundamental break between official policy and public conviction, even amongst voters of the governing coalition parties.⁹

In the United Kingdom, 57% of the public now believe Israeli action in Gaza is not justified, according to September 2025 YouGov polling - the highest disapproval level recorded since October 2023.¹⁰ As mentioned above, across Britain, Denmark, France, Germany, Italy, and Spain, net favourability toward Israel has reached record lows, with unfavourable views ranging from 63-70% across these markets.¹¹

This divergence between government policy and public moral conviction creates material political and reputational risk for entities perceived as complicit. Whilst multiple factors likely contribute to shifting public sentiment, the legal findings from the International Court of Justice (ICJ) and assessments by UN human rights bodies have become increasingly prominent in public discourse.

⁸ YouGov poll, September 17-18, 2025. Sample: German voters. Finding: 62% believe Israel committing genocide in Gaza. <https://yougov.de/politics/articles/53032-44-prozent-der-deutschen-wahlberechtigten-sprechen-sich-fur-die-erkennung-palastinas-als-eigenstandiger-staat-aus>

⁹ Amongst SPD voters: 71% believe genocide; amongst CDU/CSU voters: 60% believe genocide. YouGov, September 2025. <https://yougov.de/politics/articles/53032-44-prozent-der-deutschen-wahlberechtigten-sprechen-sich-fur-die-erkennung-palastinas-als-eigenstandiger-staat-aus>

¹⁰ YouGov poll, September 17-18, 2025: 57% of UK public say Israeli military operations not justified—highest level recorded since October 2023. <https://yougov.co.uk/international/articles/53115-two-years-into-the-gaza-conflict-record-numbers-of-britons-say-israeli-action-is-not-justified>

¹¹ YouGov EuroTrack survey, June 2025: Net favourability toward Israel reached record lows: Germany (-44), France (-48), Denmark (-54), Italy (-52), Spain (-55). 63-70% unfavourable across countries surveyed. <https://yougov.co.uk/international/articles/52279-net-favourability-towards-israel-reaches-new-lows-in-key-western-european-countries>



2.2 ICJ Rulings Establish Legal Baseline

The ICJ has established a critical legal framework through multiple proceedings. In July 2024, the Court issued an Advisory Opinion determining that Israel's occupation of the Palestinian territories is unlawful and calling for its termination.¹²

Crucially, the Advisory Opinion placed specific obligations on third States to help bring an end to the unlawful situation created by Israel in the occupied Palestinian territory. The Court made clear that States (and their public bodies) must prevent investments that further entrench the illegal situation. It specified that States must "abstain from entering into economic or trade dealings with Israel concerning the Occupied Palestinian Territory or parts thereof which may entrench its unlawful presence in the territory."¹³

The UN General Assembly subsequently adopted resolution A/RES/ES-10/24 on September 18, 2024, demanding Israel end its unlawful presence within twelve months - a deadline that expired in September 2025 without compliance.¹⁴

Most recently, on October 22, 2025, the ICJ issued a further Advisory Opinion on Israel's obligations regarding UN operations in the Occupied Palestinian Territory. The Court concluded that Israel must cooperate in good faith with the United Nations, facilitate humanitarian relief, and may not obstruct UN operations. The Court explicitly rejected Israel's allegations that the United Nations Relief and Works Agency (UNRWA) lacks impartiality, finding these claims unsubstantiated. The Court recalled that Israel is prohibited under international humanitarian law from using starvation of civilians as a method of warfare.¹⁵

These rulings create a materially altered risk environment for sovereign and corporate financing related to Israel. The existence of authoritative legal opinions from the ICJ, combined with

¹² International Court of Justice, Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, July 19, 2024, Summary paras. 267-272, <https://www.icj-cij.org/node/204176>.

¹³ International Court of Justice, Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, July 19, 2024, para. 278. <https://www.icj-cij.org/case/186>. For text of para. 278, see European Parliament, Parliamentary Question E-002150/2024, "Implementation of the ICJ advisory opinion as regards EU trade with illegal Israeli settlements," https://www.europarl.europa.eu/doceo/document/E-10-2024-002150_EN.html

¹⁴ UN General Assembly Resolution A/RES/ES-10/24, "Advisory opinion of the International Court of Justice on the legal consequences arising from Israel's policies and practices in the Occupied Palestinian Territory, including East Jerusalem, and from the illegality of Israel's continued presence in the Occupied Palestinian Territory," September 18, 2024. Adopted by recorded vote: 124 in favour, 14 against, 43 abstentions. Available at: <https://undocs.org/A/RES/ES-10/24>. The resolution demanded that Israel "brings to an end without delay its unlawful presence in the Occupied Palestinian Territory, which constitutes a wrongful act of a continuing character entailing its international responsibility, and do so no later than 12 months from the adoption of the present resolution."

¹⁵ International Court of Justice Advisory Opinion - Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory, (A/80/502), October 22, 2025. <https://www.un.org/unispal/wp-content/uploads/2025/10/advisory-opinion-22-Oct-2025.pdf>



ongoing ICC investigations and extensive documentation by UN bodies, significantly raises the bar for investors seeking to demonstrate adequate due diligence regarding potential legal and reputational risks.

2.3 UN Special Rapporteur Documents Complicity Networks

In October 2025, UN Special Rapporteur on the Occupied Palestinian Territories Francesca Albanese released a report to the General Assembly titled "Gaza Genocide: a collective crime." The report concludes that the ongoing situation is sustained by complicity of third states that have enabled systemic violations through direct support, material aid, diplomatic protection, and in some cases active participation. The report identifies 26 states that provided arms shipments to Israel between October 2023 and October 2025.¹⁶

Albanese's earlier June 2025 report, "From economy of occupation to economy of genocide",¹⁷ details corporate complicity across military suppliers, technology companies, and financial institutions, explicitly calling for criminal accountability of companies and their executives. In a press release accompanying the report, Albanese remarks that between October 2023 and October 2025, the Tel Aviv stock exchange gained \$225.7 billion in market value, noting that "for some, genocide is profitable."¹⁸

2.4 UN Commission Findings on War Crimes

The UN Independent International Commission of Inquiry has issued multiple authoritative findings:

In June 2025, the Commission found that Israeli forces committed war crimes and the crime against humanity of extermination in attacks on educational, religious, and cultural sites, including deliberate killing of civilians sheltering in schools and religious sites.¹⁹

In September 2025, the Commission issued its most comprehensive finding: that Israel has committed genocide against Palestinians in Gaza, satisfying four of the five genocidal acts under the 1948 Genocide Convention. The Commission concluded that "the Israeli authorities

¹⁶ UN Document A/80/492, "Gaza Genocide: a collective crime," Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, October 2025. <https://www.ohchr.org/en/documents/country-reports/a80492-gaza-genocide-collective-crime-report-special-rapporteur-situation>

¹⁷ UN Document A/HRC/59/23, "From economy of occupation to economy of genocide," Report of the Special Rapporteur, Francesca Albanese, June 30, 2025.

¹⁸ UN Office of the High Commissioner for Human Rights press release, July 2, 2025, <https://www.ohchr.org/en/press-releases/2025/07/forever-occupation-genocide-and-profit-special-rapporteurs-report-exposes>

¹⁹ UN Independent International Commission of Inquiry, Report A/HRC/58/CRP.6, June 10, 2025, <https://www.un.org/unispal/document/report-of-the-commission-of-inquiry-israel-gender-based-violence-13march2025/>



and Israeli security forces have the genocidal intent to destroy, in whole or in part, the Palestinians in the Gaza Strip."²⁰

2.5 ICC Arrest Warrants and Corporate Complicity Implications

In November 2024, the Pre-Trial Chamber of the International Criminal Court (ICC) issued arrest warrants for Israeli Prime Minister Benjamin Netanyahu and former Minister of Defense Yoav Gallant for crimes committed in Gaza since October 2023. The Chamber found reasonable grounds to believe they were responsible for intentionally war crimes of directing attacks against civilian populations and starvation as a method of warfare and crimes against humanity of murder, persecution and other inhumane acts.²¹

These determinations create heightened scrutiny for corporate relationships with Israeli security operations. Many European states have incorporated the Rome Statute into domestic law, creating potential criminal liability pathways within these jurisdictions for corporations whose activities materially support operations that ICC investigations have linked to credible allegations of war crimes or crimes against humanity.

The ICC's explicit findings regarding intentional attacks on civilians and systematic crimes elevate corporate due diligence requirements beyond generic conflict-zone risk assessment. Investors should assess whether portfolio companies maintain business relationships that could be characterized as material support for activities subject to ICC investigation, particularly given the potential for domestic prosecution under Rome Statute implementing legislation.²²

2.6 Breaking Internal Taboos: Israeli Human Rights Organisations

In a historically significant development, leading Israeli human rights organisations crossed a profound internal taboo. On July 28, 2025, both B'Tselem and Physicians for Human Rights-Israel released reports concluding that Israel is committing genocide in Gaza. These organisations documented systematic destruction of Palestinian living conditions, infrastructure

²⁰ UN Independent International Commission of Inquiry, Report presented September 16, 2025, conclusion. <https://www.un.org/unispal/document/commission-of-inquiry-report-genocide-in-gaza-a-hrc-60-crp-3/>:

²¹ International Criminal Court, Press Release: Situation in the State of Palestine: ICC Pre-Trial Chamber I rejects the State of Israel's challenges to jurisdiction and issues warrants of arrest for Benjamin Netanyahu and Yoav Gallant, November 21, 2024, <https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges>.

²² See, for example the domestic Act incorporating the Rome Statute into domestic UK law, International Criminal Court Act, 2001, "[a]n Act to give effect to the Statute of the International Criminal Court; to provide for offences under the law of England and Wales and Northern Ireland corresponding to offences within the jurisdiction of that Court; and for connected purposes".



and healthcare systems, as well as widespread statements by Israeli officials evidencing genocidal intent.²³

2.7 Normative Consensus Forms Across Authoritative Bodies

A powerful consensus has formed across a spectrum of institutions that shape international legal and policy norms:

- International courts: ICJ plausibility ruling (January 2024), advisory opinions (July 2024, October 2025)
- UN mechanisms: Independent Commission of Inquiry genocide determination (September 2025), Special Rapporteur reports (June and October 2025)
- Human rights organisations: Amnesty International genocide determination (December 2024), Human Rights Watch findings, Israeli organisations B'Tselem and PHRI (July 2025)
- ICC proceedings: Ongoing investigations, arrest warrants issued

This convergence shifts the issue from "contested interpretation" to a documented legal risk pattern that investors should actively manage within their fiduciary framework.

2.8 Regulatory Triggers: EU-Israel Association Agreement

The European Union launched a review of Article 2 of the EU-Israel Association Agreement in May 2025, following a request by 17 member states.²⁴ The review assessed Israel's compliance with human rights and democratic principles, an essential element of the agreement whose violation permits suspension.

On September 17, 2025, the European Commission presented to the European Council its proposal to suspend trade-related provisions of the agreement, noting that the review had found that "actions taken by the Israeli government represent a breach of essential elements relating to respect for human rights and democratic principles".²⁵

²³ B'Tselem, "Our Genocide," July 28, 2025, https://www.btselem.org/publications/202507_our_genocide; Physicians for Human Rights-Israel, "Destruction of conditions of life: a health analysis of the Gaza genocide," July 28, 2025, <https://www.phr.org.il/wp-content/uploads/2025/07/Genocide-in-Gaza-PHRI-English.pdf>; B'Tselem Executive Director Yuli Novak, press conference, July 28, 2025: "Israel is committing genocide against the Palestinians in the Gaza Strip." <https://www.reutersconnect.com/item/israeli-human-rights-groups-accuse-israeli-government-of-committing-genocide-in-gaza/dGFnOnJldXRlcnMuY29tLDlwMjU6bmV3c21sX0xWQTAWMTMwNjEyODA3MjAyNVJQMQ>

²⁴ European Parliament Research Service, "Review of the EU-Israel Association Agreement," June 11, 2025. Review initiated May 20, 2025, following request by the Netherlands and supported by 17 EU member states.

²⁵ European Commission press release, September 17, 2025: Commission proposes suspension of trade-related provisions of EU-Israel Association Agreement following President von der Leyen's State of



Critically for investors, legal analysis confirms that partial suspension of the agreement's trade provisions requires only Qualified Majority Voting (QMV) in the EU Council, not unanimity.²⁶ This significantly lowers the political threshold for action and creates real near-term probability of portfolio disruption through mandatory divestment from affected sectors.

Should the EU proceed with suspension, investors with exposure to Israeli sovereign debt or companies operating in affected sectors would face immediate regulatory requirements to divest, creating both compliance obligations and potential mark-to-market losses.

2.9 Combined Effect: Legal Basis Plus Social Momentum

The ICJ and International Criminal Court provide authoritative legal frameworks. UN bodies and human rights organisations create the overwhelming factual and normative narrative. Public sentiment shifts in major markets - demonstrated by polling in Germany, the UK, and across Europe - generate political will for regulatory action. Together, these forces create compounding accountability pressure that investors can no longer characterise as distant or speculative risk.

Fiduciary obligations now require investors to assess whether continued exposure to these risks can be reconciled with duties to beneficiaries, particularly given the availability of legal mechanisms such as EU association agreement suspension via QMV that could mandate sudden divestment.

2.10 Complementary Legal Frameworks: Beyond International Humanitarian Law

Whilst this briefing focuses on IHL violations and ICJ determinations, institutional investors face exposure through multiple overlapping legal regimes that compound core risks:

Sanctions and Export Control Risk

Financial institutions face significant enforcement risk under sanctions regimes, as demonstrated by the BNP Paribas precedent of an \$8.9 billion settlement in 2014 for sanctions violations.²⁷ The EU's suspension review of dual-use goods exports to Israel creates immediate

Union address. https://north-africa-middle-east-gulf.ec.europa.eu/news/commission-proposes-suspension-trade-concessions-israel-and-sanctions-extremist-ministers-israeli-2025-09-17_en

²⁶ Legal analysis by Merijn Chamon, "Suspension of EU Association Agreements Does Not Require Unanimity," VerfBlog, July 19, 2025. Article 218(9) TFEU permits Qualified Majority Vote for suspension of trade provisions. <https://verfassungsblog.de/suspension-of-eu-association-agreements-does-not-require-unanimity/>

²⁷ U.S. Department of Justice, "BNP Paribas Agrees to Plead Guilty and to Pay \$8.9 Billion for Illegally Processing Financial Transactions for Countries Subject to U.S. Economic Sanctions," June 30, 2014. <https://www.justice.gov/archives/opa/pr/bnp-paribas-agrees-plead-guilty-and-pay-89-billion-illegally-processing-financial>



compliance obligations. Export control violations carry criminal liability for corporate officers, not just institutional penalties.

Whilst current US policy actively supports Israel, the structural mechanism of US extraterritorial sanctions enforcement represents a medium-term risk factor. Non-US financial institutions with dollar-clearing operations face DOJ and OFAC jurisdiction regardless of transaction location - a principle demonstrated by the BNP Paribas case. Policy shifts following future US elections could activate this enforcement mechanism against Israel-related transactions, as has occurred with other geopolitical contexts.

Corporate Complicity Frameworks

The Lafarge Syria case established precedent for corporate complicity in crimes against humanity.²⁸ French courts determined that financial payments to armed groups, even for operational continuity, constituted complicity in international crimes. This expanded corporate liability beyond direct participation to include 'enabling' conduct.

Dutch jurisprudence on corporate complicity (Rival, Van Oord cases) demonstrates courts' willingness to pierce corporate separateness.²⁹ The threshold for 'knowingly contributing' to violations continues to lower as documentation accumulates. OECD Guidelines now explicitly require companies to avoid causing or contributing to adverse human rights impacts, with 'contributing' defined broadly.³⁰

Supply Chain Due Diligence Obligations

Mandatory human rights due diligence frameworks are expanding across European jurisdictions. Germany's Supply Chain Act (2023) and France's Duty of Vigilance Law (2017) already impose binding obligations on large companies and their financiers.³¹ The EU Corporate Sustainability Due Diligence Directive (CSDDD), formally adopted in May 2024, reinforces this trend.³²

Reconstruction contracts in post-conflict settings trigger enhanced scrutiny under these frameworks. The existing German and French laws provide immediate compliance

²⁸ Cour de cassation (French Supreme Court), Lafarge S.A. case, September 7, 2021, upholding charges of complicity in crimes against humanity for payments to ISIS-affiliated groups in Syria.

²⁹ Dutch Supreme Court jurisprudence on corporate complicity: Rival case (civil liability for equipment used in settlement construction); Van Oord case (dredging work in occupied territories). See Amsterdam District Court, March 2020 and subsequent appeals.

³⁰ OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, 2023 edition, Chapter II: "Enterprises should... Avoid causing or contributing to adverse impacts on matters covered by the Guidelines, through their own activities, and address such impacts when they occur."

³¹ Germany: Supply Chain Due Diligence Act (Lieferkettensorgfaltspflichtengesetz), entered into force January 1, 2023. France: Law on the Duty of Vigilance of Parent Companies and Outsourcing Companies (Loi relative au devoir de vigilance), March 27, 2017.

³² European Union: Corporate Sustainability Due Diligence Directive (CSDDD), formally adopted May 24, 2024. Member states have until July 26, 2026 to transpose into national law.



requirements, with the CSDDD creating additional harmonisation pressure regardless of specific implementation delays.

Compounding Effect

These frameworks create overlapping compliance obligations that compound the core IHL risks documented in sections 2-5. An investor could face: (1) sanctions violations for continuing business relationships, (2) CSDDD liability for inadequate due diligence, (3) complicity charges under domestic law, and (4) reputational damage from ICJ/ICC findings - all arising from the same underlying investment exposure.



SECTION 3: The Investment Landscape - Scale and Channels of Exposure

Israel's economy is deeply integrated with global capital, creating significant, multifaceted exposure for international investors.

3.1 Sovereign Debt – The Critical Channel

Foreign holdings of Israeli government bonds increased sharply from ILS 163b in Q3 2023 to ILS 214b in Q2 2024.³³ A February 2025 \$5bn bond issuance, explicitly for military funding, was five times oversubscribed.³⁴ This sovereign debt, which campaigners term "war bonds", is held both through passive indices (e.g., Bloomberg Global Aggregate) and active strategies.

3.2 Corporate Exposure to Companies Sustaining the Conflict

In June 2024, 30+ UN human rights experts identified 11 arms manufacturers that should immediately cease transfers to Israel, warning they risked complicity in serious violations of international humanitarian law: BAE Systems, Boeing, Caterpillar, General Dynamics, Lockheed Martin, Northrop Grumman, Oshkosh, Rheinmetall AG, Rolls-Royce Power Systems, RTX, and ThyssenKrupp.³⁵ The statement also named major financial institutions - including Bank of America, BlackRock, Citigroup, JPMorgan Chase, State Street, Vanguard, and Wells Fargo - warning that investors risked moving from being "directly linked" to "contributing to" human rights abuses, establishing clear notice to the investment community regarding elevated legal and reputational risk.

Building upon this foundation, in June 2025 UN Special Rapporteur Francesca Albanese identified over 45 companies alleged to be complicit in violations of international law in the occupied Palestinian territory,³⁶ including defence contractors (Elbit Systems, Lockheed Martin), technology providers (Google, Amazon, Microsoft, Palantir), and companies operating in

³³ Moody's Analytics, <https://www.economy.com/israel/outstanding-public-debt>, accessed September 2025.

³⁴ Israel sells 5 billion bonds despite Gaza ceasefire concerns, Reuters, <https://www.reuters.com/world/middle-east/israel-sells-5-billion-bonds-despite-gaza-ceasefire-concerns-2025-02-12/>.

³⁵ UN Office of the High Commissioner for Human Rights, "States and companies must end arms transfers to Israel immediately or risk responsibility for human rights violations: UN experts," June 20, 2024. Statement signed by 30+ UN human rights experts identifying 11 arms manufacturers and major financial institutions as investors at risk of complicity. <https://www.un.org/unispal/document/arms-transfers-un-experts-20jun24/>

³⁶ Francesca Albanese, "From economy of occupation to economy of genocide," A/HRC/59/23 (June 2025), <https://www.un.org/unispal/document/a-hrc-59-23-from-economy-of-occupation-to-economy-of-genocide-report-special-rapporteur-francesca-albanese-palestine-2025/>



territories beyond the Green Line (Airbnb, Booking.com, Heidelberg Materials). An October report³⁷ on state complicity intensified the regulatory risk environment.

The US imposed sanctions on Albanese, characterising her work as "lawfare";³⁸ Israel and allies reject the allegations, which remain unlitigated. However, the reports create material risks: the October report calls for criminal prosecution of corporate executives and notes that by May 2024 there was "constructive knowledge" of alleged violations.³⁹ The June report recommends suspending dual-use goods trade (€17.5bn in EU-Israel trade).⁴⁰ Arms export restrictions are expanding across multiple jurisdictions.⁴¹

3.3 Foreign Direct Investment (FDI)

The EU is Israel's largest investor (€72bn FDI stock in 2023),⁴² nearly double US investment. The Netherlands accounts for two-thirds of this total, partly reflecting its role as a financial conduit.⁴³ As mentioned above, a review undertaken by the European Commission has identified that actions by Israel represents a breach of essential elements relating to human rights and democratic principles.

Post-conflict reconstruction frameworks, particularly the proposed "Trump Plan," create additional exposure channels examined in detail in section 4.

³⁷ Francesca Albanese, "Gaza Genocide: a collective crime," A/80/492 (October 20, 2025). <https://www.ohchr.org/en/documents/country-reports/a80492-gaza-genocide-collective-crime-report-special-rapporteur-situation>

³⁸ U.S. Department of State, "Sanctioning Lawfare that Targets U.S. and Israeli Persons" (July 9, 2025).

³⁹ A/HRC/59/23

⁴⁰ A/80/492

⁴¹ How top arms exporters have responded to the war in Gaza: 2025 update, Stockholm International Peace Research Institute, October 3, 2025 <https://www.sipri.org/commentary/topical-background/2025/how-top-arms-exporters-have-responded-war-gaza-2025-update>

⁴² European Commission, "Israel Country Factsheet," Directorate General Trade and Economic Security (May 8, 2025) https://webgate.ec.europa.eu/isdb_results/factsheets/country/overview_israel_en.pdf

⁴³ SOMO (Centre for Research on Multinational Corporations), "Economic sanctions now: the EU is Israel's largest investor" (July 24, 2025), based on IMF data, <https://www.somo.nl/economic-sanctions-eu-is-israel-largest-investor/>.



SECTION 4: Post-Conflict Reconstruction Finance - The Trump Plan

4.1 The Trump Plan Framework: A New Source of Risk

The proposed "Trump Plan" framework⁴⁴ contemplates significant reconstruction investment in Gaza, creating exposure channels that require enhanced due diligence. Unlike traditional reconstruction frameworks (e.g., post-conflict Bosnia, Iraq) that operated under UN mandates or with recognised government consent, this model imposes external governance structures without Palestinian institutional consent and in explicit contradiction to ICJ findings on the illegality of the occupation.⁴⁵

Investors should monitor Trump Plan developments as a highly fluid and contested risk factor. UN Security Council Resolution 2803 (November 2025) provides a formal international mandate for an International Stabilization Force and Board of Peace. However, early implementation efforts have proven problematic: the Gaza Humanitarian Foundation (GHF), positioned as a working prototype of Trump Plan governance structures, collapsed after five months (May-October 2025).⁴⁶ OHCHR documented over 2,100 deaths at aid distribution sites and along convoy routes as of early September 2025, with the majority occurring at GHF-operated sites.⁴⁷ GHF related professional ethics failures also resulted in Boston Consulting Group terminating its contract and firing participating partners.⁴⁸

Major Arab states including Egypt, Jordan, and Saudi Arabia maintain fundamental opposition to governance frameworks lacking Palestinian institutional consent. Trump administration announcements of imminent Board of Peace implementation (expected "before Christmas 2025" per December reporting) have yet to materialise.

This creates significant information asymmetry and operational risk: governance structures may consolidate more rapidly than institutional due diligence processes anticipate, or they may replicate the GHF pattern of chaotic implementation, reputational contagion to participants, and

⁴⁴ Al Jazeera, "What is the Trump plan for Gaza and will it work?", September 29, 2025, online: <https://www.aljazeera.com/news/2025/9/29/what-is-the-trump-plan-for-gaza-and-will-it-work>; Chatham House, "Can the Trump peace plan for Gaza succeed?", October 2025, online: <https://www.chathamhouse.org/2025/10/can-trump-peace-plan-gaza-succeed>.

⁴⁵ International Court of Justice, "Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem (Request for Advisory Opinion)", Summary of Advisory Opinion, 19 July 2024, para 267-272, online: <https://www.icj-cij.org/node/204176>.

⁴⁶ Controversial US-backed Gaza aid group to close, Financial Times, November 24, 2025, <https://www.ft.com/content/2194bc59-3549-4d29-b6c8-c4fc88e8f4cd>

⁴⁷ OHCHR reported over 2,100 Palestinian deaths at aid distribution sites and along convoy routes through September 2025, with the majority occurring at GHF distribution sites. (<https://www.aljazeera.com/news/2025/11/25/us-backed-ghf-aid-mission-in-gaza-ends-a-timeline-of-violence> for the comprehensive timeline; OHCHR press releases for official UN figures)

⁴⁸ BCG roiled by international backlash over Gaza aid work, Financial Times, August 23, 2025, <https://www.ft.com/content/89399790-b349-4112-ad2c-d6b27442889f>.



eventual collapse - both scenarios carrying distinct portfolio risks. The GHF precedent demonstrates that even blue-chip professional services firms suffered career-ending and reputational consequences from association with contested implementation frameworks, regardless of stated neutrality.

4.2 Specific risks

Governance vacuum: Proposed externally-led administrative frameworks overseen by a "Board of Peace" chaired by President Trump, including international consultancies contracted for "deradicalisation" and public service delivery.⁴⁹ *Risk:* Contracts proceeding without established legal frameworks, clear jurisdiction, or Palestinian oversight: classic indicators of elevated operational risk.

Security contracting: An "International Stabilisation Force" comprising private security contractors and defence firms. *Risk:* Politically contested mandates without clear UN Security Council authorisation create elevated reputational and regulatory exposure.

Reconstruction projects: Major infrastructure contracts anticipated for Gaza rebuilding. *Risk:* Awards through externally-imposed mechanisms without Palestinian oversight face legitimacy challenges and potential legal contests.

Regulatory uncertainty: The EU is reviewing Israel's compliance with the Association Agreement's human rights clauses (Article 2),⁵⁰ introducing the potential for sudden regulatory shifts rendering investments non-compliant.

Reputational lag risk: Commercial success does not eliminate reputational exposure when governance frameworks violate authoritative legal determinations. Even profitable investments face retrospective accountability as international court rulings and UN documentation create permanent records accessible to future stakeholders, employees, and beneficiaries. Third-party risk rating providers typically update conflict-zone methodologies 18-36 months after major international legal determinations, creating timing asymmetry for early participants. Trump Plan reconstruction participants may initially pass standard compliance screens and generate commercial returns, but face subsequent reclassification as rating agencies incorporate ICJ findings (July 2024, October 2025), UN Special Rapporteur documentation, and evolving EU regulatory frameworks. The Gaza Humanitarian Foundation demonstrates this pattern: participants including Boston Consulting Group faced retrospective consequences (see Section 4.1 for details) despite operating within contemporaneous compliance frameworks. Investments appearing passing standard screens and commercially viable in 2025-2027 carry elevated risk

⁴⁹ Al Jazeera, "What is the Trump plan for Gaza and will it work?", September 29, 2025; Chatham House, "Can the Trump peace plan for Gaza succeed?", October 2025.

⁵⁰ European Parliament Research Service, "Review of the EU-Israel Association Agreement," June 11, 2025. Review initiated May 20, 2025, following a request by the Netherlands supported by 17 EU member states.



of future exclusion as rating methodologies adjust to incorporate authoritative legal determinations.

4.3 Historical Precedent: Iraq and Afghanistan

Historical analysis of post-conflict reconstruction investment reveals a recurring pattern: governance frameworks operating without meaningful local institutional participation exhibit elevated long-term instability risk, creating a temporal mismatch between initial investment stability and delayed disruption.

Iraq (2003-2012): International reconstruction contracts operating through Coalition Provisional Authority structures without Iraqi institutional integration faced escalating operational disruption as legitimacy deficits manifested. Major infrastructure projects experienced cost overruns averaging 40% above initial projections due to security deterioration and local resistance.⁵¹

Afghanistan (2001-2021): Reconstruction investments flowing through externally-controlled structures rather than Afghan government institutions contributed to weak state capacity and dependence on international presence. When external support withdrew, institutional collapse occurred despite USD 145 billion in reconstruction investment.⁵²

4.4 Due Diligence and Risk Management Framework

Investors assessing Trump Plan reconstruction exposure should incorporate governance structure analysis into due diligence of infrastructure investment projects, specifically:

- **Institutional participation assessment:** Does project governance include Palestinian institutional involvement in decision-making, procurement oversight, or technical capacity development? Or does it operate entirely through external structures?
- **Accountability mechanisms:** Are there transparent processes for local stakeholder input and grievance resolution, or is accountability solely upward to external funders?
- **Capacity-building components:** Do contracts include provisions for skills transfer, institutional development, or local administrative strengthening? Or do they position local actors solely as labour and beneficiaries?
- **Exit pathway clarity:** What conditions would trigger project restructuring or withdrawal? Are there defined processes for transitioning governance to local institutions?

This analysis does not prescribe investment decisions based on political preferences. Rather, it recognises that governance structures with weak local legitimacy represent a distinct risk category with poor historical performance over investment time horizons relevant to institutional

⁵¹ Special Inspector General for Iraq Reconstruction, "Hard Lessons: The Iraq Reconstruction Experience" (2009), <https://archive.org/details/HardLessonsTheIraqReconstructionExperience>.

⁵² Special Inspector General for Afghanistan Reconstruction, "What We Need to Learn: Lessons from Twenty Years of Afghanistan Reconstruction" (2021), <https://www.sigar.mil/Portals/147/Files/Reports/Lessons-Learned/SIGAR-21-46-LL.pdf>.



portfolios (10-20 years). Conventional short-term political risk assessment may systematically underweight this factor during transitional periods when governance frameworks are fluid.

Defensive Posture for Compliance Purposes:

This governance risk assessment framework aligns with standard institutional analysis of conflict-zone investments. It does not constitute political advocacy but rather applies established political risk methodology to novel governance structures. Investors pursuing this analysis can document that decisions reflect prudent assessment of long-term stability risks based on historical precedent, not political positioning on Israeli-Palestinian issues.

Prudent risk management approach:

- Elevated screening for any 'Trump Plan' project exposure, regardless of company's general human rights risk profile
- Explicit review triggers and exit timelines rather than open-ended positions
- Required documentation of governance structures, Palestinian participation (if any), and legal jurisdiction before capital deployment
- Peer monitoring to track institutional exposure patterns shaping regulatory responses

As of October 2025, specific contract awards and investment flows remain limited.⁵³ However, the operational framework may be consolidating more rapidly than Western financial market participants currently anticipate, creating potential timing mismatches between institutional due diligence processes and on-the-ground political realities.

When institutional investors face novel governance structures lacking international legal consensus and contravening ICJ guidance, risk management frameworks typically apply heightened caution, treating such exposures as elevated-risk pending clarity. Investors should recognise that this "pending clarity" period itself carries risks: governance structures may consolidate during extended due diligence, and early capital deployment patterns often establish precedents that shape subsequent investment terms and conditions.

Historical precedent from Iraq and Afghanistan reconstruction demonstrates that governance frameworks lacking local institutional legitimacy - even when appearing stable initially - carry elevated long-term instability risk that conventional short-term political risk assessment may underweight.

⁵³ Al Jazeera, "What is the Trump plan for Gaza and will it work?", 29 September 2025; Chatham House, "Trump's Gaza plan is still not a complete peace settlement," October 2025.



SECTION 5: Sovereign Debt Exposure - A Material Gap in Legal and Reputational Risk Management

Institutional investors have developed sophisticated legal and reputational frameworks for equity and corporate debt holdings. However, sovereign debt - which represents significant allocations within institutional portfolios - frequently operates outside standard compliance screening processes. This gap creates a disconnect between stated international law commitments and actual portfolio exposures.

5.1 Legal and Regulatory Context

Israeli government bond investments contribute to the state's general budget. The International Court of Justice's July 2024 Advisory Opinion determined that Israel's continued presence in the occupied Palestinian territory and settlement expansion violate international law.⁵⁴ This authoritative legal determination materially affects sovereign risk assessment frameworks.

The following section examines the authoritative international legal determinations that fundamentally alter the risk assessment framework for these investments.

5.2 Market Structure and Exposure Pathways

Seven major investment banks (Bank of America, Citigroup, Deutsche Bank, Goldman Sachs, JPMorgan Chase, BNP Paribas, Barclays) have reportedly underwritten \$19.4 billion in Israeli sovereign bonds since October 2023.⁵⁵ Institutional exposure occurs through multiple channels: direct holdings, passive index replication, and third-party manager allocations. Many investors lack granular visibility into these sovereign debt positions within their overall portfolio construction.

5.3 Due Diligence and Transparency Challenges

The opacity of sovereign debt holdings within complex portfolio structures impedes investors' ability to conduct comprehensive human rights due diligence consistent with stated policies. This creates material gaps in legal and reputational risk management frameworks that many institutions have not yet addressed systematically.

⁵⁴ International Court of Justice, "Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem (Request for Advisory Opinion)", Summary of Advisory Opinion, 19 July 2024, para 267-272, online: <https://www.icj-cij.org/node/204176>.

⁵⁵ BankTrack, PAX and Profundo, "Seven underwriters of 'war bonds' instrumental in enabling Israel's assault on Gaza, new research finds", February 14, 2025, online: https://www.banktrack.org/news/seven_underwriters_of_war_bonds_instrumental_in_enabling_israel_s_assault_on_gaza_new_research_finds.



5.4 Reputational Risk Dynamics

Investment professionals increasingly scrutinise alignment between institutional commitments and portfolio holdings, particularly where authoritative international legal determinations exist. Where ICJ opinions and UN documentation establish legal findings, transparency gaps generate heightened internal and external scrutiny from workforce, beneficiaries, and stakeholders.

USS's £80 million divestment from Israeli sovereign debt and currency followed sustained pressure from the University and College Union, whose members publicly challenged the pension fund's initial refusal to act, particularly after USS had divested from Russian assets within seven days of the Ukraine invasion. The BCG precedent demonstrates parallel internal consequences: partners were terminated for undisclosed GHF involvement following internal pressure, despite initial management approval.⁵⁶

5.5 Emerging Structural Complexity

Proposed governance and reconstruction frameworks for Gaza, if implemented as currently structured, could involve Israeli-controlled financing channels potentially backed by sovereign guarantees.⁵⁷ Such developments would introduce additional complexity into sovereign risk assessment, potentially blurring traditional distinctions between sovereign and corporate credit risk. This could create contagion pathways extending from sovereign issuers through corporate counterparties to their institutional financiers.

5.6 Strategic Positioning Through Policy Clarification

Some institutional investors maintain limited or zero exposure to Israeli sovereign or corporate debt. For these institutions, the financial materiality of direct exposure may be minimal. However, the strategic value of clear public policy positions on Israeli sovereign debt extends beyond direct financial exposure.

A policy statement on sovereign debt screening serves multiple strategic objectives:

- Demonstrates systematic application of ICJ determinations and UN findings across all asset classes
- Provides operational clarity for internal portfolio management teams

⁵⁶ USS's £80 million divestment from Israeli sovereign debt and currency: Financial Times, August 8, 2024. UCU campaign and Russia comparison: UCU, "UCU condemns USS for its position on Gaza," February 26, 2024 (General Secretary Jo Grady: "When Russia invaded Ukraine, USS rightly issued a statement seven days later confirming there was a clear financial and moral case for divestment from its Russian holdings"). USS Russia statement (3 March 2022): https://www.uss.co.uk/news-and-views/latest-news/2022/03/03032022_russia-related-investments. BCG terminations: see Section 4.7.

⁵⁷ Al Jazeera, "What is the Trump plan for Gaza and will it work?", 29 September 2025; Chatham House, "Can the Trump peace plan for Gaza succeed?", October 2025.



- Addresses transparency gaps proactively before they become reputational liabilities
- Signals institutional alignment with international law to stakeholders, beneficiaries, and peers
- Creates defensible documentation of fiduciary process when legal determinations exist

Implementation Framework

Developing a clear policy position on Israeli sovereign debt represents a straightforward governance enhancement. The process requires:

- Policy statement development (minimal time investment)
 - Integration into existing legal and reputation risk screening frameworks
 - Communication to relevant stakeholders
 - Documentation for compliance and governance purposes
-



SECTION 6: Corporate Holdings - Third-Party Risk Rating Collapse Creates Information Asymmetry

6.1 The Retreat Pattern (MSCI, Sustainalytics withdrawals)

A critical risk vector has emerged: major third-party risk rating agencies have systematically withdrawn from Israel/Palestine human rights coverage during 2024-2025, creating information gaps precisely when legal risk is crystallising through ICJ rulings and UN findings.

MSCI (Throughout 2024-2025): Removed "severe controversy" ratings from Israeli banks, Elbit Systems, and US companies (Caterpillar, Motorola) operating in Israeli-controlled territories. Jewish News Syndicate (JNS) reporting in January 2025 documented these methodology changes, which followed an Illinois Investment Policy Board investigation that began in June 2024. An investigation by Follow The Money, published in *Il Sole 24 Ore* in May 2025⁵⁸, revealed that MSCI's human rights assessments for these companies had been systematically downgraded or removed despite unchanged operational reality and escalating conflict.

Morningstar Sustainalytics (December 2024): Announced complete withdrawal from "contiguous territorial disputes" including Israel/Palestine, Donetsk and Luhansk People's Republics (Ukraine), Kashmir, Nagorno-Karabakh, Western Sahara, and Essequibo. The firm's December 2024 statement cited inability to obtain "objective, reliable or consistent" information in these areas, despite continuing coverage of other conflict zones including Xinjiang, Myanmar, and Syria. Responsible Investor reported investor concerns on December 10, 2024, with the policy change formalised on Morningstar's website shortly thereafter.

Both retreats followed sustained political pressure: multi-year campaigns by pro-Israel advocacy groups, state-level anti-BDS investigations, and threats of contract termination and divestment. 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%.⁵⁹

⁵⁸ Follow The Money investigation, May 2025 <https://en.ilssole24ore.com/art/two-companies-evaluating-sustainability-indices-ignore-gaza-abuses-AHfnhBf>

⁵⁹ The Opimas 2022 ESG manager survey, cited by SEI, puts MSCI at about 31% and Sustainalytics at about 10% of the ESG ratings market. <https://assetmanagementuk.seic.com/pdf/download?uri=%2Fsites%2Fseiuuk.com%2Ffiles%2FNews%2FFINAL+202304+ESG+Ratings+-+What+is+it+all+about+5608699.1.pdf>



6.2 Critical Asymmetries Reveal Political Rather Than Methodological Decisions

Sustainalytics' selective exclusion undermines its stated rationale:

- **Still covered:** Crimea annexation, main Russia-Ukraine conflict, Xinjiang, Myanmar, Syria
- **Excluded:** Donetsk/Luhansk separatist regions, Israeli settlements, other "contiguous" disputes

If information reliability were the true barrier, this differential treatment is not explainable. Rather, the pattern suggests third-party risk providers withdraw coverage when politically powerful constituencies apply sustained pressure, regardless of information availability or legal clarity.

6.3 Four Material Risks for Institutional Investors

1. Coverage Collapse During Peak Legal Risk: Withdrawal occurs precisely as ICJ issues authoritative determinations (July 2024, October 2025), UN Commission finds genocide (September 2025), Special Rapporteur documents corporate complicity (June, October 2025), and EU reviews Association Agreement suspension. Independent risk assessment infrastructure disappears when legal risk crystallises.

2. False Security in Human Rights-Screened Portfolios: Companies previously flagged for severe human rights controversies - Israeli banks financing settlements, defense contractors, settlement-linked businesses - now pass through standard human rights compliance screens despite unchanged operations and mounting international legal findings. Investors relying on human rights-screened indices have unhedged exposure to activities that international legal bodies have determined violate established law.

3. Broader Reliability Questions: Leading institutional investors publicly question implications. Kiran Aziz, Head of Responsible Investment at Norway's KLP (€80bn+ AUM), stated in May 2025: "If they cannot provide information related to conflict areas such as the Israeli-Palestinian conflict... how can we trust that their other information on human rights is reliable?".⁶⁰ If independent risk assessment infrastructure collapses under political pressure when controversial legal determinations emerge, what does this signal for future contested domains - climate litigation, biodiversity loss, AI governance?

4. Policy Implementation Gaps: Investors with explicit human rights exclusion policies face particular reputational risk exposure. Holdings that would trigger exclusions under functional

⁶⁰ Follow The Money investigation, May 2025 <https://en.ilssole24ore.com/art/two-companies-evaluating-sustainability-indices-ignore-gaza-abuses-AHfnhBf>



screening now pass through undetected, creating divergence between stated commitments and actual portfolios that beneficiaries or whistleblowers could surface.

6.4 Risk Management Implications

This infrastructure collapse requires immediate operational responses:

- **Proprietary Due Diligence:** Standard third-party screening is demonstrably inadequate for Israel-related exposure. Institutions must develop in-house capabilities (using UN documentation (OHCHR, Special Rapporteur reports, Commission findings), ICJ determinations, and EU regulatory analysis) or secure appropriate service providers.
- **Board-Level Acknowledgment:** Governance bodies must be informed that third-party human rights risk assessors have withdrawn coverage, creating unscreened exposure in portfolios marketed as incorporating human rights safeguards. This documentation demonstrates awareness of infrastructure failure and establishes an audit trail for compensating controls.
- **Defensive Documentation:** Explicit records of (a) awareness that third-party human rights risk assessment infrastructure has failed, (b) alternative due diligence sources employed, (c) enhanced governance reporting implemented, and (d) reconciliation between policies and conflict-zone holdings. Without such documentation, institutions may face retrospective claims of inadequate fiduciary process.

The systematic retreat of third-party risk rating providers from conflict-zone coverage - occurring as authoritative legal determinations accumulate - reveals third-party risk rating infrastructure as systematically unreliable precisely when most needed: at the intersection of legal clarity and political controversy. Investors who recognise this fragility can develop compensating controls. Those who continue treating compromised third-party screening mechanisms as adequate due diligence face material legal, reputational, and governance exposure.



SECTION 7: Industry Response Patterns: The Russia-Ukraine Precedent

7.1 The 2022 Response to Russia-Ukraine

Following Russia's invasion of Ukraine in February 2022, the investment industry demonstrated its capacity for rapid response to international law violations. This precedent creates a measurable benchmark against which to assess current approaches to comparable situations.

The Principles for Responsible Investment (PRI), a United Nations-supported initiative representing investors with over \$128 trillion in assets under management, published statements within days of the invasion of Ukraine addressing the implications for responsible investment and the conflict's impact on international norms.⁶¹ Major institutional investors enacted swift policy changes, with the Church of England Pension Board instructing managers to divest from all Russian holdings on February 24, 2022 - the day of the invasion - a decision announced publicly on February 28.⁶² Nest, managing £49.7 billion on behalf of 13.8 million members as of March 2025, announced on March 1, 2022 that it would remove "all investment in Russian government bonds and Russian companies as soon as possible."⁶³

7.2 Current Situation: Divergent Approaches

Despite International Court of Justice (ICJ) rulings in October 2025 determining that Israel must cooperate with UN agencies to facilitate humanitarian aid and is prohibited from using starvation as warfare,⁶⁴ combined with UN findings of war crimes and crimes against humanity,⁶⁵ investors

⁶¹ Principles for Responsible Investment (March 2022): Statement on Russian invasion of Ukraine and implications for responsible investment. <https://www.unpri.org/news-and-press/russian-invasion-of-ukraine/9587.article>.

⁶² Reuters via Yahoo Finance (February 28, 2022): "Church of England joins investors exiting Russian assets." Article states: "Church Commissioners and the Church of England Pensions Board said they had instructed fund managers on Feb. 24 to sell their direct holdings in Russian companies in response to Russia's attack on Ukraine." Holdings represented approximately 0.16% of total investments. Available at: <https://finance.yahoo.com/news/church-england-joins-investors-exiting-101308297.html>.

⁶³ Nest press release (March 1, 2022): "Nest's response to the conflict in Ukraine." CEO Helen Dean statement announcing removal of "all investment in Russian government bonds and Russian companies as soon as possible." Available at: <https://www.nestpensions.org.uk/schemeweb/nest/nestcorporation/news-press-and-policy/press-releases/nests-response-conflict-in-ukraine.html>. Nest Annual Report 2024/25 confirms assets under management of £49.7 billion and membership of 13.8 million as of March 31, 2025.

⁶⁴ International Court of Justice Advisory Opinion - Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory, (A/80/502), October 22, 2025. <https://www.un.org/unispal/wp-content/uploads/2025/10/advisory-opinion-22-Oct-2025.pdf>

⁶⁵ UN Commission of Inquiry (June 10, 2025): Found Israeli forces committed war crimes and the crime against humanity of extermination in attacks on educational, religious and cultural sites; documented deliberate killing of civilians sheltering in schools and religious sites, <https://docs.un.org/en/A/HRC/59/26>



have not enacted comparable coordinated responses. This divergence in approach presents several risks:

Reputational inconsistency: The absence of parallel responses to situations involving comparable findings of international law violations creates questions about the consistent application of international law and human rights principles. Beneficiaries, civil society organisations, and media increasingly highlight this pattern.

Fiduciary concerns: Recent reporting indicates that Nest began investing in Elbit Systems - Israel's largest defence company - in December 2024, fifteen months into the Gaza conflict.⁶⁶ This is reported to have occurred six months after UN experts warned that ongoing business relationships with arms suppliers to Israel risked complicity in potential atrocity crimes. This exposure has now been eliminated but this case raises wider questions about alignment between stated international law and human rights policies and actual portfolio management.

Policy clarity: The investment industry's divergent responses to Russia versus other situations involving determinations of international law violations suggest a need for clearer, more consistent frameworks for assessing geopolitical risk and legal compliance obligations.

7.3 Investor Considerations

Investors may wish to evaluate:

- Whether existing international law and human rights policies provide adequate guidance for responding to ICJ determinations and UN findings of international law violations
- The consistency of portfolio screening mechanisms across different geopolitical contexts
- The adequacy of current approaches to managing reputational and legal risk in evolving international law landscapes
- Whether fiduciary duties require reassessment of holdings in companies linked to situations where international courts have made determinations of law violations

Section 8 examines how leading institutions are addressing these questions in practice.

⁶⁶ Novara Media (May 30, 2025): "Britain's Biggest Pension Fund Invests in Israeli Weapons Firm Elbit Systems." Investigation revealing Nest's Retirement Date Fund and Higher Risk Fund began investing in Elbit Systems in December 2024, fifteen months into the Gaza conflict and six months after UN experts warned of complicity risks. <https://novaramedia.com/2025/05/30/britains-biggest-pension-fund-invests-in-israeli-weapons-firm-elbit-systems/>.

Nest confirms it held a very small exposure (around 0.003% of AUM as at 31 March 2025) to Elbit Systems Ltd earlier in 2025 via its Higher Risk and Retirement Date Funds, but following a May 2025 portfolio review and subsequent tightening of its screening processes, Nest fully divested from Elbit Systems Ltd and raised the threshold for companies entering its portfolio in line with its responsible investment objectives and members' best interests.



SECTION 8: Some Investors Are Already Moving (Despite the Headlines)

Whilst comprehensive action is still lacking, some leading institutions have begun implementing risk mitigation strategies and repositioning their portfolios, providing a roadmap for other investors.

8.1 Dutch Pension Funds (ABP, PFZW, PME)

In October 2025, several of the largest Dutch pension funds divested from companies identified by the United Nations Human Rights Council as potentially complicit in human rights violations in the Occupied Palestinian Territories.⁶⁷ ABP (approximately EUR 520 billion in assets under management): sold stakes in Caterpillar, Booking.com, Heidelberg Cement, and Altice. PFZW (approximately EUR 248 billion AUM) divested from Booking.com, Airbnb, and Expedia, valued at approximately EUR 300 million. PME (approximately EUR 58 billion AUM) sold EUR 151 million in holdings including Airbnb, Booking.com, Expedia, and Motorola.⁶⁸

8.2 Norway's Government Pension Fund Global (GPFG)

In August 2025, the world's largest sovereign wealth fund excluded Caterpillar and five Israeli banks (Bank Hapoalim, Bank Leumi, Mizrahi Tefahot Bank, First International Bank of Israel, and FIBI Holdings) from its equity portfolio due to "an unacceptable risk that the companies contribute to serious violations of the rights of individuals in situations of war and conflict."⁶⁹ The fund's Council on Ethics determined that Caterpillar's bulldozers were being used in "widespread unlawful destruction of Palestinian property" and that the banks provided financial services necessary for settlement construction in the West Bank.⁷⁰ The GPFG held approximately NOK 21.8 billion (approximately USD 2.1 billion) in Caterpillar shares prior to

⁶⁷ IPE, "ABP divests from UN-listed companies involved with Israeli settlements," October 1, 2025 <https://www.ipe.com/news/abp-divests-from-un-listed-companies-involved-with-israeli-settlements/10132908.article>

⁶⁸ IPE, "PME, PFZW are latest funds to sell stocks linked to Israel human rights violations," October 2025 <https://www.ipe.com/news/pme-pfzw-are-latest-funds-to-sell-stocks-linked-to-israel-human-rights-violations/10132968.article>; IPE, "Netherlands Briefing: Dutch funds continue Israel stock purge," October 2025 <https://www.ipe.com/analysis/ipe-netherlands-briefing-dutch-funds-continue-israel-stock-purge/10133335.article>

⁶⁹ CNBC, "World's largest sovereign wealth fund exits Caterpillar and five banks on Israel concerns," August 26, 2025 <https://www.cnbc.com/2025/08/26/norways-giant-wealth-fund-exits-six-firms-on-israel-concerns.html>

⁷⁰ IPE, "Norway's SWF extends Israel stocks purge to US, divesting €2bn of Caterpillar," August 26, 2025 <https://www.ipe.com/news/norways-swf-extends-israel-stocks-purge-to-us-divesting-2bn-of-caterpillar/10132325.article>



divestment.⁷¹ However, the fund's approach has been notably reactive, acting only after sustained pressure from civil society and its own ethics council.

8.3 Norway's KLP

In June 2025, KLP (Norway's largest private pension fund with approximately USD 114 billion AUM) announced that it had divested from Oshkosh Corporation and ThyssenKrupp due to their "potential complicity in violations of fundamental human rights and humanitarian law."⁷² KLP had divested from Caterpillar in 2024 on similar grounds.⁷³

8.4 Denmark's Akademiker Pension

In September 2025, Akademiker Pension (managing approximately DKK 157 billion/USD 24.77 billion) announced that it would exclude Israeli state assets, including government-controlled companies, from its investment portfolio, citing Israel's conduct in Gaza and the West Bank as inconsistent with international humanitarian principles.⁷⁴

8.5 UK's Universities Superannuation Scheme (USS)

The UK's largest private pension scheme sold approximately £80 million in Israeli government bonds and currency between March and July 2024.⁷⁵ USS explicitly framed this decision around "financial risk" in its annual report, which stated the fund had reduced exposure to the Middle East "in response to clear financial risks."⁷⁶ This approach demonstrates effective regulatory conflict management: USS made a substantive risk-based decision and communicated it in professional risk language, avoiding the documentation liability that arises when institutions delay action due to political pressure rather than conducting genuine risk assessment.

8.6 King's College, Cambridge

In May 2025, King's College announced its governing body had adopted a responsible investment policy that would exclude companies "involved in activities generally recognised as

⁷¹ Al Jazeera, "Norway fund divests from US firm Caterpillar over Gaza, West Bank abuses," August 26, 2025 <https://www.aljazeera.com/news/2025/8/26/norway-fund-divests-from-us-firm-caterpillar-over-gaza-west-bank-abuses>

⁷² Al Jazeera, "Norwegian pension fund divests from companies selling to Israeli military," June 30, 2025 <https://www.aljazeera.com/news/2025/6/30/norwegian-pension-fund-divests-from-companies-selling-to-israeli-military>

⁷³ KLP official website, "KLP and the KLP Funds have decided to exclude Caterpillar Inc," 2024 <https://www.klp.no/en/press-room/klp-excludes-caterpillar-inc>

⁷⁴ Reuters via Times of Israel, "Danish teachers' pension fund to divest from Israeli state assets," September 24, 2025 <https://www.timesofisrael.com/danish-teachers-pension-fund-to-divest-from-israeli-state-assets-over-gaza-settlements/>

⁷⁵ Financial Times, "UK's biggest private pension fund dumps £80mn of Israeli assets," August 8, 2024 <https://www.ft.com/content/db6956be-3da3-46b7-84d6-3b8740a88fc6>

⁷⁶ Pensions Expert, "Why USS has sold Israeli assets," August 15, 2024 <https://www.pensions-expert.com/investment/why-uss-has-sold-israeli-assets-updated/67637.article>



illegal or contravening global norms, such as occupation" by the end of 2025.⁷⁷ As of March 2023, the institution had invested £2.2 million in arms companies including Lockheed Martin, Korea Aerospace, and BAE Systems.⁷⁸ This decision followed months of consultation and provides a model of beneficiary engagement leading to divestment from arms manufacturers and occupation-linked firms, anchoring the decision in fiduciary duty aligned with institutional values.

8.7 United Methodist Church (Wespath)

In August 2025, Wespath Benefits and Investments (managing over USD 26 billion in assets) announced it would exclude investments in Israeli government bonds, implementing a resolution adopted by the United Methodist Church General Conference in April 2024.⁷⁹ Wespath expanded this policy to exclude bonds from approximately 60 countries with elevated human rights risk, prolonged military occupations, authoritarianism, or corruption.⁸⁰ This makes the United Methodist Church the first major Christian denomination globally to divest from Israeli government bonds.⁸¹

Although these actions represent a small but growing portion of the global institutional investment community, they provide concrete examples of risk mitigation strategies that major financial institutions are implementing. Notably, the pace and scope of these actions remains limited compared to the response to Russia-related assets following the 2022 invasion of Ukraine, suggesting significant room for acceleration as legal clarity continues to develop.

8.8 Church of England Pensions Board

The Church of England Pensions Board has implemented a comprehensive human rights-based approach to conflict-affected and high-risk areas (CAHRA), including occupied territories. The Board's framework demonstrates systematic application of heightened due diligence standards grounded in the UN Guiding Principles on Business and Human Rights.

⁷⁷ Middle East Eye, "King's College Cambridge to divest millions from 'occupation' and arms industry," May 20, 2025 <https://www.middleeasteye.net/news/kings-college-cambridge-divest-millions-occupation-and-arms-industry>

⁷⁸ Ibid

⁷⁹ Religion News Service, "United Methodist Church leads global church in divestment from bonds of Israel, other occupier governments," August 18, 2025 <https://religionnews.com/2025/08/18/united-methodist-church-leads-global-church-in-divestment-from-bonds-of-israel-other-occupier-governments/>

⁸⁰ UMNews, "Wespath intensifies its scrutiny of bonds," August 6, 2025 <https://www.umnews.org/en/news/wespath-intensifies-its-scrutiny-of-bonds>

⁸¹ Mondoweiss, "United Methodist Church divests from Israel bonds," August 19, 2025 <https://mondoweiss.net/2025/08/united-methodist-church-divests-from-israel-bonds/>



Sovereign Debt Exclusion: The Church of England Pensions Board holds no sovereign debt issued by the Government of Israel, reflecting application of its sovereign debt screening methodology to conflict-zone exposures.⁸²

Corporate Holdings - Tiered Engagement: The Board maintains a structured approach to Israeli-domiciled companies and multinationals with operations in the Occupied Palestinian Territories:

- **Israeli-domiciled companies:** The Board excludes all Israeli companies included on the UN Office of the High Commissioner for Human Rights (OHCHR) database related to settlements. As of August 2025, the Board holds 9 Israeli-domiciled companies not flagged by its human rights screening or included on the UN Database.
- **Multinational companies:** The Board holds 5 companies included on the UN Database and an additional 15 companies identified in the July 2025 UN Special Rapporteur Report on the occupation. The Board is conducting active engagement with these companies, "raising serious concerns about their continued inclusion in these UN reports" and expecting demonstration of action to address human rights violations or termination of problematic activities or business relationships.

Strategic Positioning: The Board's approach exemplifies several risk management principles outlined in this briefing:

1. **Clear exclusion criteria:** Systematic sovereign debt screening and corporate exclusions based on authoritative UN documentation
2. **Proportionate engagement:** Time-bound engagement with multinationals while maintaining exclusions for settlement-linked Israeli companies
3. **Transparency:** Public disclosure of holdings, engagement rationale, and escalation pathways
4. **Institutional infrastructure:** Dedicated resources for human rights monitoring, supported by the Ethical Investment Advisory Group

The Board has also established a Global Centre for Peacebuilding and Business to strengthen investor and business engagement in conflict environments, providing institutional leadership beyond portfolio-level actions. This demonstrates how faith-based investors with explicit ethical mandates can develop sophisticated frameworks that integrate both values-based commitments and fiduciary obligations in conflict-zone investment decisions.

⁸² Church of England Pensions Board, "Supporting peacebuilding and respect for human rights" available at: <https://www.cofepensionsboard.org/investments/our-responsible-investment-approach/supporting-peacebuilding-and-respect-human-rights>



8.9 Examples of Corporate Responses affecting Financial Performance

Commercial impact of consumer and institutional pressure demonstrates both downside and upside scenarios:

Puma (2018): Ended sponsorship of Israel Football Association after sustained campaign. Stock price rose 23% in following 12 months, suggesting limited commercial downside from strategic disengagement.⁸³

SodaStream (2014-2018): Closed West Bank factory after boycott pressure. Despite initial revenue concerns, the company was acquired by PepsiCo for \$3.2 billion in 2018, demonstrating that divestment from controversial operations did not prevent successful exit.⁸⁴

Booking.com/Airbnb: Both platforms faced sustained pressure over settlement listings. Airbnb removed listings (2018), though later reversed under political pressure.⁸⁵ Both companies now face renewed institutional investor scrutiny following Dutch pension fund divestments in October 2025, illustrating that the issue remains material for long-term holders.

These examples demonstrate that strategic disengagement from legally contested activities can occur without destroying shareholder value, and in some cases may enhance long-term positioning by reducing regulatory and reputational risk.

⁸³ Financial Times, "Puma ends Israel football sponsorship after BDS campaign," January 14, 2018; Yahoo Finance stock data showing Puma SE share price increase from approximately €290 (January 2018) to €357 (January 2019), representing 23% gain.

⁸⁴ PepsiCo press release, "PepsiCo to Acquire SodaStream," August 20, 2018, announcing \$3.2 billion acquisition. SodaStream had closed its West Bank facility in 2014 following sustained boycott pressure.

⁸⁵ Airbnb press release, November 19, 2018, announcing removal of approximately 200 listings in Israeli settlements (<https://news.airbnb.com/listings-in-disputed-regions/>); policy reversed in April 2019 (<https://press.airbnb.com/update-listings-disputed-regions/>) following political and legal pressure. Both companies now face renewed scrutiny following Dutch pension fund divestments.



SECTION 9: Addressing Fiduciary Concerns: Risk Management, Not Politics

9.1 Concern: "This is political"

Response: This is a legal and financial risk management issue. Investors are responding to binding determinations from the International Court of Justice (ICJ), the United Nations' highest judicial body, and to established precedent to comparable situations. In October 2025, the ICJ determined that Israel, as the occupying power, must cooperate with UN agencies, ensure the basic needs of the Gaza population are met, and is specifically prohibited from using starvation as a method of warfare.⁸⁶ Fiduciary duties require investors to manage material legal, reputational, and regulatory risks arising from international law violations - not to make political judgements.

9.2 Concern: "Divestment will harm performance"

Response: Israeli equities represent approximately 0.4% of the MSCI World Index,⁸⁷ and Israeli sovereign bonds represent a comparably small portion of major fixed income benchmarks.⁸⁸ Targeted exclusion, comparable to institutional investor responses to Russia following the 2022 Ukraine invasion, will have negligible impact on diversified portfolio returns⁸⁹ whilst materially reducing concentrated legal and reputational exposure. Following Russia's invasion of Ukraine, major pension funds including CalPERS, CalSTRS, and the New York State Common Retirement Fund divested from Russian holdings (typically 0.15-0.4% of assets) on both moral and fiduciary grounds, with broad trustee support.⁹⁰

⁸⁶ International Court of Justice Advisory Opinion, October 22, 2025. The ICJ determined that Israel must cooperate with UN agencies including UNRWA to facilitate humanitarian aid; that Israel as occupying power must ensure basic needs of Gaza population are met; that Israel's claims about UNRWA lacking impartiality are unfounded; and that Israel is prohibited from using starvation as method of warfare.

⁸⁷ Based on MSCI data indicating Israel represents approximately 0.37-0.4% of the MSCI World Index (2022-2024 data).

⁸⁸ Israeli Shekel-denominated bonds are eligible for inclusion in the Bloomberg Global Aggregate Index. Precise current weight requires subscription access to Bloomberg terminal data.

⁸⁹ Portfolio impact analysis based on index weightings and diversification principles. Russian exposures represented less than 0.5% of most U.S. public pension portfolios, demonstrating negligible performance impact from comparable exclusions (Governing, March 15, 2022, <https://www.governing.com/finance/the-smart-way-for-public-pensions-to-divest-from-russia>).

⁹⁰ Major U.S. pension funds including California Public Employees' Retirement System (CalPERS), California State Teachers' Retirement System (CalSTRS), New York State Common Retirement Fund, Pennsylvania Public School Employees' Retirement System (PSERS), and Connecticut state pension funds divested Russian holdings (typically 0.15-0.4% of total assets) following Ukraine invasion in 2022. Divestment was undertaken on grounds of unacceptable investment risk, with trustees citing both moral imperative and fiduciary duty.



9.3 Concern: "Engagement is better than divestment"

Response: Engagement is a valuable tool where business practices can be meaningfully improved through shareholder influence. However, its effectiveness depends on the nature of the investment and the structural capacity for shareholder impact. Investment professionals should distinguish between scenarios where engagement can drive change and those where it cannot:

- **Sovereign Debt:** Government bonds represent direct financing of state activities. There is no mechanism for "engagement" with sovereign issuers beyond the binary decision to provide or withhold capital.
- **Business Models Dependent on International Law Violations:** UN Special Rapporteur findings identify corporate complicity where business models are structurally reliant on military supply chains, settlement infrastructure, or occupation-related activities.⁹¹ Where core revenue depends on such activities, engagement is unlikely to alter fundamental business direction.
- **Structural Governance Barriers:** Where founders or executives maintain voting control through dual-class share structures or similar mechanisms, minority shareholders lack the structural influence necessary for meaningful engagement, regardless of the percentage of economic ownership.

For activities where corporate participation depends on implementing externally imposed frameworks that lack meaningful consultation with affected populations, engagement on fundamental business model questions face significant limitations. In these contexts, the most prudent fiduciary action may be exclusion to avoid direct association with activities that international legal bodies have determined violate established law.⁹²

Moreover, historical analysis of reconstruction finance demonstrates that investments in governance structures lacking local institutional legitimacy carry elevated long-term instability risk, even when appearing stable initially.⁹³ Where engagement cannot meaningfully address

⁹¹ UN Special Rapporteur Francesca Albanese, "From economy of occupation to economy of genocide" (June 2025), details corporate complicity including military suppliers, technology companies, and financial institutions, concluding that corporations have entrenched Israel's system of displacement.

⁹² UN Special Rapporteur Francesca Albanese, "Gaza Genocide: a collective crime" (October 2025), concludes the genocide is sustained by complicity of third states through direct support, material aid, diplomatic protection, and active participation, identifying 26 states providing arms between October 2023-October 2025 and calling for corporate criminal prosecutions.

⁹³ Special Inspector General for Iraq Reconstruction, "Hard Lessons: The Iraq Reconstruction Experience" (2009), documenting cost overruns averaging 40% above projections due to security deterioration and legitimacy deficits; Special Inspector General for Afghanistan Reconstruction, "What We Need to Learn: Lessons from Twenty Years of Afghanistan Reconstruction" (2021), analyzing how USD 145 billion in reconstruction investment failed due to weak state capacity and lack of Afghan institutional integration. For governance legitimacy and reconstruction outcomes, see World Bank, "World Development Report 2011: Conflict, Security, and Development," noting that "externally-imposed governance structures without local institutional participation demonstrate higher variance in long-term outcomes."



whether project governance structures align with international best practice for sustainable reconstruction (including local institutional participation and accountability mechanisms), exclusion may represent not simply legal defensiveness but responsible long-term risk assessment based on empirical precedent from Iraq, Afghanistan, and comparable environments.



SECTION 10: Risk Management Response Framework

Given the fundamental shift in the legal and informational environment documented in sections 1-8, institutional investors conducting fiduciary risk reviews should consider a structured, phased approach. The following framework identifies process steps that constitute generally prudent risk management regardless of ultimate portfolio decisions, alongside risk assessments that inform those decisions.

10.1 Immediate Risk Assessment (Next 30 Days)

Action: Conduct Comprehensive Exposure Audit

Quantify all direct and indirect exposure to Israeli sovereign debt and corporate securities in high-risk sectors:

- Direct holdings: Israeli government bonds across all portfolios and mandate types
- Index exposure: Holdings through passive funds (Bloomberg Global Aggregate, MSCI indices)
- External managers: Exposure via third-party asset managers and commingled funds
- Corporate bonds: Holdings in banks that have underwritten Israeli sovereign debt since October 2023 (Bank of America, Citigroup, Deutsche Bank, Goldman Sachs, JPMorgan Chase)
- Private markets: Alternative investment exposure to defence tech, reconstruction projects, or Trump Plan-related ventures
- Geographic breakdown: Distinguish between Israel-proper holdings and occupied territories exposure

Action: Commission Legal Risk Analysis

Task the institution's legal and compliance team with preparing a comprehensive memo addressing:

- EU liability assessment: Potential exposure under Corporate Sustainability Due Diligence Directive and due diligence regulations
- Complicity framework: Risk characterisation under international law principles established by ICJ October 2025 ruling
- Comparative analysis: Consistency (or inconsistency) between current Israel exposure and rationale used for Russia exclusions
- Whistleblower vulnerability: Gap analysis between stated international law and human rights commitments and current holdings
- Regulatory triggers: Exposure to potential EU-Israel Association Agreement suspension

Action: Establish Review Governance Structure



Create appropriate decision-making infrastructure:

- Convene cross-functional team: Include investments, legal, compliance, human rights/sustainability, risk, and communications
- Assign accountability: Designate senior responsible officer for managing review process
- Set timeline: Establish decision milestones aligned with this framework (30/90/180-day phases)
- Document process: Maintain audit trail of analysis, deliberations, and rationale for all decisions
- Board briefing: Prepare materials for trustee/board-level discussion

10.2 Risk Characterisation: Israeli Sovereign Debt

Context: Israeli sovereign bonds represent a small portion of major fixed income indices.⁹⁴ Israeli equities represent approximately 0.5% of the MSCI World Index.⁹⁵

Israeli government bonds present a fundamentally altered risk profile following the October 2025 ICJ ruling and related UN expert body reports:

Legal Risk:

- Direct financing of state activities the ICJ has declared unlawful (occupation, settlement expansion)
- February 2025 \$5bn issuance with proceeds explicitly designated by the Israeli government to finance war costs, including military operations
- Potential liability under evolving EU due diligence frameworks
- State obligations under ICJ ruling to cease material support create investor exposure

Reputational Risk:

- Visible contradiction with stated human rights exclusion policies
- High-profile inconsistency with Russia divestment precedent (comparable ICJ/international law violation findings)
- Beneficiary scrutiny intensifying across public and private pension schemes
- Media attention to sovereign debt holdings increasing

Regulatory Risk:

- EU-Israel Association Agreement suspension discussions creating near-term divestment trigger risk

⁹⁴ Bloomberg Global Aggregate Index includes Israeli shekel-denominated bonds (ILS) amongst 27 local currency markets. Israeli sovereign bonds represent a small fraction of the index's total composition. Bloomberg Fixed Income Index methodology documentation.

⁹⁵ Based on standard MSCI World Index composition data. Israeli equities constitute approximately 0.5% of the index by market capitalisation.



- QMV threshold (not unanimity) lowering political barriers to action
- Precedent from Russia sanctions demonstrating speed of regulatory change
- National-level arms embargo expansions creating cascading policy effects

Financial Risk:

- Credit rating downgrades from Fitch and Moody's reflecting economic deterioration⁹⁶
- Market repricing risk as institutional awareness increases
- Liquidity concerns if multiple large holders seek exits simultaneously
- Benchmark exclusion risk if index providers respond to regulatory environment

Recommended Action: Given minimal index weight and availability of comparable sovereign exposures, exclusion represents straightforward risk mitigation with negligible portfolio impact.

10.3 Risk Characterisation: Corporate Holdings

Corporate exposure requires more nuanced assessment based on business model, revenue dependence, and engagement feasibility.

High-Risk Categories:

Settlement-Linked Operations:

- Companies deriving revenue from activities in occupied territories beyond the Green Line
- Documented in UN Human Rights Council database⁹⁷
- Example precedents: Travel platforms (Booking.com, Airbnb, Expedia) divested by Dutch pension funds PFZW and PME⁹⁸

Defence Contractors:

- Companies supplying weapons/equipment used in military operations subject to international legal scrutiny

⁹⁶ Fitch Ratings downgraded Israel's credit rating in 2024 and maintained negative outlook through 2025 citing war costs and economic deterioration. Moody's issued similar warnings. Al Jazeera (December 26, 2024): "All three major credit rating agencies project a negative outlook for Israel's credit."

⁹⁷ UN Office of the High Commissioner for Human Rights, A/HRC/60/19 (September 26, 2025), identifying 158 companies with business activities linked to Israeli settlements in occupied Palestinian territories. <https://www.ohchr.org/en/documents/thematic-reports/ahrc6019-database-all-business-enterprises-involved-activities-detailed>

⁹⁸ IPE (October 2024, September 2025). Dutch pension funds PFZW (€248bn-€255bn AUM) and PME (€58bn AUM) divested from Booking.com, Airbnb, and Expedia citing concerns that these companies "are likely still contributing to human rights violations in the West Bank" through offering accommodations in illegal settlements.



- Example precedents: Caterpillar divestment by multiple European pension funds⁹⁹

Technology Firms:

- Major platforms providing infrastructure services that have been documented as supporting occupation administration
- Distinct challenge due to index concentration and dual-class share structures limiting engagement efficacy

Financial Institutions:

- Banks underwriting Israeli sovereign debt issued specifically to fund war costs since October 2023¹⁰⁰
- Israeli banks financing settlement construction and expansion

Risk Assessment Framework:

For institutions evaluating corporate holdings, a tiered approach may be appropriate:

Tier 1 - Immediate Review: Companies with direct, substantial, and ongoing involvement in activities determined by international legal bodies to constitute violations of international law

- Recommended action: Formal exclusion if documented engagement effort is unsuccessful in the short-term

Tier 2 - Enhanced Due Diligence: Companies with material exposure to legally contested activities

- Recommended action: Time-bound engagement (for example, 12-18 months) with clear objectives, defined milestones and divestment as ultimate consequence of engagement failure

Tier 3 - Monitoring: Companies with indirect or minor exposure

- Recommended action: Enhanced monitoring protocols and escalation procedures if exposure increases

⁹⁹ IPE (September 2025). Four of Netherlands' five largest pension funds sold combined €260m stake in Caterpillar. PME and PMT explicitly linked divestment to use of Caterpillar bulldozers in occupied West Bank, stating "This is not in line with international treaties and thereby violates human rights." Norway's KLP made similar divestment in June 2024.

¹⁰⁰ BankTrack (2025). Research identified seven major banks as primary underwriters of Israeli government bonds issued since October 2023, with these bonds explicitly marketed to fund military operations. Goldman Sachs alone underwrote over \$7 billion.



10.4 Communication and Stakeholder Management (Next 90 Days)

Action: Assess Disclosure Requirements

- Beneficiary disclosure: Public statement on current exposure levels and review process
- Rationale documentation: Clear articulation of risk management framework and fiduciary basis for decisions
- Media preparedness: Briefing materials for potential inquiries from financial press and civil society
- Peer comparison: Positioning relative to comparable institutions' approaches
- Policy consistency: Explanation of how decisions align with stated commitments on international law, human rights, and legal compliance

Action: Benchmark Against Peers

- Document precedents: Track decisions by ABP/PFZW/PME (EUR 840bn combined assets under management),¹⁰¹ Norway GPF, USS, Akademiker Pension, KLP, Wespath
- Analyse rationales: Note USS's explicit "financial risk" framing (avoiding political characterisation)
- Assess timing: Early movers (USS March-August 2024)¹⁰² vs. reactive responders (Norway GPF post-pressure)
- Evaluate reputational impact: Analyse how different approaches have been received by beneficiaries, media, and regulators

Action: Prepare Communication Materials For Multiple Scenarios

- Status quo maintenance: Rationale for why continued exposure is consistent with fiduciary duty (note: this position faces significant defensibility challenges given the picture as set out in sections 1-8)
- Partial exclusion: Framework for selective divestment (e.g., sovereign debt but not all corporates)
- Comprehensive review: Communication around phased approach pending deeper analysis
- Full alignment: Positioning around alignment with international law and the Russia precedent

¹⁰¹ ABP (€533bn AUM as of 2024), PFZW (€248bn AUM), and PME (€58bn AUM) combined represent approximately €840bn in assets under management. All three Dutch pension funds have undertaken various divestment actions related to Israeli holdings. IPE (2024-2025); NL Times (July 4, 2025).

¹⁰² Financial Times and multiple sources confirm USS began selling Israeli assets in March 2024, with the Financial Times reporting in August 2024 that USS had "materially reduced its exposure to Israeli investments including government debt and Israeli currency in the past six months" (i.e., approximately March-August 2024 timeframe).



10.5 Policy Framework Development (Next 6 Months)

Action: Establish Principle-Based Exclusion Criteria

Formulate clear, consistent policy for sovereign debt and corporate holdings linked to international law violations:

Sovereign Debt Framework:

- Define threshold for exclusion based on ICJ/ICC/domestic court findings
- Establish process for reviewing bonds of states subject to international law violation determinations
- Mirror criteria applied to Russian sovereign debt post-Ukraine invasion
- Address whether sovereign guarantees for reconstruction projects in occupied or contested territories trigger exclusion

Corporate Exclusion Framework:

- Specify criteria for companies operating in occupied territories or contributing to violations
- Reference authoritative lists (UN Human Rights Council database, future updates)
- Establish engagement thresholds and time limits before exclusion
- Define when business models are "inherently complicit" (no engagement pathway available)

Occupied Territory Reconstruction Criteria:

Enhanced due diligence requirements for reconstruction/stabilisation project exposure

- Documentation standards for Palestinian participation/consent
- Sunset provisions for positions pending governance clarity
- Regular review triggers as legal/regulatory environment evolves

Action: Develop Implementation Roadmap

Create operational plan for policy execution:

- Index provider engagement: Request transparency on inclusion criteria; explore custom indices
- External manager oversight: Update mandates to reflect new exclusion criteria; audit compliance
- Passive fund strategy: Plan for potential index reweighting or active overlays
- Timeline: Phased implementation to minimise market impact and provide an adequate adjustment period

Action: Explore Industry Collaboration



Consider coalition-building to manage implementation challenges:

- Peer coordination: Engage comparable institutions for joint standard-setting (reduces first-mover disadvantage)
 - Policy advocacy: Support regulatory guidance on investor duties in conflict zones
 - Best practice sharing: Participate in forums developing international law compliance frameworks
 - Legal cost sharing: Pool resources for legal analysis and defence of exclusion decisions if challenged
-



SECTION 11: Big Tech Exposure

The risk management framework outlined in section 9 provides a clear pathway for most portfolio exposures. However, certain holdings present structural challenges that require tailored approaches. The following guidance addresses the most significant implementation obstacle institutional investors face: systemically important technology firms whose index concentration creates material constraints on standard exclusion processes.

11.1 Addressing the "Too Big to Act" Challenge: Systemically Important Tech Firms

Challenge Definition:

Major technology firms (Alphabet, Amazon, Microsoft) present a distinct risk management challenge:

- Documented integration into occupation infrastructure (surveillance, cloud services, AI)
- Heavily weighted in global equity indices (divestment creates concentration risk)
- Founder/executive commitment to current business practices combined with dual-class shares renders engagement structurally ineffective on this issue
- Exclusion creates meaningful portfolio tracking error and operational complexity

Framework for Addressing:

Step 1: Demonstrate Rigour Where Feasible

Decisively address exposures in asset classes where control can be exerted without disproportionate cost:

- Israeli sovereign debt (minimal index weight - negligible impact)
- Pure-play defence contractors (small individual positions)
- Settlement-linked corporates (readily substitutable)

Rationale: Demonstrating action on manageable exposures establishes credibility and commitment before addressing structural challenges.

Step 2: Acknowledge Structural Limitations Transparently

For systemically important tech firms, formally document this as a structural challenge:

- **Internal:** Board/trustee-level acknowledgement that these positions present unresolved tension between values and portfolio construction constraints
- **External:** Transparent communication that megacap tech concentration limits divestment options



- **Framing:** Primary accountability lies with government regulation and international law enforcement, not individual portfolio managers

Step 3: Establish Forceful, Time-Bound Engagement

Despite structural limitations on engagement effectiveness, pursue it rigorously with clear parameters:

- **Set specific objectives:** Cease provision of services enabling surveillance/violations; exit contracts with occupation authorities
- **Establish timeline:** 12-18 month engagement period with defined milestones
- **Partner strategically:** Work with credible NGOs (precedent: Microsoft engagement on facial recognition)
- **Document thoroughly:** Create audit trail demonstrating good-faith effort
- **Specify consequences:** Publicly commit to divestment if engagement unsuccessful within timeline

Step 4: Communicate Nuanced Position to Stakeholders

Suggested template language for institutional communication:

"[Institution name] is taking all feasible actions to align its portfolio with international law and manage material legal and reputational risks. Where the institution can act decisively without creating disproportionate portfolio risk - as with Israeli sovereign debt and pure-play defence contractors - [it has moved/it is moving] to exclude these holdings based on comprehensive risk assessment.

Major technology firms present a distinct challenge. Due to their dominance in global equity markets, immediate divestment would expose the portfolio to significant concentration risk and tracking error. However, the institution is committed to forceful engagement with these companies, raising concerns directly with executives and boards whilst working with credible human rights organisations.

The institution has set explicit objectives and an X-month timeline for this engagement. If unsuccessful, [it will proceed/consideration will be given to proceeding] to divestment despite the portfolio management challenges. The institution also supports collaborative industry efforts to address these challenges collectively."

Step 5: Assess Long-Term Political Risk in Technology Deployment

For companies providing technology services (cloud infrastructure, administrative systems) to Trump Plan reconstruction projects, investors should commission analysis addressing:



- **Historical precedent:** How have similar technology deployments in governance vacuums (Iraq, Afghanistan) performed over 10-20 year investment horizons? What patterns of disruption, forced exits, or reputational damage emerged?
- **Governance structure:** Does technology deployment operate through frameworks with local institutional involvement and accountability, or entirely via external control? (Relevant because historical data shows correlation between governance structure and long-term stability)
- **Regulatory trajectory:** Given ICJ findings and evolving EU enforcement, what is the probability that currently permissive regulatory environment tightens, requiring technology contract restructuring or exit?
- **International best practice:** How do proposed governance structures compare to international norms for post-conflict technology deployment, particularly regarding local institutional capacity-building and transparency mechanisms?

This analysis should inform engagement objectives and provide an empirical basis for assessing long-term political risk. It represents application of conventional political risk methodology to technology sector exposure, not political advocacy regarding governance outcomes.

Effective resolution of these issues requires action at multiple levels:

Regulatory enforcement: Regulators across jurisdictions should enforce sanctions and accountability measures on financial institutions found to be materially supporting activities determined by international legal bodies to constitute serious violations of international law. This enforcement is essential for upholding the rule of law and establishing clear standards for institutional investors.

Collective coordination: To avoid fragmented and ineffective action, coordination amongst institutional investors and industry groups is essential. This collaboration helps manage implementation challenges, establishes consistent standards, and builds collective capacity for addressing politically sensitive investment decisions.

Industry leadership: Strong guidance from investor standard-setting bodies - including the UN Principles for Responsible Investment, International Corporate Governance Network and related bodies - is critical to provide clarity, unify investor approaches, and protect the credibility of responsible investment frameworks in addressing situations involving determinations by international legal bodies.



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