

Brazilian Meat Producer JBS Faces SEC Fraud Complaint for Greenwashing

White & Case and Lefosse are among the firms that advised the issuer on sustainability-linked bonds that an environmental advocacy group alleges misled investors.

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Amy Guthrie

Latin America Correspondent

Brazilian meat producer JBS has been accused in a complaint to the U.S. Securities and Exchange Commission of misleading investors by issuing green bonds without disclosing the full scope of the company's environmental impact.

The complaint lodged by environmental advocacy group Mighty Earth, is targeted at the issuer, without naming the advisors who structured more than \$3 billion in sustainability-linked bonds for the company in 2021.

White & Case, Davis Polk & Wardwell, Lefosse Advogados and Machado Meyer Advogados all advised on JBS sustainability-linked notes in 2021.

“Our submission to the SEC’s Office of the Whistleblower is directed at the issuer itself, JBS, rather than at the law firms or investment banks that advised and underwrote the bonds,” Kevin Galbraith, attorney for Mighty Earth, told Law.com International via email. “It is the SEC that will decide whether to examine the role such professional advisors played in JBS’s conduct.”

Law.com International has reached out to JBS and to the law firms for comment.

Lawyers not involved with the debt offerings said the complaint could have a chilling effect on sustainability-linked issuances, especially as the SEC prepares to roll out new rules for climate-related disclosures as soon as April.

At the heart of Mighty Earth's complaint is the assertion that JBS, which is one of the world's largest meat processors with operations in over 20 countries, failed to detail the number of animals it slaughters each year.

Those animals, the advocacy group argues, are the primary source of the company's greenhouse gas emissions—which are estimated to exceed the entire annual emissions of Spain.

Mighty Earth CEO Glenn Hurowitz said in a statement that “JBS seduced investors with sustainability pledges, but those pledges had practically zilch to do with the actual source of JBS' supersized climate impact.”

The SEC complaint notes that three of JBS' largest investors—BlackRock, Fidelity and Vanguard—are members of the Net Zero Asset Managers initiative, which is committed to reaching global net zero greenhouse gas emissions by 2050 or sooner.

Those firms' investment funds, in turn, are widely held by pension and retail investors.

“We expect that many such investors would be stunned and deeply saddened to learn that the purportedly ‘sustainable’ bonds in their portfolios are in fact fueling climate change,” the complaint says.

It remains to be seen whether the SEC will open an investigation, or expand the scope to include JBS advisers.

Accountability

Adam C. Pritchard, a securities expert and Frances & George Skestos Professor of Law at the University of Michigan Law School, said that secondary parties can't be held liable if they are not aware of the misrepresentations.

“The SEC can and does hold lawyers liable, but the facts have to be pretty egregious,” Pritchard told Law.com International via email. “Typically, the lawyers have to be complicit in the fraud.”

Andrew Stoltmann, a Chicago-based securities fraud attorney and adjunct professor at Northwestern University, said that if the facts of the case are indeed egregious, then “the SEC will make a determination whether the law firm or accounting firm knew, or should have known, that this was fraudulent.”

Mighty Earth says its complaint against JBS is the first related to a sustainability-linked bond. The advocacy group also called out JBS for not including so-called Scope 3 emissions in its investor presentations.

Scope 3 emissions relate to the broader impact of the animals in the JBS supply chain, such as deforestation for pastures and methane gas emissions.

The company has [found itself in the crosshairs of the SEC](#) before. Brazilian nationals Joesley Batista and Wesley Batista, who control JBS, agreed in 2020 to pay nearly \$27 million, plus smaller civil penalties, to resolve charges that they violated the U.S. Foreign Corrupt Practices Act.

The SEC found that JBS executives bribed government officials in Brazil in part to facilitate the company's 2009 acquisition of U.S. poultry processor Pilgrim's Pride Corp.

The company has faced other issues related to the environment. Brazilian audits have repeatedly discovered large numbers of cattle purchased by JBS from ranchers suspected of raising that livestock on illegally deforested land.

In 2022, JBS admitted to having bought nearly 9,000 cattle from farms in the Amazon where thousands of acres of

forest cover had been illegally stripped for grazing.
