

November 6, 2023

Introduction

We respectfully make this additional supplemental submission in support of the original Tips, Complaints, and Referrals (“TCR”) submission we filed on January 18, 2023 (submission number 16739-856-127-314)¹ and in addition to the supplemental submission we filed on August 11, 2023 (submission number 16917-761-996-917)².

This new submission is based on recent public statements that the Global CEO of JBS made at a high-profile public [event](#) in New York on September 21, 2023 and on JBS’s recent sustainability reporting, both of which we believe materially mislead global investors interested in JBS’s proposed dual listing on the New York Stock Exchange.

Misleading Statements on JBS’s Deforestation Commitment

JBS continues to provide inconsistent and materially misleading statements regarding its deforestation commitment. During a broadcast interview at *The New York Times* “Climate Forward” event in New York on September 21, 2023, Global CEO of JBS, Gilberto Tomazoni, was asked by the moderator and *The New York Times* journalist David Gelles about JBS’s appalling record on Amazon deforestation and Mr. Tomazoni said, “We are zero tolerance from deforestation.”³ This statement does not accurately reflect JBS’s policy on deforestation, which covers only *illegal* deforestation.

In JBS’s F-4 filing application to have its shares listed on the New York Stock Exchange,⁴ there are four clear references to JBS’s policy commitment against “illegal deforestation,” including the following statement on page 115:

“In October 2021, JBS S.A. adopted a Sustainability-Linked Framework establishing its commitment to a deforestation-free supply chain in Brazil, ensuring all suppliers comply with its policy of zero tolerance for illegal deforestation and other socio-environmental criteria outlined in its Responsible Procurement Policy.”

Without explanation, the “Responsible Procurement Policy” referenced in the F-4 filing application and on page 49 of JBS’s 2022 Sustainability Report⁵ has recently been removed

¹ For ease of reference, the original submission and supporting exhibits are available at: <https://www.dropbox.com/scl/fo/hf559h5q6ax5nj8gy9pd/h?rlkey=uq317l6ublz84buznfyevc6sx&dl=0>

² For ease of reference, the supplemental submission and supporting exhibits are available at: <https://www.dropbox.com/scl/fo/3s8dgv3yjhwpk2l721zi6/h?rlkey=au5rfa3ddwxjrpqbenl7681y&dl=0>

³ See 4:25 minutes in <https://www.youtube.com/watch?v=OF1PdxTptug>.

⁴ https://content-archive.fast-edgar.com/20230712/A82Z822DZZ2R8JZK22ZK2ZYRT8K9ZZ22ZS5G/#rom419054_7.

⁵ <https://jbsesg.com/wp-content/uploads/2023/08/2022-JBS-SUSTAINABILITY-REPORT.pdf>.

from the JBS website.⁶ On page 48 of JBS’s 2022 Sustainability Report, published on August 31, 2023,⁷ the company clearly sets out its commitment to:

“Delivering zero illegal deforestation in all Brazilian biomes by the end of 2025 for direct and tier 1 indirect cattle suppliers.”

We believe Tomazoni’s public statement that “We are zero tolerance from deforestation” is highly misleading to investors because it omits the fact that JBS accepts and will continue to accept *legal* deforestation, which presents a significant climate risk in JBS’s supply chain. In the threatened Cerrado savannah in Brazil, which is being destroyed at a record rate,⁸ landowners are required to preserve only 20 to 35% of native vegetation.⁹ Up to 80% of this land can be legally deforested and converted, primarily to grow soy for animal feed and to serve as pasture for cattle. JBS should not be permitted to cleverly elide this crucial distinction as part of its effort to persuade investors that it is environmentally responsible.

JBS Flouting National Advertising Division’s Ruling on “Net Zero by 2040” Claim

Although JBS recently agreed to stop making several misleading “Net Zero by 2040” claims,¹⁰ the company continues to publicly promote this misleading messaging. During the above-noted interview, Tomazoni said, “We pledge to be Net Zero in 2040, and not 2050, because we believe, we recognize, the emergency of that.”¹¹

In JBS’s F-4 filing, there are rightfully absolutely no references to “Net Zero” or “Net Zero by 2040.” However, in its recently published 2022 JBS Sustainability Report, there are two pages dedicated to “Our Pledge to be Net-Zero by 2040”¹² and several references to “Net-Zero” such as, “JBS was the first global meat and poultry company to pledge to achieve net-zero greenhouse gas (GHG) emissions by 2040” and “...we coordinate and invest in our most important sustainability priorities, such as our aspiration to reach net-zero greenhouse gas emissions by 2040.”¹³

Furthermore, in JBS’s recently published 2023 Climate Change CDP response, which is shared with over 700 investors and banks,¹⁴ there are several references to “Net Zero by 2040,”

⁶ JBS’s Responsible Procurement Policy was previously accessible via <https://jbs.com.br/wp-content/uploads/2023/01/-jbs-responsible-procurement-policy.pdf>, however, the hyperlink now shows a page which reads ‘We are sorry, but the page you are looking for does not exist.’

⁷ <https://jbsfoodsgroup.com/articles/jbs-releases-2022-sustainability-report>.

⁸ <https://news.mongabay.com/2023/08/a-tale-of-two-biomes-as-deforestation-surges-in-cerrado-but-wanes-in-amazon/>.

⁹ Lahsen M, Bustamante M M C, Dalla-Nora E L (2016) *Undervaluing and Overexploiting the Brazilian Cerrado at Our Peril*, Environment: Science and Policy for Sustainable Development, Vol. 58, Issue 6, 16 November 2016.

¹⁰ <https://bbbprograms.org/media-center/dd/narb-jbs-net-zero-emissions>.

¹¹ See 9:57 to 10:06 at <https://www.youtube.com/watch?v=OF1PdxTptug>.

¹² <https://jbsesg.com/wp-content/uploads/2023/08/2022-JBS-SUSTAINABILITY-REPORT.pdf> (see pp. 40-41).

¹³ <https://jbsesg.com/wp-content/uploads/2023/08/2022-JBS-SUSTAINABILITY-REPORT.pdf> (see p. 31).

¹⁴ <https://www.cdp.net/en/investor/request-environmental-information>.

including, “The commitment is to make the company Net Zero by 2040, that is, to bring the net balance of greenhouse gas emissions to zero.”¹⁵ Additionally, in its 2023 CDP disclosure, when asked to provide details of its net-zero target(s) in question C4.2c, JBS disclosed a 2040 net-zero target and responded: “Yes, we consider this a science-based target, and we have committed to seek validation of this target by the Science Based Targets initiative (SBTi) in the next two years.” This response flies in the face of the fact that the usual protocol for JBS to have its plans validated (24 months) by the SBTi has expired,¹⁶ and a coalition of civil society organizations has called on the SBTi to not validate the net zero target of JBS in light of the true underlying facts concerning the company’s conduct.¹⁷

On JBS’s website, there is currently a page dedicated to its “net zero” commitment, which includes phrases such as, “JBS made a global commitment: Net Zero by 2040” and, “JBS is committed to being part of the change, becoming Net Zero by 2040.”¹⁸

We believe JBS’s continuing claims violate the National Advertising Division’s ruling, which was upheld by the National Advertising Review Board (NARB) in June 2023,¹⁹ and recommended that JBS discontinue five challenged “net zero” claims, including that:

- “JBS is committing to be net zero by 2040”;
- “Leading change across the food industry and achieving our goal of net zero by 2040 will be a challenge. Anything less is not an option”; and
- “The SBTi recognized the net zero commitment of JBS.”²⁰

As such, despite these explicit rulings and despite the company’s public assurances that it would abide by them²¹, these statements by Tomazoni concerning net zero in 2040 serve to materially mislead investors, as do the other public statements highlighted above.

JBS Continues to Hide the True Scale of its Scope 3 Emissions

JBS continues to pick and choose what information to disclose to investors, and where it wants to disclose it. During *The New York Times* “Climate Forward” interview, when Tomazoni was asked why JBS did not disclose its Scope 3 emissions in its latest 2022 Sustainability Report, despite disclosing them the previous year, Tomazoni responded, “...because the Scope 3 is a

¹⁵ JBS’s CDP disclosures are accessible here with a login: <https://www.cdp.net/en/responses/9730>. See response to question C11.d.

¹⁶ <http://changingmarkets.org/wp-content/uploads/2023/07/Letter-to-SBTi-July-2023.pdf>.

¹⁷ <https://www.worldanimalprotection.org/sites/default/files/media/open-letter-to-sbti-mar-2023.pdf>.

¹⁸ <https://jbs.com.br/netzero/>.

¹⁹ The NAD’s announcement of its decision on appeal is [here](#). Its announcement of JBS’s decision to appeal the original ruling, as well as some detail concerning the substance of the ruling, is [here](#).

²⁰ <https://bbbprograms.org/media-center/dd/narb-jbs-net-zero-emissions>.

²¹ See <https://www.just-food.com/news/brazils-jbs-to-pull-net-zero-claims-after-losing-appeal/>.

challenge to make the calculation” and that “until now it’s not something we know how to calculate.”²²

However, in JBS’s 2023 Climate Change CDP response, Scope 3 emissions are disclosed under question C6.5 for the 2022 reporting year.²³ For the section on Scope 3, Category 1: “Purchased Goods and Services,” which includes all upstream emissions from the production of products purchased or acquired by the company,²⁴ JBS reported 157,608,330 metric tons of CO₂e. In disclosing the methodology for calculating its upstream emissions, JBS reported:

“Livestock emissions were calculated using GLEAM emissions factors. Any purchased feed was calculated based on the emission factor for the region the crop was grown and the distance the truck had to travel from state to farm. For materials purchased we used the distance method if we did not have distances, we used the spend based method. Land use change emissions were not included as those calculations are currently being improved.”

To be eligible for CDP scoring, JBS would have needed to submit its 2023 Climate Change CDP response by July 26, 2023.²⁵ Despite JBS releasing its 2022 Sustainability Report after this date, on August 31, 2023,²⁶ JBS deliberately omitted its Scope 3 emissions figures from the report.²⁷

We are concerned that investors were misled at *The New York Times* “Climate Forward” event, as Tomazoni painted a picture that measuring JBS’s Scope 3 emissions was simply too difficult to achieve, and hence they have not been reported in its 2022 Sustainability Report, meanwhile Tomazoni failed to mention that the company’s Scope 3 emissions were available to investors in JBS’s recently disclosed 2023 Climate Change CDP response.

Conclusion

We respectfully submit that the facts underlying JBS’s Sustainability-Linked Bond sales, and presumably its planned offering of common shares to U.S. equity investors on the New York Stock Exchange, make this an ideal candidate for a full investigation and ultimately an enforcement action to protect our markets from wrongdoers such as JBS, which we believe has violated the antifraud provisions of the federal securities laws, including but not limited to Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 10b-5 thereunder; Section 13(a) of the Exchange Act and Rules 13a-1, 13a-16 and 12b-20 thereunder; as well as Section 17(a) of the Securities Act of 1933 (“Securities Act”).

²² See 8:40 to 8:58 minutes in <https://www.youtube.com/watch?v=OF1PdxTptug>.

²³ JBS’s CDP disclosures are accessible here with a login: <https://www.cdp.net/en/responses/9730>.

²⁴ <https://ghgprotocol.org/sites/default/files/2022-12/Chapter1.pdf>.

²⁵ <https://www.cdp.net/en/companies-discloser/how-to-disclose-as-a-company/faqs-for-companies#cycle> (see ‘Will I receive a score for my questionnaire(s)?’).

²⁶ <https://jbsfoodsgroup.com/articles/jbs-releases-2022-sustainability-report>.

²⁷ <https://jbsesg.com/wp-content/uploads/2023/08/2022-JBS-SUSTAINABILITY-REPORT.pdf> (see p. 41).

This supplemental submission highlights that, much like JBS misled investors by omitting crucial information during the \$3.2 billion Sustainability-Linked Bond offering, the company has persistently provided to investors inaccurate and misleading information regarding its deforestation commitment and climate impact, both through reporting and public statements made by JBS's Global CEO.

We will be happy to share any additional information that you believe might be helpful as you assess this matter, including by participating in an interview at your convenience.