August 9, 2023

U.S. Securities and Exchange Commission
Attention: Erik Gerding
Director, Division of Corporation Finance
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Washington, DC 20549

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SUMMARY

Mighty Earth is writing to draw the SEC's attention to our concerns regarding the proposed Initial Public Offering (IPO) of JBS N.V., plans for which were made public on July 12, 2023.

The following submission raises a series of concerns regarding JBS's alleged fraudulent activities regarding its issued Sustainability-Linked Bonds, and we would like to draw the Division of Corporation Finance's attention to an active complaint against JBS submitted by senior executives of Mighty Earth to the Division of Enforcement on 18 January 2023.[1] We believe that until the outcome of this active complaint, whether through the instigation of a formal investigation, the filing of an enforcement action, or through some other avenue, is determined, the company's desired IPO registration should not be permitted to proceed.

The outcome of this process and any sanction taken against JBS by the SEC upon completion of an investigation would bear relevance to the economic viability information provided to the SEC in the F4 IPO filing, as well as to existing and potential investors and New York Stock Exchange (NYSE) regulators in assessing JBS's filing application.

Furthermore, the outcome of this pending Whistleblower claim could impact the credit rating outlook for JBS, which may impact the overall value of the company as well as its share prices.

In addition to the existing issues outlined in the original Whistleblower claim, this following submission raises further concerns regarding the information provided in the JBS F4 IPO prospectus – and rather importantly, the information which has been omitted. JBS's F4 filing presents a range of governance issues from the proposed restructuring from JBS S.A. to JBS N.V. which sees existing stakeholders lose voting powers, while offering the Batista family an increase in its voting power, to the tune of 90%. We believe the F4 makes misleading statements regarding the future growth of the company and omits accurate information regarding JBS's negative climate impact.

There is cause for concern regarding the validity of the information provided by JBS in its F4 filing application which may impact negatively on credit ratings and investors.

[1] For ease of reference, the January SEC submission and supporting exhibits are available here.

We believe the existing issues outlined in the Whistleblower claim alone pose sufficient threat to both existing and future shareholders and investors and we call on the SEC to:

a) aggressively pursue the existing Whistleblower complaint;
b) investigate concerns raised by Mighty Earth in the following submission; and
c) deliver a publicly transparent investigation warranted by the evidence outlined below.

1. KEY CONCERNS RAISED IN THE WHISTLEBLOWER CLAIM

Mighty Earth's complaint against JBS's fraudulent Sustainability-Linked Bonds

In 2021, JBS announced to the public and prospective investors its commitment to be Net Zero by 2040 for climate emissions.[2] While consistently claiming in public and investor materials that it is on a path to reach this goal, JBS has failed to fully measure, disclose, or most importantly reduce, its Scope 3[3] emissions, which account for up to 97% of its climate footprint.[4] In efforts to avoid scrutiny, JBS contests the Global Livestock Environmental Assessment Model (GLEAM) as an excuse for not measuring the full extent of its Scope 3 emissions. Since 2017, JBS has also failed to disclose the number of animals slaughtered annually, despite accounting for the figure in its 2016 SEC filing. By hiding information from investors, JBS is choosing to hide critical data required to evaluate the truth of its emissions-related claims. Such information is critical to investors, not least to evaluate the plausibility of JBS's emission-related claims.

JBS's net zero goal was ranked "very low" for both transparency and integrity for the second year running in a report by the New Climate Institute & Carbon Market Watch.[5] The report concluded that it "did not find evidence of any planned deep decarbonization measures" by JBS, and that "its interim targets for 2030 would lead to a 3% emission reduction compared to its reported 2021 emissions." JBS's lack of transparency regarding its climate impact and the dearth of accurate reporting from the company raise serious issues for assessing the future investment potential for future investors.

JBS's issuance of Sustainability-Linked Bonds violates securities laws

In 2021 – the same year JBS told its investors it would be Net Zero by 2040 – the company issued approximately $3.2 billion of Sustainability-Linked Bonds (SLBs). As outlined in our pending Whistleblower complaint, we believe JBS 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"), and are calling for a full investigation into JBS's Sustainability-Linked Bond sales.

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[2] JBS, "Net Zero by 2040", available at: https://jbs.com.br/netzero/en/

[3] Scope 1 emissions encompass direct greenhouse gas emissions from sources owned or controlled by an organization, Scope 2 emissions refer to indirect emissions from purchased energy, and Scope 3 emissions include all other indirect emissions in a company's value chain, such as those from suppliers.

[4] New Climate Institute, Corporate Climate Responsibility Monitor (2022) "Assessing the Transparency and Integrity of Companies' Emission and Net-Zero Targets", available at: https://newclimate.org/sites/default/files/2022/02/CorporateClimateResponsibilityMonitor2022.pdf

[5] New Climate Institute, Corporate Climate Responsibility Monitor (2023) "Assessing the Transparency and Integrity of Companies' Emission and Net-Zero Targets", available at: https://newclimate.org/sites/default/files/2023-04/NewClimate_CorporateClimateResponsibilityMonitor2023_Feb23.pdf

The impact of an SEC ruling against JBS on the existing Whistleblower complaint would bear great significance on JBS's economic outlook, posing a significant risk for existing shareholders, new investors and for the U.S. market overall.

2. DEPRECIATING MINORITY SHAREHOLDER RIGHTS

For JBS to list shares on the NYSE, it intends to restructure its business from a Brazilian public company via a shell company, JBS N.V., registered in the Netherlands.

The company's prospectus outlines a two-tiered share conversion entitlements, one provided to minority shareholders, which would see no more than 55% of their Class A shares eligible to be converted to Class B shares, in comparison to the entitlement of major shareholders – the Batista family, who may convert 100% of their Class A shares to Class B shares.

Minority shareholders, such as BNDES, the Brazilian development bank holding 20.9% of JBS's outstanding shares, will see a huge reduction in their voting powers, which will in turn reduce or even eliminate any accountability for the controlling major shareholders, the Batista family, to its minority shareholders. JBS is offering shareholders a dividend of R$1 (Brazilian real) per share to authorize this restructuring, providing a short-term financial incentive to support the Batista's takeover of JBS.

The proposed restructuring also would restructure Class B shares as unlisted, effectively stripping them of any commercial value. This is a blatant attempt to limit the desirability of voting shares, and further centralize the control of the company to a limited number of individuals. Additionally, the Board would be required to approve any conversion of Class B shares to Class A shares, meaning that any minority shareholder with an interest in voting shares could face the possibility of never being able to seek financial rewards for their voting shares if the Board, which would be effectively controlled by insider voting shares, does not approve their transfer.

The proposed restructuring would eliminate any minority shareholder rights and would not allow any U.S. shareholder to access voting rights, leaving the U.S. investor completely unable to address risks associated with their investment.

3. BATISTA FAMILY TO GAIN 90.5% VOTING POWER

The F4 IPO filing outlines a shareholder depreciation process which would see the major shareholders – the Batista Family – convert shares which would give them between 85.03% and 90.52% of the voting power of the company.[6] This proportion of control for a single family is unprecedented and presents a significant risk to adequate governance of JBS.

The Batista family insiders have a documented history of engaging in illegal behavior, such as the corruption scandal in 2017 in Brazil and the price fixing criminal charges in 2020 in the U.S., among other issues. Allowing these insiders to consolidate control would ultimately come at the expense of U.S. investors, who would be left with no method of addressing their concerns.

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[6] JBS, F4 IPO filing, July 12, 2023, available at http://archive.fast-edgar.com/20230712/A82Z822DZZ2R8JZK22ZK2ZYRT8K9ZZ22ZS5G/#rom419054_13. See section "Transaction Proposed"

Given the scale and breadth of the current criminal, civil and labor cases, as well as the historic criminality of the Batista family, we believe the SEC ought to be deeply hesitant to authorize such a dominant company to take this aggressive step to concentrate even more power within the family, whilst reducing the decision-making and influence of 60% of the company's current shareholder votes.

It is highly unusual – and extremely risky – for a publicly-owned company's decision-making control to be in the command of a single entity, posing a complete lack of oversight from existing shareholders and prospective investors.

4. IMPACTS ON THE ECONOMIC VIABILITY OF JBS

In 2018, the Norwegian Government Pension Fund's Council of Ethics recommended divestment from JBS, stating "there remains an unacceptable risk of gross corruption associated with JBS."[7] HSBC analysts recently warned that JBS "has no vision, action plan, timeline, technology or solution" for monitoring whether the cattle it buys originate from farms involved in rainforest destruction.[8]

Last month, Standard and Poor (S&P) downgraded the outlook for JBS to "negative," citing the group's "subdued demand" and "industry obstacles," alongside the announcement regarding the anticipated R$2.2 billion extraordinary dividend payment from the proposed restructure outlined in the F4 filing. S&P predict this payment will "weaken credit metrics," "increase uncertainty," and deliver an "expected drop in forecasts funds from operations (FFO) by almost 60% compared to 2022" and "debt to EBITDA will exceed 5x by the end of the year."[9]

JBS has received unprecedented negative press and its reputation has been significantly compromised, given the sheer quantity of legal cases brought against it in recent years, alongside the plethora of historic violations and settlements referenced in Section 7-9 of this submission. JBS estimates current criminal exposure could cost US$463.5 million,[10] alongside the US$2.1 billion it estimates for ongoing civil, tax and labor litigation claims.[11]

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[7] Norwegian Council on Ethics (2018) "Recommendation to exclude JBS SA from the Government Pension Fund Global", available at: https://files.nettsteder. regjeringen.no/wpuploads01/blogs.dir/275/files/2018/07/ENG-Rec- JBS-2018.pdf

[8] The Bureau of Investigative Journalism, ""The Pressure's on": HSBC Warns Meat Company JBS over Amazon Deforestation", August 12, 2020, available at: https://www.thebureauinvestigates.com/stories/2020-08-12/hsbc-jbs-deforestation-risk

[9] S&P Global, "JBS S.A. Outlook Revised To Negative From Stable on Weaker Performance; 'BBB-' Ratings Affirmed", July 13, 2023, available at: https://disclosure.spglobal.com/ratings/en/regulatory/article/-/view/type/HTML/id/3019767

[10] JBS, F4 IPO filing, July 12, 2023, available at http://archive.fast-edgar.com/20230712/A82Z822DZZ2R8JZK22ZK2ZYRT8K9ZZ22ZS5G/#rom419054_7. See section "Legal Proceedings" on p.119

[11] JBS, F4 IPO filing, July 12, 2023, available at http://archive.fast-edgar.com/20230712/A82Z822DZZ2R8JZK22ZK2ZYRT8K9ZZ22ZS5G/#rom419054_7. See section "Other proceedings with possible outcome" on p.127

Our submission does not seek to catalogue the full extent of the considerations relevant to this office's analysis. Instead, we raise for your consideration merely a selection of misrepresentations made by JBS, omissions both publicly, to shareholder and investors and via the F4 IPO filing.

5. MULTIPLE JURISDICTIONS FOR REGULATORS, SHAREHOLDERS AND INVESTORS TO NAVIGATE

We are concerned by the restructuring proposal outlined in JBS's F4 and we believe the SEC would want to investigate the impacts of such an unusual deal and potential impacts on the U.S. market.

Given JBS's documented history of distorting environmental disclosures, its labor rights violations, conflict with minority shareholders, and abysmal governance practices, there is significant concern that JBS will attempt to limit oversight of regulators and investors through pursuing listing as a foreign private issuer and centralizing control of the company in the hands of a limited number of insider interests. On p.33 of the F4 prospectus, JBS states *"We are a "foreign private issuer" under U.S. securities laws and, as a result, are subject to disclosure obligations that are different from those applicable to U.S. domestic registrants listed on the NYSE."* Through the proposed restructure, JBS aims to ensure it will be exempt from U.S. laws, including rules related to proxy statement furnishing and content, reporting by officers, directors and major shareholders, as well as requirements concerning the frequency and promptness for filing annual and current reports and financial statements with the SEC.

This presents unprecedented risk to potential U.S. shareholders. Insiders, primarily the Batista family, could control up to 90% of the shareholder votes, effectively removing any voting privileges for U.S. shareholders. Without any legal rights to engage the company, votes on issues such as board member selection, say for pay, or approval or disproval of auditors, share buyback options, limitation of exemption rights, and other key issues. Through the restructure, U.S. shareholders would have none of the shareholder rights traditionally granted to them by the SEC.

Further, because the company is planning on listing as a private foreign issuer, U.S. investors will have very limited access to legal recourse, further restricting U.S. shareholders ownership rights in the company. These two factors, the excessive voting control and limited access to legal recourse, exposes U.S. investors to unprecedented and unacceptable level of governance risk, and would leave U.S. shareholders with no ability to address their concerns if the inside shareholders make decisions which do not prioritize the interests of shareholders. We believe this is likely.

Our assessment is that JBS appears to be restructuring in a way which allows it to access U.S. financial market while minimizing its U.S. disclosure requirements and limiting its U.S. liability. Second, to take advantage of the favorable Dutch tax regime and other incentives, while avoiding Dutch obligations on directors/shareholders for EU-listed companies.[12] While this is signed in the F4, we should emphasize that none of these benefits shareholders, other than the controlling family.

The Dutch Corporate Governance Code requires sustainable long-term value creation, taking into account "the impact the actions of the company and its affiliated enterprise have on people and the

[12] Tax Consultants International, "The Dutch Holding Company", February 10, 2023, available at https://www.tax-consultants-international.com/publications/the-dutch-holding-company#section_1

environment."[13] What the F4 downplays or fails to disclose are the obligations incumbent upon Dutch/EU-based companies, including under the Dutch Corporate Governance Code and how this may play out for the company during or after the JBS N.V. registration.

The planned JBS S.A. restructure to the Netherlands-based JBS N.V., then onto the U.S. New York Stock Exchange poses significant risk to shareholders in exercising their rights to hold the company accountable, due to the quick succession of transactions across multiple jurisdictions.

6. MISLEADING STATEMENTS REGARDING JBS'S NEGATIVE CLIMATE IMPACTS

JBS misleads the SEC on SLBs baselines in the F4 prospectus

Information in the F4 filing also appears misleading on matters regarding the issuance of these bonds. JBS states *"there is currently no generally accepted definition (legal, regulatory or otherwise) of, nor market consensus as to what criteria a particular financial instrument must meet to qualify as, 'green,' 'social,' 'sustainable' or 'sustainability-linked.'"*[14] However, the International Capital Market Association outlines full guidance on the Principles for SLBs.[15] The UK's Finance Conduct Authority has also outlined guidelines for best practice, which would apply to UK underwriters of the JBS SLBs, Barclays.[16] Both entities highlight the need for measurable, verifiable goals which are tracked using disclosure and reporting and where *"integrity is of the utmost importance."* JBS's overview of its approach to SLBs suggest the "sustainability-linked" element is purely nominal (*"no assurance or representation was given […] as to the suitability or reliability for any purpose whatsoever of […] the respective sustainability performance targets to fulfill any green, social, sustainability, sustainability-linked and/or other criteria"*)[17] – which begs the question of the integrity of JBS's SLBs.

[13] Corporate Governance Code (2022) "Dutch Corporate Governance Code 2022" (English translation), December 20, 2022, available at: https://www.mccg.nl/publicaties/codes/2022/12/20/dutch-corporate-governance-code-2022

[14] JBS, F4 IPO filing, July 12, 2023, available at http://archive.fast-edgar.com/20230712/A82Z822DZZ2R8JZK22ZK2ZYRT8K9ZZ22ZS5G/#rom419054_7. See Section "Sustainability-Linked Bonds" on p.175

[15] International Capital Markets Association (2023) "Sustainability-Linked Bond Principles," June 2023, available at https://www.icmagroup.org/assets/documents/Sustainable-finance/2023-updates/Sustainability-Linked-Bond-Principles-June-2023-220623.pdf

[16] FCA (2022) "Industry Frameworks and Metrics in Relation to Green/Transition Finance," available at https://www.fca.org.uk/publication/corporate/cfrf-guide-2022-ddm-wg-framework-and-metrics-relating-green-transition.pdf

[17] JBS, F4 IPO filing, July 12, 2023, available at http://archive.fast-edgar.com/20230712/A82Z822DZZ2R8JZK22ZK2ZYRT8K9ZZ22ZS5G/#rom419054_7. See Section "Sustainability-Linked Bonds" on p.175-177

Underestimation of the true extent of JBS's climate impact overall

For the livestock industry – and for JBS, as the world's largest meat processor – the primary source of greenhouse gas (GHG) emissions are the animals in its supply chain.[18] A recent estimate by the Institute for Agriculture and Trade Policy (IATP) and Changing Markets Foundation found JBS's emissions (288 million metric tons CO2 equivalent) exceed the emissions of Spain.[19] In a comparison of the world's top five factory farming giants produced by World Animal Protection, JBS ranked as the worst polluter for its pig and chicken production, causing more than double the emissions of the next biggest emitter.[20] JBS's F4 fails to outline the scale of its impact on the environment as a consequence of its colossal GHG emissions.

A recent significant development was the ruling by the National Advertising Review Board (NARB) which upheld the recommendation by the National Advertising Division (NAD) for JBS to discontinue its "net zero by 2040" claims. Ruling on JBS's appeal of the recommendation in February 2023, the NARB agreed with the initial ruling and concluded that JBS's challenged claims communicate misleading messages.

CDP – the environmental disclosure group and data provider to 680 investors – publicly announced that it no longer backs the "A-" rating it gave JBS, acknowledging that the climate score was "too high a score for a non-public response" and that it was carrying out an internal review of the JBS score.[21]

This evidence all points to a company which has no real plan to decarbonize and is highly selective about what it discloses to mislead investors that the company can continue to grow in an industry where "business-as-usual" practices will not cut it.

JBS has an outsized methane footprint

Methane is a highly powerful greenhouse gas and 80 times more potent than CO2 over a 20-year timespan, but only lasts in the atmosphere for around a decade – which is why Governments pledged to reduce global methane levels by 30% by 2030.[22]

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[18] JBS (2021) "Annual Sustainability Report 2021", available at: https://jbs.com.br/wp-content/uploads/2022/08/-sustainability-in-report-jbs-2021.pdf. See p.11 where JBS states its main challenge in reducing indirect (scope 3 emissions) involves the sources of GHG emissions associated with raising cattle.

[19] IATP/Changing Markets (2022) "Emissions Impossible, How emissions from big meat and dairy are heating up the planet," November 2022, available at: https://changingmarkets.org/wp-content/uploads/2022/11/Emissions- Impossible-_Methane-Edition_FINAL-compressed.pdf

[20] World Animal Protection (2023) "Top Five Factory Farming Climate Culprits Scorecard," March 2023, available at https://www.worldanimalprotection.org/sites/default/files/media/top-five-factory-farming-climate-culprits-scorecard.pdf

[21] The Guardian, "Brazilian meat firm's A- sustainability rating has campaigners up in arms," March 30, 2023, available at: https://www.theguardian.com/environment/2023/mar/30/brazilian-meatpackers-a--sustainability-rating-raises-grade-inflation-concerns

[22] CNN, "Around 100 nations to slash methane emissions on day 2 of COP26", November 4, 2021, available at: https://edition.cnn.com/world/live-news/cop26-climate-summit-11-02-21/h_3114c57fc352e714d8d78d01b358b4c2.

See also Global Methane Pledge at https://www.globalmethanepledge.org/

While JBS had pledged in 2020 to make a 30% cut within 10 years to its Scope 1 and 2 emissions intensity, JBS reported in 2021 that its emissions intensity actually increased by 9% between 2019 and 2020, according to figures it submitted to CDP (formerly the Carbon Disclosure Project).[23] JBS's methane emissions exceed the combined livestock methane emissions of France, Germany, Canada and New Zealand or compare to 55% of U.S. livestock methane.[24]

JBS fails to detail its outsized methane emissions or provide any detailed plans on how it intends to meet its 2030 target in the F4, but the only guaranteed approach is through reduction in livestock processing, i.e., reduced productivity. Whilst JBS will likely point to technological fixes, such as additives in feed, this technology is untested and unscalable. JBS's lack of disclosure in this area leaves shareholders and investors in the dark about its true climate impact – and may underestimate the impact on the company's economic projections.

Underestimation of the impacts of climate change on future trading

The prospectus fails to acknowledge the risks to global food production from climate change and other pressures on planetary boundaries, and does not highlight any of the realistic impacts on our agricultural systems, including land use change, desertification and land degradation, not to mention water scarcity and human migration – all of which are identified in the IPCC 2020 report as risks to agricultural practices.[25] Instead, the prospectus takes further expansion of the company as a given and, for "additional expenses," cites only the impact of natural disasters and climate-related one-off incidents that *"could impair the health or growth of livestock,"* where the company *"may have to incur additional expenses to maintain livestock in suitable conditions or move it to other locations."*[26]

JBS barely scratches the surface of the risks to the business and projected growth posed by climate change and ecosystem collapse. The extremely limited space these considerations have been given in the prospectus is utterly disproportionate to the real-world impact on the business. By drastically underplaying these impacts, we believe JBS is misleading the SEC and potential investors by its insufficient disclosure of these significant risks.

[23] JBS S.A. CDP Climate Change Questionnaire 2021, available at: https://jbs.com.br/storage/2022/05/-jbs-s.a-cdp-climate-change-questionnaire-2021.pdf, see C.4.1b

[24] IATP/Changing Markets (2022) "Emissions Impossible, How emissions from big meat and dairy are heating up the planet," November 2022, available at: https://changingmarkets.org/wp-content/uploads/2022/11/Emissions- Impossible-_Methane-Edition_FINAL-compressed.pdf

[25] IPCC (2020) "An IPCC Special Report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems", available at https://www.ipcc.ch/site/assets/uploads/sites/4/2020/02/SPM_Updated-Jan20.pdf

[26] JBS, F4 IPO filing, July 12, 2023, available at http://archive.fast-edgar.com/20230712/A82Z822DZZ2R8JZK22ZK2ZYRT8K9ZZ22ZS5G/#rom419054_7. See Section: "Risk Factors", p.53.

7. EVIDENCE OF DEFORESTATION IN BEEF SUPPLY CHAINS

Misleading statements regarding illegal deforestation in JBS's supply chain

On p.180 of the F4 prospectus, JBS mentions its "commitment to a deforestation-free supply chain in Brazil." However, in reality, investigations by government prosecutors, journalists, NGOs and companies have repeatedly shown JBS's cattle supply chain to be riddled with deforestation. [27] [28] [29] In October 2021, prosecutors published audit results of JBS's legal compliance against its 2013, no-deforestation legal commitment,[30] An audit published the following year revealed more than one in six cows – almost 94,000 head of cattle – of JBS's audited purchases did not meet legal obligations mostly due to deforestation.[31]

JBS refuses to act on evidence of deforestation

Despite numerous other cases and allegations of deforestation in its direct and indirect cattle supply chain, some of which JBS has admitted to,[32] in its most recent CDP Forests 2022 disclosure, the company falsely reported zero hectares of known or estimated deforestation or conversion in its direct cattle supply chain since 2008.[33]

Similarly, while JBS rightly lists deforestation as a business risk on p.43 of the IPO prospectus, the company falls short in disclosing its extensive catalogue of deforestation cases – one report estimates JBS's Brazilian deforestation footprint could be as high as 1.7 million hectares in its direct and indirect supply chains.[34] Instead, JBS chooses to play down its role as one of the world's worst deforesters[35] and proves it cannot be trusted to accurately account for deforestation to investors. In a

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[27] Reuters, "Brazil audit finds 17% of cattle bought by JBS came from 'irregular' ranches", December 15, 2022, available at: https://www.reuters.com/business/environment/brazil-audit-finds-17-cattle-bought-by-jbs-came-irregular-ranches-2022-12-15/

[28] Chain Reaction Research (2020) "JBS: Outsized Deforestation in Supply Chain, COVID-19 Pose Fundamental Business Risks," March 2020, available at: https://chainreactionresearch.com/wp-content/uploads/2020/08/JBSCRR-Report.pdf

[29] The Bureau of Investigative Journalism, "Over 800 million trees felled to feed appetite for Brazilian beef", June 2, 2023, available at: https://www.thebureauinvestigates.com/stories/2023-06-02/almost-a-billion-trees-felled-to-feed-appetite-for-brazilian-beef

[30] MPF (2021) "Results presentation detailed by audited companies in the 3rd cycle of audits of the Livestock TAC - Pará", October 21, 2021, available at: https://www.mpf.mp.br/pa/sala-de-imprensa/documentos/2021/resultados_por_empresa_3o_ciclo_auditorias_tac_ pecuaria_pa.pdf

[31] Global Witness, "Global Witness calls on financiers to stop bankrolling rainforest beef, after official audit reflects our findings about JBS", March 13, 2023, available at: https://www.globalwitness.org/en/campaigns/forests/global-witness-calls-financiers-stop-bankrolling-rainforest-beef/

[32] Unearthed "JBS admits to buying almost 9,000 cattle from 'one of Brazil's biggest deforesters'", November 11, 2022, available at: https://unearthed.greenpeace.org/2022/11/11/jbs-cattle-brazils-biggest-deforester-amazon/

[33] JBS's CDP submissions can be accessed here by creating a log-in

[34] Chain Reaction Research (2020) "JBS: Outsized Deforestation in Supply Chain, COVID-19 Pose Fundamental Business Risks," March 2020, available at: https://chainreactionresearch.com/wp-content/uploads/2020/08/JBSCRR-Report.pdf

[35] JBS, F4 IPO filing, July 12, 2023, available at http://archive.fast-edgar.com/20230712/A82Z822DZZ2R8JZK22ZK2ZYRT8K9ZZ22ZS5G/#rom419054_13. See section "Cattle Supply

section of the prospectus titled *"U.S. Senate Finance Committee Investigation" (p. 114),* JBS falsely paints itself as a company that is taking adequate efforts to combat deforestation it its supply chain. During the Congressional hearing, Senate Finance Committee Chair Ron Wyden accused JBS of "turning a blind eye as parts of its supply chain burn down the Amazon." Senator Wyden observed that "JBS has made promises it would clean up his act when it came to deforestation. Most recently JBS said it would eliminate cattle involved in deforestation from supply chains by 2025. The reality is JBS is nowhere near meeting this commitment. Not even JBS's direct suppliers are totally clean."[36]

JBS continued failure to meet its deforestation targets should register concern to the trustworthiness of their deforestation claims.

8. EVIDENCE OF HUMAN AND LABOR RIGHTS VIOLATIONS IN BRAZIL AND U.S.

Since 2000, JBS's U.S. subsidiaries have been fined $34 million for employment-related offences – including wage violations and employment discrimination – and $3.2 million for safety-related offences.[37] The U.S. Department of Labor found 27 minors working in a JBS plant, using dangerous chemicals, for a cleaning contractor that was hit with a subsequent $1.5 million fine.[38] JBS has been linked to a series of cases of deforestation and encroachment of Indigenous lands, protected under both Brazilian and international law.[39] In April 2023, two lawmakers wrote a letter calling for the U.S. Department of Agriculture to suspend government contracts with JBS S.A., including its subsidiaries, citing numerous allegations of criminal behavior, including child labor, at JBS's U.S.-based slaughterhouses.[40] Just this month, a Brazilian labor union has filed a class action suit against JBS for alleged labor rights infringements.[41]

Those detailed above are only a small selection of cases brought against JBS but demonstrate a business which has consistently failed to operate at the standards expected of a global company.

Chains and Deforestation" on pp.114–115. JBS refers to its deforestation policy and supply chain monitoring but fails to acknowledge the extensive list of deforestation cases in its supply chain, which are referenced throughout this submission.

[36] US Senate Committee on Finance, "Wyden Hearing Statement on Cattle Supply Chains, Amazon Deforestation", June 22, 2023, available at: https://www.finance.senate.gov/chairmans-news/wyden-hearing-statement-on-cattle-supply-chains-amazon-deforestation

[37] Violation Tracker. Accessed March 30, 2023, available at: https://violationtracker.goodjobsfirst.org/

[38] HPPR, "Company that put children to work in meatpacking plants in Kansas and Nebraska pays maximum fine", February 17, 2023, available at: https://www.hppr.org/2023-02-17/child-labor-packers-sanitation-services-meatpacking-plants-in-kansas-and-nebraska-pays-maximum-fine

[39] Mighty Earth, "Deforestation cases linked to JBS beef supply chain harm Indigenous lands", April 24, 2023, available at: https://www.mightyearth.org/jbs

[40] Supermarket Perimeter, "Legislators ask USDA to end contracts with JBS", April 24, 2023, available at: https://www.supermarketperimeter.com/articles/9613-legislators-ask-usda-to-end-contracts-with-jbs

[41] https://www.reuters.com/business/retail-consumer/brazilian-union-sues-jbs-over-alleged-exploitation-chicken-workers-2023-07-14/

9. CRIMINAL ACTIVITY ACROSS JBS COMPANIES AND THE BATISTA FAMILY

JBS has faced a litany of criminal, civil and labor cases and settlements over the years. The charges brought against JBS include corruption, obstructing an investigation, bribery, price fixing, tax fraud, money laundering and organized crime, though this list is far from exhaustive.

In 2017, the Batista family were involved in Brazil's largest ever corruption scandal in a sting operation which saw the company bribing 1,829 politicians to the tune of almost US$100 million.[42] The operation uncovered serial unlawful conduct by brothers Joesley and Wesley Batista alongside a series of corruption, money laundering and obstruction of justice charges. Brothers Joesley and Wesley Batista pled guilty to several allegations of bribery.[43] The ensuing revelations and fall out of the scandal were estimated to have wiped 9% off the Brazilian stock market.[44]

In 2019, the U.S. Department of Justice began investigations into U.S.-based Pilgrim's Pride – owned by JBS – into poultry sector price fixing – which saw the company pay $110 million to settle the charges.[45] [46] In 2020, Brazil's J&F Investimentos (the parent company of JBS) pleaded guilty to U.S. foreign bribery charges and agreed to pay US$128.25 million in criminal fines.[47]

10. JBS PORTRAYS THE GLOBAL MEAT INDUSTRY AS GROWTH ONLY SECTOR

In the section named "Risk Factors," the JBS's F4 prospectus fails to adequately highlight the risks to the global meat industry, falsely framing it as a growth-only industry. And whilst the prospectus does refer to dietary changes in the "Risk Factors" section, p.52, JBS allocated just two sentences to the impact increased plant-based trends may have on its business. We believe this is grossly disproportionate to the true impact the alternative protein sector will likely have on the future growth projections of JBS, which are highly relevant to both the SEC and to shareholders.

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[42] YouTube interview in which Ricardo Saud, a lawyer for J&F Investimentos, claimed to have bribed 1,829 politicians to the tune of R$500-600 million, available at: https://www.youtube.com/watch?v=5TqtPBMW2G8

See also Reuters, "Brazil's JBS says Joesley Batista resigns as chairman", May 27, 2017 available at: https://www.reuters.com/article/uk-brazil-corruption-jbs-board-idUKKBN18M2M3

[43] Wall Street Journal, "Political Crisis Grips Brazil as Firm Admits to Bribing Nation's Leaders", May 19, 2017, available at: https://www.wsj.com/articles/temers-fate-unsure-as-brazilians-consider-alleged-evidence-of-graft-1495216017

[44] Wall Street Journal, "Meatpacker JBS Probed by Brazilian Police Over Loans From BNDES", May 12, 2017, available at: https://www.wsj.com/articles/jbs-said-to-be-target-of-brazil-police-investigation-1494603810

[45] Reuters, "U.S. launches criminal probe into alleged chicken price fixing by Tyson, rivals", June 25, 2019, available at: https://www.reuters.com/article/us-usa-poultry-probe-idUSKCN1TQ2QO

[46] NY Times, "Pilgrim's Pride to Pay $110 Million to Settle Charges of Fixing Chicken Prices", October 14, 2020, available at: https://www.nytimes.com/2020/10/14/business/pilgrims-pride-price-fixing.html

[47] Reuters, "Parent of Brazil's JBS pleads guilty to U.S. foreign bribery charges", October 14, 2020, available at: https://www.reuters.com/article/us-j-f-brazil-crime-idUSKBN26Z2FZ

The IPCC recommends meat reduction in order to reduce emission by 55% needed to stay within 1.5°C – other studies have estimated a reduction of 75% from current consumption levels.[48] [49] From 2015–2019, vegan and plant-based food registered annual growth of 21% and 58%, respectively, and the global vegan food market was valued at USD 16.55 billion in 2022. It is expected to grow at a compound annual growth rate (CAGR) of 10.7% from 2023 to 2030.[50] Whilst we recognize JBS have ventured into the plant-based space through its acquisition of Vivera, in the context of JBS's size and scale, the Vivera deal size represents just 1.5% of JBS's total value.[51]

The UK Government's 2021 Health Strategy recommends a 30% meat reduction within the decade.[52] The European Parliament has adopted a resolution which calls on Member States to increase plant-based diets and reduce meat intake.[53] Most recently the Dutch government has announced plans to dramatically reduce its livestock numbers due to a breach of EU law which found the country was not taking sufficient action to reduce excess nitrogen in vulnerable natural areas.[54]

As the UK and EU move to set meat reduction targets, a trend likely to be replicated in other JBS key demand markets – the company's projection of its continued upward growth is misleading given the climate impacts of the meat industry – and likely future regulation, and the switch by consumers to more plant-based diets. This misrepresentation poses a significant impact on the future viability of JBS. Nowhere is this risk properly addressed in the prospectus, an omission that serves to mislead potential investors, regulators and the SEC's IPO-approval regimen.

11. JBS IPO EXCLUDES LEGAL AND REGULATORY IMPACT

We have concerns that the JBS IPO prospectus does not accurately reflect the regulatory risk to JBS's European export business, in relation to deforestation. While p.51 and p.52 of the prospectus refers to trade restrictions on beef exports imposed by the U.S., EU and other countries connected to curbing

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[48] IPCC (2019), "Summary for policymakers — special report on climate change and land", available at: https://www.ipcc.ch/srccl/chapter/summary-for-policymakers/

[49] Science Daily, "Meat consumption must fall by at least 75 percent", April 25, 2022, available at: https://www.sciencedaily.com/releases/2022/04/220425135937.htm

[50] Grand View Research (2019) "Vegan Food Market Size & Growth Trends, Industry Report", available at: https://www.grandviewresearch.com/industry-analysis/vegan-food-market

[51] Food navigator, "JBS on its acquisition of Vivera: 'It is an important step in our plant-based trajectory', April 20, 2021, available at: https://www.foodnavigator.com/Article/2021/04/20/JBS-on-its-acquisition-of-Vivera-It-is-an-important-step-in-our-plant-based-trajectory

[52] GOV.UK (2022) "Government food strategy", June 13, 2022, available at: https://www.gov.uk/government/publications/government-food-strategy/government-food-strategy

[53] European Commission (2022) "Europe's Cancer Beating Plan", available at: https://health.ec.europa.eu/system/files/2022-02/eu_cancer-plan_en_0.pdf

[54] The Guardian, "Netherlands announces €25bn plan to radically reduce livestock numbers", December 15, 2021, available at: https://www.theguardian.com/environment/2021/dec/15/netherlands-announces-25bn-plan-to-radically-reduce-livestock-numbers

deforestation in the Amazon region, it fails to highlight the significance of the groundbreaking European Deforestation Regulation (EUDR) and the UK Environment Act 2021.

These laws require increased due diligence for those dealing with high-risk companies – as JBS is categorized – to ensure products derived from deforestation are not entering European supply chains. For JBS, this will include its beef and leather products, as well as the embedded soy used as animal feed and this new diligence regimen poses significant risks to its European operations and exports – given the sheer scale of deforestation allegations contained in a multitude of reports, surveys and studies.[55] [56] Given that Europe accounted for 9% of JBS's Q1.23 net revenue by destination, we would expect this information to be included under the section "Information about JBS S.A. – Regulation – Europe."

The U.S. regulatory environment is also increasingly hostile to trade or production linked to deforestation, which is not reflected in the F4 application. The U.S. Department of Treasury is looking to sanction Amazon deforesters through the application of Magnitsky sanctions, which include visa blacklists and other Global Magnitsky sanctions.[57] The upcoming U.S. Forest Act is also expected to impact on JBS's business model and increase the need for improved transparency and disclosure of climate and deforestation impact.[58] So too is the New York Tropical Deforestation-Free Procurement Act, which seeks to end state and local government procurement driving tropical forest loss, degradation or abuse of Indigenous Peoples.[59]

The prospectus also fails to detail global agreements, including the Paris Accords and The UN Convention on Biological Diversity (CBD), both legally binding global agreements which aim to reduce GHG emissions and conserve the planet and its biodiversity. As governments move to enact these laws domestically, the impact on high-risk companies like JBS will be more and more apparent and they will likely experience significant disruption to their existing business model. By failing to document these considerations, JBS is misleading – and omitting the necessary transparency – investors, potential shareholders and the SEC itself.

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[55] Greenpeace (2020) "How JBS is still slaughtering the Amazon", available at: https://www.greenpeace.org.uk/wp-content/uploads/2020/08/Greenpeace_StillSlaughtering_Spreads.pdf

[56] Global Witness (2022) "Cash Cow, How beef giant JBS's links to Amazon deforestation and human rights abuses is aided by UK, EU and US financiers, importers and supermarkets", available at: https://www.globalwitness.org/en/campaigns/forests/cash-cow/

[57] Reuters, "Exclusive: U.S. aims to sanction Brazil deforesters, adding bite to climate fight", November 23, 2022, available at: https://www.reuters.com/world/americas/exclusive-us-aims-sanction-brazil-deforesters-adding-bite-climate-fight-2022-11-23/

[58] Congress.gov, "S. 2950, FOREST Act of 2021", October 6, 2021, available at: https://www.congress.gov/bill/117th-congress/senate-bill/2950

[59] New York State Senate, "Senate Bill S4859A, Enacts the New York tropical deforestation-free procurement act and establishes the supply chain transparency assistance program", February 16, 2023, available at: https://www.nysenate.gov/legislation/bills/2023/S4859/amendment/A

12. NEXT STEPS

This submission displays only the tip of the iceberg of JBS's willful wrongdoing over many years. We trust the SEC will naturally want to investigate the allegations raised in this complaint – and indeed the many reports referenced here. Ultimately, JBS SA aims to deliver a restructure which would disadvantage its minority shareholders, giving ultimate power to the Batista family – a family that has shown itself to be rotten to the core – and confirmed by the plethora of current cases against JBS outlined in Section "Information about JBS S.A.," pp.119–127 of the F4 filing application. We believe JBS to be a company which has shown itself to be unreformable. In short, JBS is proposing to restructure to become a new public company, while to all extents and purposes continuing to operate like a private company.

We are concerned the SEC is going to give the green light to JBS to move forward with the IPO filing, without gaining a full understanding of the negative implications for the U.S. investor market, the NYSE and the wider global meat industry. We believe based on the evidence we have provided in this submission – alongside the active Whistle blower complaint – JBS S.A has not detailed a full and representative filing application, which may harm U.S. investors and mislead markets.

Mighty Earth requests:

1. The JBS N.V. IPO listing application process should not progress any further until the Whistleblower complaint has been investigated and any sanctions are applied to JBS by the SEC ahead of an IPO approval;
2. The JBS N.V IPO listing application should not progress until the material omissions outlined in the submission above are investigated, and corrections to JBS's F4 are made to a standard which ensures U.S. investors are not disadvantaged; and
3. All correspondence between the SEC and JBS regarding the above submission should be made public to allow relevant verification of any evidence provided by JBS.

Respectfully Submitted,

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