



JBS S.A. Dual Listing:

A collective warning of risks to people, planet and investors

September 2023

Introduction

On 12th July 2023, JBS S.A. – the world’s largest meat company¹ – announced a plan to restart its decade-long attempt to list shares on the New York Stock Exchange (NYSE)² via a dual listing under a new Dutch parent company (“JBS N.V.”).³

The undersigned twenty organisations write to warn the global financial community about the significant risk to the climate, people, and investors associated with JBS and its operations. We believe investors have a fiduciary responsibility to consider the potential regulatory, litigation, reputational, ethical, and market-based risks of investing in a firm significantly implicated in and exposed to climate change, deforestation, biodiversity loss, corruption scandals and human rights abuses, whether as a parent company or through its network of subsidiaries. The vast ecological impact of their business model exceeds our planetary boundaries and relies on continued sourcing from known high-risk regions and sectors with insufficient controls to prevent harm – including human rights abuses and material risk to investors.

We urge financial service providers including investors, underwriters, asset managers, advisers, and lenders to:

- Suspend support for, and further investment in, JBS or its subsidiaries, until they provide a credible plan to address their vast greenhouse gas emissions (GHG) and long-standing risk of deforestation and human rights abuses.
- Raise public awareness - including through their advisory services - of the governance and related environmental and social risks associated with JBS’s supply chain and proposed restructure through the dual listing.

¹ <https://www.reuters.com/business/retail-consumer/brazils-jbs-swings-loss-citing-grain-costs-meat-oversupply-2023-05-11/>

² [Brazil’s JBS reboots plans to list in New York, shares jump 8% | Reuters](https://www.reuters.com/business/retail-consumer/brazil-jbs-reboots-plans-to-list-in-new-york-shares-jump-8%| Reuters)

³ See “Will there be changes in JBS’s corporate structure?”, <https://jbs.com.br/en/duallisting/>. A “dual listing” occurs when shares of a company are listed on more than one stock exchange: <https://www.wsj.com/articles/brazilian-meatpacker-jbs-to-pursue-u-s-listing-b466f695>

- Investigate the allegations detailed in the reports linked throughout this briefing, to identify and provide necessary redress and remedy to communities affected by the financing of JBS's operations.

JBS's last proper attempt to execute an initial public offering (IPO) in the US in 2017 was undermined by the company's role in "the largest corruption inquiry in history",⁴ which saw the firm's controlling shareholders, Joesley and Wesley Batista, admit to bribing more than 1,800 politicians and officials including Brazil's former President Michel Temer.⁵ In 2017, their investment firm J&F Investimentos – which holds the Batista family's current 48.8% stake in JBS (as of August 2023) – reportedly signed an agreement with Brazilian prosecutors to pay a \$3.2 billion fine for its role in the bribery scandal.⁶ In 2020 the firm also agreed to pay \$155 million in fines to the US authorities over bribes paid in Brazil, with the SEC citing their "profound failure to exercise good corporate governance" and "brazen misconduct".⁷ The Covid-19 pandemic reportedly delayed another full try at the IPO until this year.⁸

The Batista family – who founded the firm in 1953⁹ – may emerge with more than 90% shareholder voting rights under the terms of the deal, a significant increase on their existing 48% voting entitlement, which overwhelmingly dilutes voting rights for existing and future minority shareholders,¹⁰ who as a result will become largely unable to influence company decision making including environmental, social and governance matters, staff remuneration, distribution of profits, appointing the board of directors, acquisitions, mergers or decisions to dissolve JBS N.V.¹¹ Combined with the Batista's track record, this raises serious questions about JBS's claims the dual listing will "enhance transparency and strengthen corporate governance".¹² Our analysis of the company's official F-4 filing to the U.S. Securities and Exchange Commission (SEC) details significant concerns regarding JBS's environmental impact and potential business and governance risks related to the transaction.

The financial and legal context in which JBS operates has also changed significantly since the company's last attempt to dual list in the US in 2017, which current and potential investors must consider:

- The number of criminal cases, civil suits and administrative penalties against JBS S.A. and J&F Investimentos¹³ since 2017.
- Climate and biodiversity-related risks are increasingly recognised as a material threat to individual financial institutions and the global financial system.¹⁴

⁴ <https://www.afr.com/companies/financial-services/how-pwc-got-tangled-in-a-fight-between-ato-and-the-boys-from-brazil-20220921-p5bivm>

⁵ See <https://www.youtube.com/watch?v=5TqtPBMW2G8>; Temer denied the allegations and was acquitted of corruption offences in 2017 and 2021, see <https://www.reuters.com/article/uk-brazil-corruption-temer-idUKKCN1BP2W0>; <https://www.occrp.org/en/daily/14357-brazilian-judge-acquits-ex-president-temer-in-graft-case>

⁶ <https://www.reuters.com/article/us-brazil-corruption-jbs-idUSKBN18R1HE>.

⁷ The US Department of Justice imposed a penalty of \$256.5 million on São Paulo-based J&F Investimentos. The company was ordered to pay half of that to U.S. authorities to compensate for fines already paid to Brazilian authorities. See [SEC.gov | SEC Charges Brazilian Meat Producers With FCPA Violations](https://www.sec.gov/SEC_Charges_Brazilian_Meat_Producers_With_FCPA_Violations);

<https://www.wsj.com/articles/meat-giant-jbss-owner-settles-u-s-corruption-charges-11602707950>

⁸ <https://www.reuters.com/business/environment/environmental-activists-pressure-us-regulators-halt-jbs-listing-2023-08-23/>

⁹ <https://www.wsj.com/articles/brazilian-meatpacker-jbs-to-pursue-u-s-listing-b466f695>

¹⁰ JBS B.V. "F-4" form, 1 September 2023, p.198-199. Hereafter, "JBS F-4, 1 September 2023". Available online: <https://www.sec.gov/Archives/edgar/data/1791942/000119312523227736/d419054df4a.htm>

¹¹ JBS F-4, 1 September 2023, p.37

¹² <https://jbsfoodsgroup.com/articles/jbs-to-pursue-dual-listing-in-brazil-and-us-to-deliver-value-to-shareholders>

¹³ JBS F-4, 1 September 2023, p.204-207 "Civil and Criminal Actions and Investigations involving our Ultimate Controlling Shareholders" and p.126-134 detailing legal proceedings against JBS and its subsidiaries.

¹⁴ See, for example, the number of reports published by various governments and international bodies in recent years: https://www.ngfs.net/sites/default/files/coalition-ngfs-blog_final.pdf; https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/962785/The_Economics_of_

- The United Nations Climate Champions estimate the global agribusiness sector is expected to lose an average of more than 7% in value by 2030 due to unpriced nature and climate risk, with some companies losing up to 26% of their value by the end of the decade.¹⁵
- The global meat and dairy market will need to change significantly as governments introduce new public policies and legislation to reach net zero emissions targets. Global leaders are expected to launch a COP28 Declaration on Agriculture and Food Systems this November.¹⁶
- Over 150 countries have already joined the Global Methane Pledge to reduce methane emissions by at least 30% by 2030, including Brazil.¹⁷
- There have been major developments in consumer-country regulation, including the introduction of agricultural-commodity supply chain laws such as the EU Deforestation-free Product Regulation,¹⁸ UK Environment Act¹⁹ and New York Tropical Deforestation-free Procurement Act,²⁰ with which the company is potentially unable and unprepared to comply.

JBS's response to this briefing can be found below.

Existing and prospective shareholders or service providers should carefully consider the following risks linked to JBS and the dual listing transaction terms:

1. Major governance risks: the listing will deliver the Batista family near absolute control of JBS

The proposed dual class shareholder structure will at the point of NYSE listing consolidate near absolute control for the Batista family and disenfranchise existing or potential minority shareholders, who will have no significant voting power or control:

- Disenfranchisement of minority shareholders:* The proposed dual class structure of JBS N.V. has the effect of concentrating power in the Batista family, who will emerge with 85.03% aggregate voting power in JBS N.V. at the point of listing, a significant increase on their existing 48.8% voting power in JBS S.A. (as of August 2023.)²¹ This could rise to 90.52% voting entitlement dependent on share conversion rates.²² For example, the Brazilian Development Bank (BNDES), JBS's next largest existing shareholder, could emerge with only 3.86% voting power due to the dual class share structure, according to the company's F-4 filing in September 2023.²³ As a result, existing and future minority shareholders will have very little real influence over company decision making or controlling transactions, including staff remuneration, distribution of profits, appointing the board of directors, mergers or decisions to dissolve JBS N.V.²⁴ A new dividends policy will be decided after the family

[Biodiversity The Dasgupta Review Full Report.pdf; https://www.imf.org/en/Publications/fandd/issues/2019/12/climate-change-central-banks-and-financial-risk-grippa](https://www.imf.org/en/Publications/fandd/issues/2019/12/climate-change-central-banks-and-financial-risk-grippa)

¹⁵ <https://climatechampions.unfccc.int/unpriced-nature-and-climate-risk-could-wipe-off-billions/>

¹⁶ <https://www.thenationalnews.com/climate/cop28/2023/06/17/uae-urges-g20-nations-to-adopt-climate-smart-agricultural-and-food-systems/#:~:text=%22The%20declaration%20aims%20to%20mobilise,are%20environmentally%20friendly%20and%20resilient>

¹⁷ <https://www.globalmethanepledge.org/#pledges>

¹⁸ https://environment.ec.europa.eu/topics/forests/deforestation/regulation-deforestation-free-products_en

¹⁹ [https://www.legislation.gov.uk/ukpga/2021/30/schedule/17#:~:text=Prohibition%20on%20using%20illegally%20produced%20commodities&text=\(2\)A%20regulated%20person%20in, in%20relation%20to%20that%20commodity.](https://www.legislation.gov.uk/ukpga/2021/30/schedule/17#:~:text=Prohibition%20on%20using%20illegally%20produced%20commodities&text=(2)A%20regulated%20person%20in, in%20relation%20to%20that%20commodity.)

²⁰ <https://www.nysenate.gov/legislation/bills/2023/S4859/amendment/A>

²¹ JBS F-4, 1 September 2023, p.xviii

²² JBS F-4, 1 September 2023, p.79

²³ JBS F-4, 1 September 2023, p.79

²⁴ JBS F-4, 1 September 2023, p.24-25

consolidates control via the transaction according to the company’s Chief Financial Officer Guilherme Cavalcanti,²⁵ which poses a risk to investors’ because upon establishing the parent company in the Netherlands JBS N.V. will be able to follow the Dutch Civil Code conditions on dividends and not Brazilian law as it does today, which grants mandatory dividends on publicly traded companies.²⁶ JBS says they “cannot assure” minority shareholders that the controlling family shareholders will address financial and other conflicts of interest “in an impartial manner”, “even though such transactions may involve increased risks to us or the holders of our common shares.”²⁷

- b. *The Batista brothers are not reliable controlling shareholders of the company.* J&F Investimentos, controlled by the Batista’s, reportedly agreed to pay a record breaking \$3.2 billion in penalties in 2017 for its role in a Brazilian bribery scandal.²⁸ In 2020, J&F Investimentos pleaded guilty to criminal conspiracy to violate the US Foreign and Corrupt Practices Act (FCPA) over the same scandal, agreeing to pay more than \$256 million.²⁹ The company paid further additional fines to settle related SEC investigations.³⁰ The SEC cited the executives’ “profound failure to exercise good corporate governance” and “brazen misconduct”.³¹ They were acquitted of some Brazilian securities fraud charges from 2017 in May 2023.³²
- c. *Dual class shares:* To realise the dual listing, JBS has proposed a two-tier share conversion system, where minority shareholders may convert no more than 55% of their existing Class A shares (entitled to 1 vote per share at general shareholder meetings) into Class B shares (entitled to 10 votes per share at general shareholder meetings).³³ Shares listed on NYSE will be Class A only³⁴ and Class B shares will not be listed on any exchange,³⁵ which may disincentivise Class B conversion. Such low proportionate voting rights may affect the retail value of the Class A shares and therefore potentially reduce liquidity.³⁶ Dual class shareholder structures can enable families or company founders to entrench themselves in corporate structures and engage in “reckless, eccentric or self-interested decisions,” according to the Institute of Directors.³⁷
- d. *Only the Batista family may convert 100% of their Class A Shares to Class B shares.*³⁸ The Batista’s – through their investment firms J&F Investimentos and FIP Formosa – have the unconditional right to transfer their shares between classes, but all other minority shareholder transfers must be approved by the Board of Directors.³⁹ According to the F-4 filing, the Batista family will hold their shares in JBS N.V. through LuxCo, a private limited liability company in Luxembourg.⁴⁰ The Tax Justice

²⁵ See transcript of Q2 2023 earning call, 15 August 2023, p.13, <https://api.mziq.com/mzfilemanager/v2/d/043a77e1-0127-4502-bc5b-21427b991b22/efa982c4-7e6f-7709-0040-8130843adf73?origin=2>

²⁶ Ibid.

²⁷ JBS F-4, 1 September 2023, p.51

²⁸ <https://www.reuters.com/article/us-brazil-corruption-jbs-idUSKBN18R1HE>

²⁹ <https://www.sec.gov/news/press-release/2020-254> (senate.gov)

³⁰ <https://www.sec.gov/news/press-release/2020-254> (senate.gov)

³¹ [SEC.gov | SEC Charges Brazilian Meat Producers with FCPA Violations](https://www.sec.gov/news/press-release/2020-254)

³² <https://finance.yahoo.com/news/joesley-wesley-batista-brazilian-businessmen-192800275.html>;
<https://brazilian.report/liveblog/politics-insider/2023/05/30/insider-trading-joesley-batista/>

³³ JBS F-4, 1 September 2023, p. 72

³⁴ JBS F-4, 1 September 2023, p.72

³⁵ JBS F-4, 1 September 2023, p.72

³⁶ JBS F-4, 1 September 2023, p.74

³⁷ <https://www.iod.com/resources/blog/governance/what-are-dual-class-shares/>

³⁸ JBS F-4, 1 September 2023, p.30

³⁹ JBS F-4, 1 September 2023, p.xxxi

⁴⁰ JBS F-4, 1 September 2023, p.viii

Network considers the Netherlands and Luxembourg “tax havens”.⁴¹ JBS Chief Financial Officer Guilherme Cavalcanti has confirmed the company has no publicly disclosed plans to issue new shares or raise capital for M&A or debt deleveraging after the NYSE listing,⁴² which raises questions as to whether the primary purpose of the dual listing transaction is to deliver near total control for the Batista family.

2. Regulatory arbitrage and opaque corporate structure risks

JBS claim the dual listing will “strengthen transparency and corporate governance”,⁴³ but the proposed new company structure may result in reduced minority shareholder protections and high levels of insufficiently regulated or supervised company risk:

- a. *Potential regulatory arbitrage*: If successful, JBS S.A. will be owned by a public limited liability parent company (naamloze vennootschap) in the Netherlands to be known as “JBS N.V.”, but the company’s operational structure – including assets, employees, physical infrastructure and financial flows – will remain the same *in practice*, according to the company.⁴⁴ The Dutch government says it is cracking down on such Dutch “letterbox” companies,⁴⁵ which seek to benefit from the Netherlands’ tax regime exemptions for companies registered there but which undertake no independent economic activity, which is a corporate structure criticised by tax experts.⁴⁶ JBS N.V. will apply to be considered a “foreign issuer” under the Brazilian Securities Commission (Comissão de Valores Mobiliários, “CVM”)⁴⁷ and a “foreign private issuer”⁴⁸ under US securities laws and the NYSE rules, to “rely on governance exemptions”.⁴⁹ For example, the company may not be required to have a majority independent board of directors unlike other NYSE listed companies.⁵⁰ JBS N.V. could also avoid certain EU laws because it will not be traded on a European exchange, despite its Dutch parent company.⁵¹ Dutch law may afford fewer shareholder protections than US law⁵² and US court judgements are not de facto enforced or recognised in Dutch courts, according to the F-4 filing.⁵³
- b. *Risk of inability to identify and comply with local laws*: While the company is seeking to benefit from this convoluted legal structure, it acknowledges there will be significant strain on internal controls caused by new compliance and reporting

⁴¹ <https://taxjustice.net/faq/where-are-tax-havens-located/#:~:text=Tax%20havens%20are%20located%20around,the%20spectrum%20of%20tax%20havenry.>

⁴² See transcript of Q2 2023 earning call, 15 August 2023, p.13, <https://api.mziq.com/mzfilemanager/v2/d/043a77e1-0127-4502-bc5b-21427b991b22/efa982c4-7e6f-7709-0040-8130843adf73?origin=2>

⁴³ <https://jbsfoodsgroup.com/articles/jbs-to-pursue-dual-listing-in-brazil-and-us-to-deliver-value-to-shareholders>

⁴⁴ See JBS Investor Relations Q&A, <https://jbs.com.br/en/duallisting/>

⁴⁵ <https://www.government.nl/latest/news/2022/06/28/tax-avoidance-via-the-netherlands-significantly-reduced-thanks-to-measures>

⁴⁶ <https://www.universiteitleiden.nl/en/in-the-media/2022/01/is-the-netherlands-a-tax-haven-or-not;>
<https://www.opendemocracy.net/en/oureconomy/how-tax-havens-netherlands-are-draining-developing-countries-precious-public-funds/>

⁴⁷ JBS F-4, 1 September 2023, F-64

⁴⁸ JBS F-4, 1 September, p.10

⁴⁹ JBS F-4, 1 September 2023, p. 10

⁵⁰ JBS F-4, 1 September 2023, p.193

⁵¹ JBS F-4, 1 September 2023, p.33

⁵² JBS F-4, 1 September 2023, p.38

⁵³ See JBS F-4, 1 September 2023, p.38. The US and the Netherlands do not currently have a treaty providing for reciprocal recognition and enforcement of judgments, other than arbitration awards, in civil and commercial matters. Note that summary judgements including penalties may be upheld under certain conditions under a Dutch Supreme Court precedent.

burdens related to US and other law.⁵⁴ It says “Our accounting and other management systems and resources may not be immediately prepared to meet these requirements, which may strain our resources”⁵⁵ and the F-4 filing acknowledges it “may not be able to ensure that our raw material suppliers are in compliance with all applicable environmental and labour laws and regulations”,⁵⁶ thereby exposing the company to potential fines and criminal complaints.⁵⁷ JBS says it has improved its anti-bribery and anti-corruption compliance programs.⁵⁸ In addition, the Netherlands has been described as an emerging “front-runner” jurisdiction for climate-related civil litigation.⁵⁹ It is unclear if JBS will comply with the Dutch Corporate Governance Code, which requires companies to take into account “the impact the actions of the company and its affiliated enterprise have on people and the environment”.⁶⁰

3. Declining market access risk

- a. *Supply chain legislation restricting JBS’s core markets*⁶¹ in the EU, UK and US: JBS has weak deforestation targets⁶² and poor supply chain traceability controls⁶³ that could result in significant risk of non-compliance and penalties under new deforestation-free supply chain laws in the EU and UK when they enter into force.⁶⁴ JBS only aims to eliminate all *illegal* deforestation from its Amazon supply chain by 2025,⁶⁵ in continued contravention of a 2009 legal agreement with prosecutors in Brazil,⁶⁶ and all deforestation (legal and illegal) across its global supply chains by 2030.⁶⁷ JBS says the company has “zero tolerance to illegal deforestation and invasion of protected areas such as indigenous lands or environmental conservation areas”,⁶⁸ but the company has not presented a credible plan for how it will reach its

⁵⁴ JBS F-4, 1 September 2023, p.86

⁵⁵ JBS F-4, 1 September 2023, p.35

⁵⁶ JBS F-4, 1 September 2023, p.46

⁵⁷ JBS F-4, 1 September 2023, p.46

⁵⁸ JBS F-4, 1 September 2023, p.50

⁵⁹ <https://www.houthoff.com/expertise/topics/climate-risk-and-sustainability/climate-litigation#:~:text=The%20Netherlands%20is%20a%20front,reduce%20its%20greenhouse%20gas%20emissions;https://www.theguardian.com/environment/2022/may/25/how-two-goldman-prize-winners-won-landmark-rulings-in-dutch-courts>

⁶⁰ For the Dutch Corporate Governance Code, see: <https://www.lexology.com/library/detail.aspx?q=cb528132-2740df-a81d-65ff3d0fa580>. JBS F-4, 1 September 2023, p.10. States the company reserves the right not to comply with certain aspects of the Code.

⁶¹ <https://api.mziq.com/mzfilemanager/v2/d/043a77e1-0127-4502-bc5b-21427b991b22/ecf99230-d15d-c200-8ce7-a368353da948?origin=1>

⁶² JBS has an Amazon 2023 target date for no-deforestation for direct suppliers, and 2025 for indirect suppliers. For all JBS’s deforestation targets, see <https://mediaroom.jbs.com.br/noticia/jbs-brings-forward-zero-deforestation-targets-as-it-ramps-up-action-towards-15-degrees-c-pathway>. Widely critiqued [here](#) and [here](#).

⁶³ Senator Wyden, Chair of Senate Committee on Finance, 22 June 2023, <https://www.finance.senate.gov/chairmans-news/wyden-hearing-statement-on-cattle-supply-chains-amazon-deforestation>. See also <https://chainreactionresearch.com/report/jbs-marfrig-and-minerva-unlikely-compliant-with-upcoming-eu-deforestation-law/>.

⁶⁴ The EUDR is known as the REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010, <https://data.consilium.europa.eu/doc/document/PE-82-2022-INIT/en/pdf>. Schedule 17 of the Environment Act 2021 is available: [https://www.legislation.gov.uk/ukpga/2021/30/schedule/17#:~:text=Prohibition%20on%20using%20illegally%20produced%20commodities&text=\(2\)A%20regulated%20person%20in,in%20relation%20to%20that%20commodity](https://www.legislation.gov.uk/ukpga/2021/30/schedule/17#:~:text=Prohibition%20on%20using%20illegally%20produced%20commodities&text=(2)A%20regulated%20person%20in,in%20relation%20to%20that%20commodity).

⁶⁵ <https://mediaroom.jbs.com.br/noticia/jbs-brings-forward-zero-deforestation-targets-as-it-ramps-up-action-towards-15-degrees-c-pathway>

⁶⁶ <https://www.globalwitness.org/en/campaigns/forests/cash-cow/>

⁶⁷ <https://mediaroom.jbs.com.br/noticia/jbs-brings-forward-zero-deforestation-targets-as-it-ramps-up-action-towards-15-degrees-c-pathway>

⁶⁸ JBS F-4, 1 September 2023, p.122.

deforestation targets.⁶⁹ Moreover, Chain Reaction Research conservatively estimates that JBS's total deforestation footprint since 2008 in Brazil may be as high as 200,000 hectares (ha) in its direct supply chain and 1.5 million ha in its indirect supply chain.⁷⁰ A December 2022 audit by Brazilian federal prosecutors concluded more than one in six cows – almost 94,000 head of cattle – of JBS's purchases in the Brazilian state of Pará were not compliant with the company's legal obligations mid-2019-mid-2020, mostly due to illegal deforestation found in their *direct* supply chain.⁷¹

- i. Europe (including the UK) represented 9% of JBS's Q1 2023 revenue.⁷² The EU Deforestation-free Product Regulation (EUDR) requires companies to verify and certify that their products are free from all deforestation and forest degradation (both legal and illegal) and human rights abuses before placement on the EU market from late 2024 onwards. Penalties for repeat non-compliance with the EUDR include a maximum fine of at least 4% of Union-wide turnover in the preceding year.⁷³ JBS's market access could also be affected by Schedule 17 of the Environment Act 2021 in the UK, which also prohibits the import of commodities grown on illegally deforested land, underpinned by sanctions for non-compliance.⁷⁴ JBS is likely to face significant compliance challenges⁷⁵ in light of these two new regulations when they enter into force because it is still unable to fully trace its direct and indirect cattle or feed supply chain.⁷⁶ Without major changes in the company's level of supply chain monitoring and traceability, JBS will struggle to comply with the EU's incoming geolocation data requirements at import or confidently certify products as deforestation-free.⁷⁷ JBS admits it may not be able to comply with local laws governing environmental and labour standards related to the company's supply chain in its F-4 filing.⁷⁸
- ii. The US represented 50% of JBS's Q1 2023 revenue,⁷⁹ but there is significant support from US lawmakers for the introduction of the FOREST Act, to prohibit the import of agricultural-commodities and products produced on illegally deforested land.⁸⁰ Again, JBS would be currently unable to comply across its supply chain if the law were brought in today.⁸¹ The New York State Assembly has passed a Tropical Deforestation-Free Procurement Act (to be

⁶⁹ JBS's Responsible Procurement Policy is available <https://jbs.com.br/storage/2023/01/-jbs-responsible-procurement-policy.pdf>.

⁷⁰ <https://chainreactionresearch.com/report/jbs-outsized-deforestation-in-supply-chain-covid-19-pose-fundamental-business-risks/>

⁷¹ <https://www.globalwitness.org/en/campaigns/forests/global-witness-calls-financiers-stop-bankrolling-rainforest-beef/>; <https://www.mpf.mp.br/pa/sala-de-imprensa/noticias-pa/resultados-4o-ciclo-auditorias-tac-pecuaria-pa>

⁷² JBS Dual Listing Presentation to Investors, July 2023, p. 5, <https://api.mziq.com/mzfilemanager/v2/d/043a77e1-0127-4502-bc5b-21427b991b22/ecf99230-d15d-c200-8ce7-a368353da948?origin=1>

⁷³ <https://www.whitecase.com/insight-alert/eu-adopts-new-rules-deforestation-free-products>

⁷⁴ Commodities regulated under Schedule 17 are yet to be decided by the Secretary of State, although secondary regulations are forthcoming.

[https://www.legislation.gov.uk/ukpga/2021/30/schedule/17#:~:text=Prohibition%20on%20using%20illegally%20produced%20commodities&text=\(2\)A%20regulated%20person%20in,%20relation%20to%20that%20commodity.](https://www.legislation.gov.uk/ukpga/2021/30/schedule/17#:~:text=Prohibition%20on%20using%20illegally%20produced%20commodities&text=(2)A%20regulated%20person%20in,%20relation%20to%20that%20commodity.)

⁷⁵ See Chain Reaction Research for a summary of JBS's likely compliance challenges: <https://chainreactionresearch.com/report/jbs-marfrig-and-minerva-unlikely-compliant-with-upcoming-eu-deforestation-law/>; for 2024 date: <https://www.lexology.com/library/detail.aspx?g=d094d7d3-7422-43e1-be1d-0b9068246882>

⁷⁶ As evidenced by <https://reporterbrasil.org.br/wp-content/uploads/2022/10/220927-Monitor-Ra%C3%A7%C3%A3o-Animal-EN-03.pdf>; <https://www.globalwitness.org/en/campaigns/forests/cash-cow/>; see also

<https://chainreactionresearch.com/report/jbs-marfrig-and-minerva-unlikely-compliant-with-upcoming-eu-deforestation-law/>

⁷⁷ <https://chainreactionresearch.com/report/jbs-marfrig-and-minerva-unlikely-compliant-with-upcoming-eu-deforestation-law/>

⁷⁸ JBS F-4, 1 September 2023, p.46

⁷⁹ JBS Dual Listing Presentation to Investors, July 2023, <https://api.mziq.com/mzfilemanager/v2/d/043a77e1-0127-4502-bc5b-21427b991b22/ecf99230-d15d-c200-8ce7-a368353da948?origin=1>

⁸⁰ <https://www.congress.gov/bill/117th-congress/senate-bill/2950>

⁸¹ As evidenced by sources cited in FN 91 and <https://chainreactionresearch.com/report/jbs-marfrig-and-minerva-unlikely-compliant-with-upcoming-eu-deforestation-law/>

approved by Governor Hochul), which seeks to end state and local government procurement driving tropical forest loss, degradation or abuse of Indigenous Peoples.⁸² US authorities say they plan to “aggressively” pursue Magnitsky corruption sanctions and other criminal enforcement actions against deforesters in the Brazilian Amazon,⁸³ linked to President Biden’s “whole-of-government” approach to global deforestation.⁸⁴

- b. *JBS’s outlook recently downgraded to “negative” by S&P:* JBS’ EBITDA is down 57% from the year-ago period.⁸⁵ This August, JBS reported a net loss of US\$47.77 million, its second consecutive negative quarter.⁸⁶ In July, S&P downgraded the outlook for JBS to “negative”, citing the group’s “subdued demand” and “industry obstacles”, alongside the announcement regarding the anticipated US\$454 million cash dividend payment if the listing proceeds.⁸⁷ S&P predicts this payment will “weaken credit metrics”, “increase uncertainty”, and deliver an “expected drop in forecast funds from operations (FFO) by almost 60% compared to 2022” and “debt to EBITDA will exceed 5x by the end of the year”. S&P say there is a one in three chance of a downgrade in the next 12-24 months, which would put JBS debt in junk status.⁸⁸
- c. *Future financial due diligence laws may shut off credit and lead to de-risking:* Both the UK and EU are conducting regulatory reviews into measures necessary to prevent the financing of companies conducting deforestation.⁸⁹ Brazilian banking association Febraban – with 21 members including Bank of Brazil and BNDES - introduced self-regulation No. 026/2023 requiring member banks to ensure they only fund banks with no illegal deforestation in their supply chains by 2025.⁹⁰ The EU, UK and US – among other jurisdictions – are also committed to new corporate disclosure regimes that may require JBS to report material information on its negative climate impact.⁹¹ Combined, this could significantly elevate barriers to JBS’s access to credit and debt risk.⁹² Several of JBS’s Sustainability-Linked Bond coupons will increase by 25 basis points if sustainability targets are not achieved.⁹³ In April 2023, Barclays – JBS’s greatest financier between 2015-2022⁹⁴ – adopted a new deforestation policy citing “no appetite” for financing beef and soy companies engaged in “illegal logging and related trading activities”.⁹⁵ JBS has been placed on multiple investment

⁸² <https://newrepublic.com/article/174442/new-york-help-save-rainforests-around-world>

⁸³ <https://www.reuters.com/world/americas/exclusive-us-aims-sanction-brazil-deforesters-adding-bite-climate-fight-2022-11-23/>

⁸⁴ <https://www.whitehouse.gov/briefing-room/statements-releases/2022/04/22/fact-sheet-president-biden-signs-executive-order-to-strengthen-americas-forests-boost-wildfire-resilience-and-combat-global-deforestation/>

⁸⁵ <https://www.reuters.com/article/jbs-results-idINL1N39V2G7>

⁸⁶ <https://www.reuters.com/article/jbs-results-idINL1N39V2G7>

⁸⁷ The aggregate amount of the Cash Dividend is R\$2,218,116,370.00, based on 2,218,116,370 JBS S.A. Common Shares issued and outstanding. Conversion rate R to USD 12 July 2023. <https://www.reuters.com/markets/us/brazils-jbs-reboots-plans-list-shares-new-york-2023-07-12/>; <https://disclosure.spglobal.com/ratings/en/regulatory/article/-/view/type/HTML/id/3019767>

⁸⁸ <https://disclosure.spglobal.com/ratings/en/regulatory/article/-/view/type/HTML/id/3019767>

⁸⁹ <https://www.globalwitness.org/en/press-releases/eu-member-states-finalise-historic-anti-deforestation-law-now-an-end-to-deforestation-finance-must-follow/> and <https://www.legislation.gov.uk/ukpga/2023/29/enacted>

⁹⁰ <https://www.eveonesg.com/2023/06/federation-of-brazilian-banks-tackle-illegal-deforestation-in-the-beef-supply-chain/>

⁹¹ Apart from the EU law, these proposals are yet to be finalised and are subject to change. EU and UK:

<https://www.engage.hoganlovells.com/knowledgeservices/news/sustainability-disclosure-standards-eu-commission-adopts-esrs-under-the-csrd-and-uk-develops-uk-sds>; US: <https://www.spglobal.com/esg/solutions/getting-ready-for-the-sec-climate-disclosure-rule>

⁹² <https://chainreactionresearch.com/report/jbs-oversized-deforestation-in-supply-chain-covid-19-pose-fundamental-business-risks/>

⁹³ JBS F-4, 1 September 2023, p.183-184

⁹⁴ <https://www.mightyearth.org/2023/05/03/press-release-barclays-is-the-biggest-financier-of-discredited-meat-giant-jbs-raising-questions-ahead-of-agm/>

⁹⁵ <https://home.barclays/content/dam/home-barclays/documents/citizenship/our-reporting-and-policy-positions/Forestry-and-Agricultural-Commodities-Statement.pdf>

exclusion or divestment lists since 2017, due to factors including unviable levels of risk, criminality and poor environmental performance, for example:

- i. The world's largest sovereign wealth fund in Norway divested JBS in 2018 citing "an unacceptable risk that the company is responsible for gross corruption."⁹⁶
 - ii. In 2020, HSBC reportedly said JBS "has no vision, action plan, timeline, technology or solution"⁹⁷ for monitoring whether the cattle it buys originate from farms involved in rainforest destruction.
 - iii. Nordea Asset Management reportedly divested from JBS "over its ties to farms involved in Amazon deforestation" in 2020.⁹⁸
 - iv. PFZW, the second largest Dutch pension fund, reportedly divested from its JBS bond holdings in 2021 citing "land use and biodiversity incidents".⁹⁹
 - v. In March 2023, Aviva told Global Witness it considers JBS a 'red rated issuer', which prevents any further active investment in the company.¹⁰⁰
- d. *Risks to projected growth of global meat market:* New public policies related to agriculture, meat reduction and other climate-related measures are necessary for governments to meet their 2030 GHG targets. The scientific community is clear that reducing methane emissions is our best strategy to stay within the Paris Agreement's 1.5°C target, and we cannot achieve this without the reduction of meat and dairy consumption.¹⁰¹ One study suggests some 57% of emissions from the food system arise from the production of animal-based food, including feed.¹⁰² JBS's methane emissions are estimated to be significantly higher than its sectoral competitors (see 4.b for a full exploration).¹⁰³ Global leaders are expected to agree a new Declaration on Agriculture and Food Systems at COP28 in the UAE this November, bringing food systems emissions – which are responsible for up to a third of all GHG emissions¹⁰⁴ – into mandatory UNFCCC target setting via Nationally Determined Contributions, to support the delivery of the Paris Agreement target to limit temperature rises to 1.5°C.¹⁰⁵ The UK Climate Change Committee recommends a 20% reduction in meat and dairy consumption by 2030.¹⁰⁶

4. Legal and regulatory risks

- a. *JBS could be fined more than \$1.7 billion as a result of ongoing complaints and litigations:* The company reportedly received \$3.5 billion in fines for its involvement in

⁹⁶ <https://etikkradet.no/jbs-sa-2/>; <https://www.earthsight.org.uk/news/idm/worlds-largest-pension-fund-dumps-shares-beef-firm-wake-corruption-scandal>

⁹⁷ <https://www.theguardian.com/environment/2020/aug/12/hsbc-sounds-alarm-over-investment-in-meat-giant-jbs-due-to-deforestation-inaction>

⁹⁸ <https://www.bloomberg.com/news/articles/2020-07-28/nordic-fund-divests-45-million-from-jbs-on-amazon-concerns?sref=xGaOxbih>

⁹⁹ <https://www.pfzw.nl/over-pfzw/actueel/aanpassingen-beleggingen1.html>

¹⁰⁰ <https://www.globalwitness.org/en/campaigns/forests/global-witness-calls-financiers-stop-bankrolling-rainforest-beef/>

¹⁰¹ <https://www.theguardian.com/environment/2023/mar/06/meat-dairy-rice-high-methane-food-production-bust-climate-target-study>;

¹⁰² https://www.nature.com/articles/s43016-021-00358-x_epdf?sharing_token=mcqHP2lismdbDcC_fq7MR9RqN0iAjWei9inR3ZoTv0P5hJzOufiwVEu0osAOLG2L7YmizCBD0QPnXzpZvdgVd21n-7QUfEf8uD-CKplQ9ExzxDMLCmm-g527Wp8JlzM_xAW9OK-HuE69PXvNE95XDqNwOo5YiSziVkvZaYHP7oDalasiSLnIFsMr1

¹⁰³ <https://www.iatp.org/emissions-impossible-methane-edition>; <https://changingmarkets.org/wp-content/uploads/2022/11/Emissions-Impossible- Methane-Edition FINAL-compressed.pdf>, p.6

¹⁰⁴ <https://www.nature.com/articles/s43016-021-00225-9>

¹⁰⁵ <https://www.edie.net/cop28-science-based-roadmap-to-1-5c-promised-for-food-systems-at-climate-summit/#:~:text=Nations%20are%20being%20invited%20to,in%20delivering%20the%20Paris%20Agreement.>

¹⁰⁶ <https://www.theccc.org.uk/2022/06/13/governments-food-strategy-a-missed-opportunity-for-the-climate/>

multiple environmental, deforestation and corruption scandals between 2015-2022.¹⁰⁷ JBS's F-4 filing admits ongoing civil, tax and labour proceedings could cost \$1.3 billion to settle,¹⁰⁸ not including an additional \$474.5 million in additional labour lawsuits.¹⁰⁹ Examples of ongoing complaints include:

- i. In January 2023, a whistle-blower complaint filed by Mighty Earth to the US Securities and Exchange Commission (SEC) calling for an investigation into \$3.2 billion alleged "misleading and fraudulent" net zero related Sustainability-Linked Bonds issued by the company in 2021.¹¹⁰
 - ii. In May 2023, a race-based employment discrimination suit by Black employees at a JBS meat packing plant in Philadelphia, USA.¹¹¹
 - iii. In July 2023, two days after the SEC F-4, a class action suit filed by a Brazilian labour union on behalf of the Terena Indigenous community.¹¹² JBS told Reuters it will investigate this allegation.
- b. *JBS's controversial 2040 net zero target – which covers only Scope 1 and 2 emissions - is not mentioned in the F-4 filing:* This net zero target is the subject of an ongoing SEC whistle-blower complaint (4.a.i),¹¹³ which alleges the company sold "fraudulent" Sustainability-Linked Bonds in 2021 tied to unattainable net zero by 2040 emissions reduction targets for which there is no credible plan.¹¹⁴ The Institute for Agriculture and Trade Policy (IATP) and Changing Markets estimate JBS's GHG emissions to be 287.9 million tonnes CO2-equivalent in 2021, exceeding annual emissions of Spain,¹¹⁵ and the company's methane emissions exceed the livestock methane emissions of France, Germany, Canada and New Zealand combined.¹¹⁶ JBS disputes these figures and their own emissions figures differ.¹¹⁷ JBS has no methane reduction target or plan, nor does it report its methane emissions.¹¹⁸ JBS's true emissions are difficult to estimate because the company has not published vital information such as the number of animals it slaughters each year since 2017.¹¹⁹ Up to 97% of JBS's emissions are Scope 3 according to IATP,¹²⁰ i.e. originate in the company's *indirect* supply chain, through animals raised/slaughtered, feed supplies¹²¹ and emissions released by deforestation and habitat clearance.¹²² The company may be required to disclose Scope 3 emissions under a forthcoming SEC rule change in October this year,¹²³ which could result in new liabilities for shareholders.

5. Reputational risks

¹⁰⁷ <https://www.mightyearth.org/2023/05/03/press-release-barclays-is-the-biggest-financier-of-discredited-meat-giant-jbs-raising-questions-ahead-of-agm/>

¹⁰⁸ JBS F-4, 1 September 2023, F-152

¹⁰⁹ JBS F-4, 1 September 2023, p. 126

¹¹⁰ <https://www.mightyearth.org/whistleblower-complaint-to-the-securities-and-exchange-commission-against-jbs/>;

¹¹¹ <https://news.bloomberglaw.com/litigation/jbs-usa-faces-bias-lawsuit-by-black-pennsylvania-plant-workers>

¹¹² <https://www.reuters.com/business/retail-consumer/brazilian-union-sues-jbs-over-alleged-exploitation-chicken-workers-2023-07-14/>

¹¹³ <https://jbs.com.br/netzero/en/strategies/>

¹¹⁴ <https://www.mightyearth.org/whistleblower-complaint-to-the-securities-and-exchange-commission-against-jbs/>;

¹¹⁵ <https://www.iatp.org/emissions-impossible-methane-edition>

¹¹⁶ <https://changingmarkets.org/wp-content/uploads/2022/11/Emissions-Impossible- Methane-Edition FINAL-compressed.pdf>

¹¹⁷ <https://jbsesg.com/wp-content/uploads/2023/08/2022-JBS-SUSTAINABILITY-REPORT.pdf>

¹¹⁸ <https://www.iatp.org/media-brief-jbs-increases-emissions-51-percent>

¹¹⁹ <https://www.mightyearth.org/whistleblower-complaint-to-the-securities-and-exchange-commission-against-jbs/>;

<https://www.mightyearth.org/jbs-climate-rating>

¹²⁰ <https://www.iatp.org/media-brief-jbs-increases-emissions-51-percent>

¹²¹ <https://reporterbrasil.org.br/wp-content/uploads/2022/10/220927-Monitor-Ração-Animal-EN-03.pdf>

¹²² <https://www.mightyearth.org/whistleblower-complaint-to-the-securities-and-exchange-commission-against-jbs/>

¹²³ <https://www.spqglobal.com/esg/solutions/getting-ready-for-the-sec-climate-disclosure-rule#:~:text=Scope%203%20emissions%20if%20either.note%20to%20audited%20financial%20statements>.

In addition to the ongoing litigation detailed above, JBS carries significant reputational risk in connection with US and Brazilian civil and criminal actions and investigations involving the company's ultimate controlling shareholders, as well as human rights complaints and a high level of ongoing scrutiny by US lawmakers:

- a. *US lawmakers continue to closely scrutinise JBS and its controlling shareholders:*
 - i. In June 2023, the US Senate Committee on Finance hosted a hearing examining the role of cattle supply chains in Amazon deforestation featuring JBS. Committee Chair Ron Wyden accused JBS of “turning a blind eye as parts of its supply chain burn down the Amazon”.¹²⁴ 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.”¹²⁵ JBS said 45% percent of the cattle it processes are enrolled in its Transparent Livestock Farming Platform, which assists the company in tracing direct and indirect suppliers, and JBS aims to achieve 100 percent participation by 2025.¹²⁶
 - ii. In April 2023, Senator Elizabeth Warren and US Representative Jamie Raskin called on the US Department of Agriculture to suspend and disbar government contracts with JBS USA, and its US subsidiaries, citing Brazilian parent J&F’s “history of criminal misconduct”, and referring to bribery, corrupt practices connected to J&F, price-fixing, and recent child labour offences at US facilities.¹²⁷
- b. *JBS is poorly ranked on independent environmental indexes and metrics:*¹²⁸ In 2023 the US National Advertising Division (NAD) recommended JBS USA Holdings discontinue its claims that the company has a goal of achieving net zero emissions by 2040, again due to a lack of a credible plan for reaching this target.¹²⁹ This was upheld through appeal.¹³⁰ The NARB recommended that JBS discontinue the claim “The SBTi recognized the net zero commitment of JBS”.¹³¹ Related, there is a significant risk JBS will be delisted by SBTi for failing to set any targets since signing up to the initiative in 2021.¹³² The CDP – the environmental disclosure group and data provider to 680 investors – awarded the company “A-” climate leadership score, but later said this was “too high” for a non-public response and launched an internal review.¹³³ JBS self-reported zero hectares of deforestation in its

¹²⁴ [Chairman's News | Newsroom | The United States Senate Committee on Finance](#)

¹²⁵ [Chairman's News | Newsroom | The United States Senate Committee on Finance](#)

¹²⁶ https://www.finance.senate.gov/imo/media/doc/06222023_weller_testimony.pdf

¹²⁷ [2023.04.19 Letter to USDA re JBS.pdf \(senate.gov\)](https://www.finance.senate.gov/imo/media/doc/2023-04-19-Letter-to-USDA-re-JBS.pdf)

¹²⁸ <https://www.nytimes.com/2022/05/20/climate/climate-change-greenwashing.html>

¹²⁹ <https://bbbprograms.org/media-center/dd/jbs-net-zero-emissions>

¹³⁰ <https://bbbprograms.org/media-center/dd/narb-jbs-net-zero-emissions>

¹³¹ <https://www.lexology.com/library/detail.aspx?g=ad367ee4-053d-47de-8ef3-1f493926f857>

¹³² <https://sciencebasedtargets.org/faqs#does-the-24-month-commitment-window-run-until-a-company-submits-a-target-for-validation-and-books-a-validation-slot-or-when-the-target-validation-process-itself-takes-place>

¹³³ <https://www.theguardian.com/environment/2023/mar/30/brazilian-meatpackers-a-sustainability-rating-raises-grade-inflation-concerns#:~:text=The%20improved%20grade%20was%20celebrated,that%20an%20A%2D%20score%20means%20%E2%80%9C>

2021 direct supply chain to CDP,¹³⁴ despite reports evidencing the contrary.¹³⁵ In 2022, a Bloomberg investigation concluded JBS's supply chain is one of "the biggest drivers of Amazon deforestation."¹³⁶ JBS was ranked the worst performing meat producer on World Animal Protection's 2023 Factory Farming Climate Culprits Scorecard.¹³⁷ JBS's climate and biodiversity impact compromises the goal of the Global Biodiversity Framework target to halt biodiversity loss by 2030 and the Paris Agreement to limit climate change to 1.5°C. See also 4.b.

- c. *JBS's dire human rights record:* JBS's supply chain is associated with decades of alleged human rights abuses and land grabs against Indigenous peoples and local communities,¹³⁸ as well as labour violations and dangerous working conditions across its global operations.¹³⁹ According to a report from Amnesty International in 2020, the company has failed to carry out adequate due diligence as established under the UN Guiding Principles on Business and Human Rights.¹⁴⁰ JBS is choosing to adopt an even more complicated and opaque corporate structure which will likely make it harder for victims of human rights abuses and other stakeholders to seek remedy and redress by legal or other means, because of the many jurisdictions involved (see 2.a-b).

When approached for comment about the claims in this briefing, JBS said "JBS is confident our dual listing proposal will create opportunities for our company, team members, shared communities and all stakeholders. The proposal accelerates our efforts to enhance corporate governance and transparency through adherence to Securities and Exchange Commission (SEC) standards and the formation of a majority independent board. We recognize the important role of civil society and we are always open to dialogue with thoughtful stakeholders who share our commitment to a more sustainable future. We look forward to enhancing our collaboration with NGOs and other key stakeholders during this next phase in the company's evolution."

Signatories:

1. Global Witness
2. Changing Markets Foundation
3. Rainforest Action Network
4. Environmental Justice Foundation
5. Feedback
6. World Animal Protection

¹³⁴ See JBS S.A., "Forests 2022" <https://www.cdp.net/en/responses/9730>

¹³⁵ <https://unearthed.greenpeace.org/2022/11/11/jbs-cattle-brazils-biggest-deforester-amazon/>; <https://www.mightyearth.org/2023/04/24/jbs-refusal-to-investigate-68-cases-of-amazon-and-cerrado-deforestation-exposed-ahead-of-meat-giants-agm/>; <https://www.globalwitness.org/en/campaigns/forests/beef-banks-and-brazilian-amazon/>

¹³⁶ <https://www.bloomberg.com/news/videos/2022-01-21/how-big-beef-is-driving-deforestation-of-the-amazon-video?sref=xGaOxbih>

¹³⁷ <https://www.worldanimalprotection.org/press-release/factory-farming-climate-culprit-jbs-tops-emissions-scorecard-shame>

¹³⁸ <https://www.globalwitness.org/en/campaigns/forests/cash-cow/>; <https://www.globalwitness.org/en/campaigns/forests/beef-banks-and-brazilian-amazon/>; <https://www.amnesty.org/en/latest/press-release/2020/07/brazil-cattle-illegally-grazed-in-the-amazon-found-in-supply-chain-of-leading-meat-packer-jbs/>; https://www.banktrack.org/download/a_rotten_business_how_barclays_became_the_goto_bank_for_jbs_one_of_the_worlds_most_destructive_meat_corporations/feedbackjbsapr23proof05.pdf; <https://www.greenpeace.org/usa/wp-content/uploads/legacy/Global/usa/planet3/PDFs/slaughtering-the-amazon.pdf>

¹³⁹ <https://violationtracker.goodjobsfirst.org/parent/jbs>

¹⁴⁰ <https://www.amnesty.org/en/latest/press-release/2020/07/brazil-cattle-illegally-grazed-in-the-amazon-found-in-supply-chain-of-leading-meat-packer-jbs/>

7. Associação Indígena Tato'a
8. Mighty Earth
9. Milieudefensie
10. BankTrack
11. Friends of the Earth U.S.
12. Greenpeace
13. Oxfam Novib
14. De Eerlijke Geldwijzer
15. EIA
16. SOMO, Centre for Research on Multinationals
17. Envol Vert
18. Society for Threatened Peoples
19. Rainforest Relief
20. AidEnvironment