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NEWS

## Advocates Step Up Efforts to Block White & Case-Guided Stock Listing

Brazilian meat behemoth JBS, which has a checkered environmental track record, hopes to raise capital on the New York Stock Exchange.

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Environmental Social and Governance



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Opponents of a bid by Brazilian meatpacking giant JBS to raise capital via a New York Stock Exchange listing are ramping up pressure on the U.S. Securities and Exchange Commission to block the offering.

JBS is the world's largest meat-processing enterprise.

A cohort of U.S. senators, U.K. lawmakers and environmental nonprofits have peppered the SEC with letters of concern since White & Case filed a registration form for JBS to sell the shares in July 2023.

"This is an incredibly broad-based effort," said Kevin Galbraith, a securities lawyer in New York who has been working to shine light on alleged misconduct and misrepresentations by JBS.

JBS has filed three amended Form F-4 registration statements with the SEC since its initial filing more than a year ago, each time inserting additional disclosures about the impact of its operations on the environment.

New York-based White & Case partners Donald Baker, John Vetterli and Karen Katri are listed as representing JBS on those filings.

Neither White & Case nor JBS responded to requests for comment.

On behalf of environmental watchdog group Mighty Earth, Galbraith [wrote again](#) in July to SEC Chief Counsel Michael Seaman and Senior Special Counsel and Division Director Deanna Virginio to advocate for greater scrutiny of JBS's claims.

"Unless these misstatements and omissions [in JBS's latest Form F-4] are meaningfully addressed and corrected, potential investors will be misled. As such, we respectfully urge that the Division of Corporate Finance decline to declare the company's registration statement effective," he wrote.

Before striking out on his own, Galbraith spent years representing individuals and companies in white-collar criminal defense, regulatory matters, internal investigations and securities class action litigation at DLA Piper and Cooley.

Mighty Earth and others have accused JBS of greenwashing, essentially downplaying the harms its business activities cause to the environment. They also highlight the company's history of bribing public officials and engaging in anticompetitive practices.

Wariness of JBS's growing heft in supply chains, combined with allegations that the company doesn't always play by the rules, have also encouraged conservative U.S. senators from cattle-raising states such as Montana to join the fight against the share listing.

## Broad Opposition

JBS is the world's largest producer of beef and poultry, as well as a leading producer of pork, lamb and farmed fish. The company, founded as a small slaughterhouse in Brazil in 1953, has operations in the U.S., Canada, Mexico, Europe and Australia. Its corporate headquarters are in São Paulo, Brazil.

Livestock, meanwhile, is a major source of methane gas emissions, which are believed to contribute to global warming. A recent estimate by the Institute for Agriculture and Trade Policy and Changing Markets Foundation found that JBS's total emissions exceed those of Spain.

New York Attorney General Letitia James filed a [lawsuit](#) in February against JBS's U.S. subsidiary, saying the company had misled the public about its environmental impact.

JBS USA has claimed that it will achieve net zero greenhouse gas emissions by 2040, James noted, despite documented plans to increase production, and therefore increase its carbon footprint.

Opponents to the company's New York equity offering worry that it would arm JBS with more capital to expand operations, to the detriment of the environment, while also giving the company an unfair advantage against food producers who might act as better stewards of the environment.

"For too long, giant multinational meatpacking corporations have been undercutting our domestic farmers and ranchers while fueling deforestation, undermining human rights and devastating our climate and natural resources. We need to make sure bad actors are held accountable," U.S. Sen. Cory Booker, D-New Jersey, said last week.

Booker helped coordinate a bipartisan letter to the SEC in January that urged the regulator to closely scrutinize JBS's petition to list shares in New York and, if necessary, to deny the listing.

"Approval of JBS' proposed listing would subject U.S. investors to risk from a company with a history of blatant, systemic corruption, and further entrench its monopoly power and embolden its monopoly practices. We urge the SEC to consider these issues as it evaluates JBS' proposed listing," the senators [wrote](#).

Signatories included Sens. Josh Hawley, R-Missouri, and Marco Rubio, R-Florida, both of whom represent major beef-producing states.

The U.S. senators drew attention to JBS's holding company having pleaded [guilty](#) in 2020 to engineering a political bribery effort that targeted 1,800 government officials in Brazil, and also reminded the SEC that it had [fined](#) JBS for a bribery scheme related to its 2009 acquisition of U.S. meat producer Pilgrim's Pride.

Pilgrim's Pride also pleaded guilty in 2021, the senators noted, for its participation in a conspiracy to fix prices and rig bids for broiler chicken products in Colorado.

## Shareholder Rights

Opponents to the proposed listing also object to the lopsided power they say would be afforded to JBS's controlling shareholders following the offering.

The prospectus proposes giving JBS controlling shareholders Joesley Mendonça Batista and Wesley Mendonça Batista 10 votes per share versus one vote per share for other shareholders.

That would raise the Batista's voting power to an estimated 85% from around 48%, the prospectus warns, thus increasing their influence on the company.

This proposal alarms Andrew Shalit, a shareholder advocate at Green Century Capital Management, a firm based in Boston that promotes sustainable investments.

Such a structure, said Shalit, "would allow the company to operate with impunity, and ignore shareholder concerns."

Green Century funds do not currently own any shares or bonds issued by JBS.

Shalit is in the process, though, of collecting signatures for a letter to the SEC from the investment community that expresses concerns about the proposed JBS listing.

"We are engaged in this issue because we believe that companies should be held to high standards for their environmental practices and environmental disclosures. We rely on accuracy in disclosure and good faith engagement to be able to assess companies reliably," Shalit said via email.

Likewise, fama re.capital, a Brazilian investment firm that invests in major emitters of greenhouse gasses in Latin America with the goal of driving positive change in agribusiness, is discouraged by JBS's behavior.

"We are not investing in JBS, but are about to invest in another relevant meatpacker in Brazil. JBS was not our choice of investment precisely because we are not convinced it is willing to commit to serious zero deforestation management," said Caroline Prolo, a Brazilian lawyer and head of climate stewardship at fama re.capital.

Prolo's legal career has included stints at large Brazilian law firms such as TozziniFreire and Stocche Forbes.

Concerns about JBS's role in the deforestation of the Amazon and other sensitive ecological regions in Brazil prompted a cross-party group from the U.K. Parliament to urge SEC Chair Gary Gensler in a December 2023 letter to deny the company's petition for a U.S. stock listing.

"JBS, the biggest meat producer globally, has a well-documented history of engaging in deforestation, violating human rights, and seizing land from Indigenous communities," the group wrote.

"Rewarding JBS by declaring its IPO application effective and enabling it access to U.S. capital bolsters the company's ability to expand its global operations, leading to a surge in deforestation and environmental degradation," the letter said.

Signatories to the U.K. letter include conservative MP Henry Smith, who was a member of the Foreign Affairs Select Committee until he left Parliament in May.

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