

TO: JP MORGAN CHASE

BY EMAIL

SUBJECT:

POLAND'S GREEN BOND ISSUE

14 DECEMBER 2016

Dear Madame,

I would like to bring your attention to the weakness of the legal and analytical framework of the green bond issue that the Polish Ministry of Finance is planning to conduct with JP Morgan Chase participation:

<http://www.finance.mf.gov.pl/en/web/wp/public-debt/international-bonds/issuance-procedures>

The second opinion by Sustainabilitycs is extremely superficial taking account only of what the government officials from the Ministry of Finance have told the company and basing on documents that are hardly implemented in Poland. The facts are that Poland:

a) Does not have its own INDC and instead is using the EU-28 one which is very telling given that at the same time the Polish government (the same one that will be managing the proceeds from the green bonds issue) is trying to undermine the EU 2030 GHG, renewables and energy efficiency targets as well as opposing the Effort Sharing Agreements quota for Poland. See here:

<http://www.businessgreen.com/bg/news/2472269/poland-threatens-to-block-eus-fast-track-ratification-plans>

<https://www.bloomberg.com/news/articles/2016-09-06/poland-ties-climate-deal-ratification-to-eu-concessions-on-coal>

Poland recently opposed new National Emissions Ceiling in the EU Council even though it has the worst air quality in the EU-28 and is trying to do everything in its power to stop the raise of the EU ETS prices.

b) According to the EU Commission "Smarter, greener, more inclusive? INDICATORS TO SUPPORT THE EUROPE 2020 STRATEGY 2016 edition: Poland is one of the three countries that has seen the primary energy consumption go up instead of decreasing in the 2005-2014 period (p. 105) and this at the time when hundreds of local authorities in Poland are fighting with the state-owned utilities who are also distribution systems operators to change their lighting systems to LED ones.

c) The Polish government is under the procedure by the EU Commission that is trying to verify whether the country has not broken the EU rule of law and the next report by the EU Commission Vice-President is to take place tomorrow in the European Parliament. The stand off due to the changes of law introduced by the current government that de facto unable the Constitutional Tribunal to check whether other bills by the current government

are in line with the Constitution has been reflected by all the rating agencies and widely covered in the media around the world (including main financial media in the U.S.)

d) In summer 2016 the renewable law has been modified undermining the stability and the financial viability of the wind sector investor leading to write-offs and increased uncertainty about the future. On-shore wind has been by far the fastest growing RES source in Poland in the last year and the new law limits the areas of new onshore wind developments in Poland to 2-3% of the country. This is effectively a ban on new onshore wind. At the same time the co-firing of coal with biomass is included when counting renewable energy percentage and Poland's RES goals quoted by Sustainalytics.

e) Although no green bond proceeds are to go to the coal and biomass co-firing there is nothing in the framework that would stop the money going for the afforestation of wood and forest areas that have previously been cut and sold by the state-owned wood manager (Lasy Państwowe) to the state-owned utilities for biomass co-firing. This is the current practice and providing money for the company that is engaged in such practice is far from green and if a legal trick. What is more Lasy Państwowe and the Polish Ministry of Environment that supervises their work are currently investigated by the European Commission for EU Nature 2000 law infringement when it comes to their handling of Białowieża old growth forest :

<https://www.theguardian.com/environment/2016/jun/16/eu-to-investigate-poland-over-logging-in-ancient-forest>

Given all written above I would like to ask JP Morgan Chase how it is going to assure its clients that the proceeds of the green bonds do not end up with:

1) The distribution system operators which in legal terms are separate legal entities but just happen to belong to the state-owned big four state utilities (ENEA, PGE, Tauron and ENERGA) so they can move money to projects that noone else tries to finance (coal generation and extraction)

2) money for the RES projects by the RES subsidiaries of the same companies (of course together with some other firms to make it look ok)

3) money for the State Owned Lasy Państwowe (the forest manager) who are right now cutting down the "infested" Puszcza Białowieska for the reforestation of the areas cut down and all the other feasible areas. There is DIRECT link between the wood that will be sold to the Polish coal state-owned utilities for coal and biomass co-combustion and the afforestation by the same state own entity as the money will be CLEARLY destined for planting and the sales of the cut wood would be "an extra"

I would also like to ask on what basis does JP Morgan Chase assume that the Polish Ministry of Finance will act according to EU law and pursuing the climate objectives when the trackrecord of the current government (it is not a coalition government) has been characterised by an opposition further strengthening the EU GHG, RES and EE targets and

trying to weaken or obtain a derogation from existing environmental, health and climate regulation.

Last but not least you should be aware of the legislation that has been tabled in the Polish parliament by the ruling party to dismantle the environmental protection system in Poland: <http://www.endseurope.com/article/47936/leaked-documents-suggest-poland-will-close-environment-directorate>

Hardly the green attitude one would expect from the first sovereign government to launch green bonds.

With green bond market growing rapidly the risk for JP Morgan Chase to be associated with the Polish "creative thinking" about environment, climate and sustainability is a reputational risk for the bank that might not be worth taking. This is especially given a relatively small size of the green bonds launch planned.

Yours faithfully,

Kuba Gogolewski

Project Coordinator and Finance Campaigner

Foundation Development YES - Open-Pit Mines NO