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Regulation: First Greenwashing Fine Issued in Australia

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Regulation



By Duncan Grieve

Special Counsel | White Collar Defense and Investigations

On October 27, the Australian Securities and Investments Commission (ASIC) **announced** it had fined Tlou Energy Limited (Tlou) AUD 53,280 (approximately \$34,000) “over concerns about alleged false or misleading sustainability-related statements made to the Australian Securities Exchange.”

ASIC stated that the company had made four incorrect claims regarding its natural gas-fired power plant in Botswana in a presentation for investors and its market filings. Tlou informed investors twice that the electricity produced by the plant would be carbon neutral due to “carbon sequestration technology;” however, Tlou had failed to check if this was achievable. Furthermore, the company allegedly lied when informing investors that it had received permission to develop a solar farm on the site and that building hydrogen and solar plants at the facility was equally important to the company as the natural gas-fired plant. In its notice of breach, ASIC stated that in reality, Tlou only intended to invest in the sustainable energy projects once the natural gas plant was operational.

ASIC Deputy Chair Sarah Court said that “ASIC is currently investigating a number of listed entities, super funds and managed funds in relation to their green credentials claims. Companies are on notice that ASIC is actively monitoring the market for potential greenwashing and will take enforcement action, including Court action, for serious breaches.”

In its **response**, Tlou stated that it did “not accept that it contravened any provision of the [relevant regulation] but agreed to pay the infringement notice to bring this matter to an end and focus the Company’s resources on development of its power projects.”

Taking the Temperature: As we have highlighted in previous issues of Cadwalader Climate, regulators around the world are increasingly scrutinizing the accuracy of public statements made by companies relating to their green credentials and sustainability initiatives. Despite the small fine in this case, ASIC stated that it is actively investigating

a number of funds in relation to potential climate and sustainability-linked misstatements. We expect further regulatory investigations and enforcement on this issue from financial regulators worldwide. While some issuers have resorted to “greenhushing,” or practices that include reducing climate-related disclosure in order to avoid regulatory or civil litigation scrutiny, issuers face increasing pressure from investors to respond to climate concerns and continue to make public statements relating to sustainability. Other jurisdictions around the globe have also taken steps to stamp down on greenwashing. See, for example, in the [US](#) and [UK](#).