

# **Bond Case Briefs**

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## **Barclays's Derailed Prison Bond Deal Shows Growing Might of ESG.**

- **Bank withdraws as deal's underwriter after role scrutinized**
- **Wisconsin PFA is out as conduit issuer after Barclays exit**

The first sign of trouble came last week: A small group of investors circulated a letter lambasting Barclays Plc for helping to raise hundreds of millions of dollars to build two privately owned prisons in Alabama — two years after the bank publicly vowed to cut financing ties with the for-profit industry.

Before long, the initial marketing efforts for the municipal-bond sale showed signs of sputtering. A socially responsible business group threw the London-based bank out in protest, and students and activists in Alabama began an email campaign to derail the financing.

Together, the outcry turned what was supposed to be a relatively routine deal into an embarrassing black eye for the investment banking giant.

It also marked a rare victory for activists and investors focused on environmental and social causes in the \$3.9 trillion municipal securities market, where it is highly unusual for a bank to pull out of a deal just before it's sold.

"It's absolutely a huge, unprecedented step forward," said Christina Hollenback, founding partner of Justice Capital, which was part of a group of investors that sought to derail the bond offering. "It's sending a really strong message to the finance industry overall."

### **ESG Clout**

The bank's decision is a sign of the growing power of investors focused on financing projects that advance social and environmental causes. With billions of dollars flowing into so-called ESG funds, that's created a lucrative new line of business that banks are eager to court.

The prison business has long been targeted by activists who say the profit-motive gives an incentive to cut costs, hurting rehabilitation efforts.

The disparities in the broader criminal justice system have also drawn renewed scrutiny since the Black Lives Matter movement was galvanized by the killing of George Floyd by a Minneapolis police officer, whose trial is wrapping up this week. In Alabama, those disparities are especially evident: Black people make up over half of the inmate population, about twice their share of the overall state population, according to state and U.S. Census figures.

The \$634 million bond sale was set to raise money for a CoreCivic owned company, Government Real Estate Solutions of Alabama Holdings LLC, to finance the new prisons that it's building for the Alabama Department of Corrections. The state is planning to lease and run the facilities.

## **State-run Facilities**

Barclays initially defended its role in the bond sale, saying it was not at odds with its decision in 2019 to cut off new financing for private prison companies since the facilities would be run by the state. Bloomberg News was first to report Barclays' involvement in the deal earlier this month.

CoreCivic and Alabama officials said the project would alleviate overcrowding in the state's prison system and improve conditions for inmates. The state was sued by the U.S. Department of Justice in December for failing to protect male prisoners from violence and unsanitary conditions. The new facilities are intended to help remedy that.

Both said the project will move forward even though the financing has been temporarily derailed. On Monday, KeyBanc Capital Markets, another manager, also said it was resigning from the transaction.

"The reckless and irresponsible activists who claim to represent the interests of incarcerated people are in effect advocating for outdated facilities, less rehabilitation space and potentially dangerous conditions for correctional staff and inmates alike," said Amanda Gilchrist, a spokesperson for CoreCivic.

Key Alabama lawmakers urged Governor Kay Ivey to scrap the deal all together. Steve Clouse, a Republican who chairs the budget committee in the state's House of Representatives, said it would be better for the legislature to authorize a bond sale for the state to build and own the prisons, AL.com reported.

## **Deal Struggles**

The deal's woes began last week when investors from firms including Justice Capital, Trillium Asset Management and AllianceBernstein LP signed onto a letter that asked investors not to purchase the securities because the purpose was to perpetuate mass incarceration. The letter cited the "historically incompetent" management of prisons by the state.

The publicly offered portion of the deal struggled to gain traction as Barclays sought to sell the securities last week, despite a strong influx of cash into the municipal-bond market. That portion of the debt sale was downsized by about \$200 million and the bank increased the yields being offered on the sale in an effort to lure buyers.

Some investment firms declined to participate because they didn't want to purchase bonds being sold for prison projects, citing concerns with environmental, social and governance risks or certain investment mandates that their firms or funds have, according to people familiar with the deal who asked not to be identified.

Others had broader concerns. The bonds were being sold through a Wisconsin agency called the Public Finance Authority, which rents out its access to issue municipal debt to businesses all over the country and has a high default rate compared to other issuers. On Monday, PFA, which had been brought in by Barclays as the conduit for the sale, also said it would no longer be part of the transaction.

## **Private Offering**

Still, there was strong demand for a debt offering that would have been privately placed with investors, according to a person familiar with the matter. That portion of the sale was estimated at \$215.6 million based on initial bond documents.

Then on Thursday, the American Sustainable Business Council and partner organization Social Venture Circle, which represents 250,000 businesses to advocate for responsible practices and policies, announced that they would rescind Barclays' membership in the group. Then a coalition of activist groups, including Alabama Students Against Prisons and Communities Not Prisons, began emailing people who work at Barclays in an effort to scuttle the deal.

On Monday, Barclays capitulated. "While our objective was to enable the State to improve its facilities, we recognize that this is a complex and important issue," the bank said in a statement. "In light of the feedback that we have heard, we will continue to review our policies."

## **Bloomberg Markets**

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