CMC
COMMODITY MARKETS COUNCIL

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December 17, 2010

David Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

RE: 75 FR 72816, Public Input for the Study Regarding the Oversight of Existing and Prospective Carbon Markets

Dear Mr. Stawick:

The Commodity Markets Council ("CMC") appreciates the opportunity to submit the following comments for consideration by the Commodity Futures Trading Commission ("CFTC" or "Commission") regarding the congressionally mandated study of the oversight of existing and prospective carbon markets as set out in the November 23, 2010 Federal Register.

CMC is a trade association bringing together exchanges and their industry counterparts. The activities of our members represent the complete spectrum of commercial users of all futures markets including energy and agriculture. Specifically, our industry member firms are regular users of the Chicago Board of Trade, Chicago Mercantile Exchange, ICE Futures US, Kansas City Board of Trade, Minneapolis Grain Exchange and the New York Mercantile Exchange. CMC is uniquely positioned to provide the consensus views of commercial and end users of derivatives. Our comments represent the collective view of CMC members.

The businesses of all our member firms depend upon the efficient and competitive functioning of the risk management products traded on U.S. futures exchanges. Through the Commission's diligent oversight efforts fostering Exchange innovation and technology adoption, we have seen the commodity markets grow and prosper. Carbon markets offer similar opportunities for growth and innovation. Moving forward, we see trading greenhouse gas allowances as part of a market participant's overall energy portfolio – with the products trading much the same way energy products trade today. As such, we believe the CFTC is well-positioned to draw on its experience to regulate the carbon market.

The CMC's select responses to the specific questions asked in the Federal Register are as follows:

2. What are the basic economic features that might be incorporated in a carbon market that would have an effect on market oversight provisions—e.g., the basic characteristics of allowances, frequency of allocations and compliance obligations, banking of allowances, borrowing of allowances, cost containment mechanisms, etc.?

RESPONSE: There are several critical aspects to well-functioning carbon markets. Any structure must have well established clear rules for the approval and issuance of offset credits eligible in the United States. There must also be a timely process for approval to accompany these rules. The U.S. allowance and offset credit market should ideally be fungible with the existing global market and therefore the U.S. registry must be linked to other international registries issuing and housing credits. The unique nature of global carbon markets may require novel approaches to addressing liquidity considerations. It may be appropriate to consider the establishment of a central carbon bank holding a defined reserve of permits for use in strictly defined circumstances.

3. Do the regulatory objectives differ with respect to the oversight of spot market trading of carbon allowances compared to the oversight of derivatives market trading in these instruments? If so, explain further.

RESPONSE: No.

4. Are additional statutory provisions necessary to achieve the desired regulatory objectives for carbon markets beyond those provided in the Commodity Exchange Act, as amended by the Dodd-Frank Act, or other federal acts that may be applicable to the trading of carbon allowances?

RESPONSE: Only to the extent the previously described issues in Question 2 would require statutory changes.

5. What regulatory methods or tools would be appropriate to achieve the desired regulatory objectives?

RESPONSE: The current tools embedded in the Commodity Exchange Act should be sufficient.

6. What types of data or information should be required of market participants in order to allow adequate oversight of a carbon market? Should reporting requirements differ for separate types of market participants?

RESPONSE: Compliance participants in the market should be subject to public reporting of measured emissions each year, allocation of free permits from the issuing body and expected emission reduction targets. Financial investors should be subject to normal regulatory disclosures.

7. To what extent is it desirable or not desirable to have a unified regulatory oversight program that would oversee activity in both the secondary carbon market and in the derivatives markets?

RESPONSE: It is extremely desirable to have a unified body in order to avoid conflicting or unclear regulatory overlap.

8. To what extent, if any, and how should a U.S. regulatory program interact with the regulatory programs of carbon markets in foreign jurisdictions?

RESPONSE: Global carbon markets tend to be guided by the decisions of governments about the quantity and quality of eligible offsets. In the short term, it seems the United States or market sponsors need to make similar decisions, as well as what off-shore offsets will qualify. All this speaks to the previously mentioned need to link U.S. registries with other international registries, creating a fungible commodity. Longer term, the U.S. market should be part of a global market of shared allowances and regulatory structures should engage internationally, as necessary and appropriate.

The CMC thanks the Commission for the opportunity to present its views on this most important subject. If you have any questions or would like to discuss further, please do not hesitate to contact me via email at christine.cochran@commoditymkts.org or via phone at (202) 842-0400 – ext. 101. Thank you in anticipation of your attention to these comments.

Regards,

Christine M. Cochran
President