February 16, 2024

Christopher J. Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

RE: ***Commission Guidance Regarding the Listing of Voluntary Carbon Credit Derivative Contracts*, RIN 3038–AF40**

Dear Mr. Kirkpatrick:

The American Forest Foundation (AFF) appreciates the opportunity to provide formal comments on the Commodity Futures Trading Commission's efforts to bolster the integrity of the voluntary carbon market. AFF is a national 501(c)(3) conservation organization that works with a broad coalition of partners to empower family forest owners to make a meaningful conservation impact around carbon sequestration, wildlife habitat, clean water, sustainable wood supplies, wildfire reduction, and support for rural communities.

Forests across the nation reduce overall U.S. greenhouse gas emissions by roughly 12 percent each year, but studies show that this number could be more than doubled with the right actions. Families and individuals collectively own the largest portion of America's forests, making them essential players in the fight against climate change. The voluntary carbon market can help forest owners finance practices that improve forest health and address climate change. AFF works to break down barriers to entry for these landowners, empowering this untapped resource to contribute to a global climate solution.

As the Commission is aware, the voluntary carbon market provides carbon project developers and leaders in corporate sustainability a global exchange that values interventions that sequester and store greenhouse gasses, investing billions of dollars in private climate finance into projects that produce high-quality, verified carbon credits, and reduce the catastrophic effects of climate change. To realize the success of this global effort, it is imperative that the federal government acts in a manner that supports and works with the voluntary carbon market and the significant efforts market actors are undertaking toward its improvement.

AFF applauds the thoughtful and diligent work of the Commission over the past year, culminating in the draft guidance regarding the listing for trading of voluntary carbon credit derivative contracts. In our view, the Commission's draft guidance is successful in aligning with the important work of the Integrity Council for Voluntary Carbon Markets (ICVCM) and other multilateral initiatives, though the Commission could consider additional improvements to ensure more complete harmonization with the market. AFF offers the following feedback:

General

1. *In addition to the VCC commodity characteristics identified in this proposed guidance, are there other characteristics informing the integrity of carbon credits that are relevant to the listing of VCC derivative contracts? Are there VCC commodity characteristics identified in this proposed guidance that are not relevant to the listing of VCC derivative contracts, and if so, why not?*

    Recognizing the burden that registries need to take on to ensure all aspects of the guidance are adhered to, AFF notes that the characteristic of leakage is not addressed in the guidance. Additionally, the Commission may direct DCMs to check for assurances that local stakeholders are appropriately considered in the project development process (e.g. Free, Prior and Informed Consent).

2. *Are there standards for VCCs recognized by private sector or multilateral initiatives that a DCM should incorporate into the terms and conditions of a VCC derivative contract, to ensure the underlying VCCs meet or exceed certain attributes expected for a high-integrity carbon credit?*

    AFF applauds the Commission for including many of the characteristics listed in the guidance from the ICVCM framework. We would recommend the Core Carbon Principles and the Assessment Framework criteria developed by the ICVCM be incorporated into the terms and conditions of a VCC derivative contract.

3. *In addition to the criteria and factors discussed in this proposed guidance, are there particular criteria or factors that a DCM should consider in connection with monitoring the continual appropriateness of the terms and conditions of a VCC derivative contract?*

    At this time, AFF does not have additional suggestions for criteria or factors for DCMs to consider when monitoring VCC contracts. However, as criteria or factors may be amended by the Commission or a DCM, ongoing dialogue with market stakeholders regarding these changes will be of utmost importance in ensuring market participants are adhering to updated guidelines. Additionally, the Commission should proactively develop procedures in the event of a project not meeting or no longer meeting a DCM's requirements.

Additionality

7. Are there particular criteria or factors that DCMs should take into account when considering, and/or addressing in a VCC derivative contract's terms and conditions, whether the procedures that a crediting program has in place to assess or test for additionality provide a reasonable assurance that GHG emission reductions or removals will be credited only if they are additional?

> It is AFF's view that the Commission should direct DCMs to align its criteria with the ICVCM's additionality assessments when considering whether an underlying VCC provides reasonable assurances that GHG emission reductions or removals are real.

8. In this proposed guidance, the Commission recognizes VCCs as additional where they are credited for projects or activities that would not have been developed and implemented in the absence of the added monetary incentive created by the revenue from carbon credits. Is this the appropriate way to characterize additionality for purposes of this guidance, or would another characterization be more appropriate? For example, should additionality be recognized as the reduction or removal of GHG emissions resulting from projects or activities that are not already required by law, regulation, or any other legally binding mandate applicable in the project's or activity's jurisdiction?

> The existence of the financial incentive offered by potential carbon credit revenue is the appropriate way to characterize additionality for purposes of the guidance. Mitigation activity that is required by law or any other legally binding mandate is to be deemed automatically non-additional.

Risk of Reversal

9. Are there particular criteria or factors that DCMs should take into account when considering, and/or addressing in a VCC derivative contract's terms and conditions, a crediting program's measures to avoid or mitigate the risk of reversal, particularly where the underlying VCC is sourced from nature-based projects or activities such as agriculture, forestry or other land use initiatives?

> Our view is that the Commission should direct DCMs to consider the adequacy of a project's buffer pool as well as consider any insurance mechanisms in the underlying nature-based projects or activities.

Tracking and No Double Counting

13. In addition to the factors identified in this proposed guidance, are there other factors that should be taken into account by a DCM when considering, and/or addressing in a VCC derivative contract's terms and conditions, whether the registry operated or utilized by a crediting program has processes and procedures in place to help ensure clarity and certainty with respect to the issuance, transfer, and retirement of VCCs?

It is our view that the guidance is correct in addressing one aspect of double counting through its inclusion of, "the VCCs representing the credited emission reductions or removals are issued to only one registry and cannot be used after retirement or cancellation." However, we suggest that the Commission add additional clarity to confirm the definition of double counting as "emission reductions or removals from the mitigation activity shall only be counted once towards achieving mitigation targets or goals." AFF notes that the market's use of the term "double counting" typically covers double issuance, double claiming, and double use.

Inspection Provisions

15. Should the delivery procedures for a physically-settled VCC derivative contract describe the responsibilities of registries, crediting programs, or any other third-parties required to carry out the delivery process?

Yes, a derivative contract's delivery procedures should describe the responsibilities of all the market actors required to carry out the delivery process. Additionally, AFF respectfully requests that the Commission make appropriate revision to its delivery procedure guidance to accommodate Advanced Market Commitments (VCC purchase deposits), Emissions Reduction Purchase Agreements (ERPAs) and other offtake agreements where credit deliveries are bound by contract but have not yet been physically issued.

Sustainable Development Benefits and Safeguards

16. Certain private sector and multilateral initiatives recognize the implementation by a crediting program of measures to help ensure that credited mitigation projects or activities meet or exceed best practices on social and environmental safeguards, as a characteristic that helps to inform the integrity of VCCs issued by the crediting program. When designing a VCC derivative contract, should a DCM consider whether a crediting program has implemented such measures?

AFF agrees that projects should meet or exceed best practices on social and environmental safeguards, and that this is an important consideration in informing and distinguishing the integrity of VCCs. A DCM should consider such measures only if standard rules and procedures in the measuring and reporting of environmental and social safeguards exist and are followed.

17. Certain private sector and multilateral initiatives recognize the implementation by a crediting program of measures to help ensure that credited mitigation projects or activities would avoid locking in levels of GHG emissions, technologies or carbon intensive practices that are incompatible with the objective of achieving net zero GHG emissions by 2050, as a characteristic that helps to inform the integrity of VCCs issued by the crediting program. When designing a VCC derivative contract, should a DCM consider whether a crediting program has implemented such measures?

In AFF's view, the answer to both questions is yes. When designing derivative contracts, the Commission should require designated contract markets to consider whether a crediting program has implemented projects or activities that both meet or exceed best practices on social and environmental safeguards and that avoid locking in levels of GHG emissions, technologies or carbon intensive practices that are incompatible with the objective of achieving net zero GHG emissions by 2050.

We again offer our gratitude for the Commission's excellent work and for allowing us to provide feedback on its draft guidance regarding the listing for trading of voluntary carbon credit derivative contracts. If you have any questions, please do not hesitate to reach out to James McKitrick at jmckitrick@forestfoundation.org.

Sincerely,

The American Forest Foundation