February 16, 2024

Rostin Behnam
Chairman
Commodity Futures Trading Commission
1155 21st Street NW
Washington, DC 20581

Re: Commission Guidance Regarding the Listing of Voluntary Carbon Credit Derivative Contracts (RIN 3038-AF40)

Dear Chairman Behnam:

The Food and Agriculture Climate Alliance (FACA) is pleased to respond to the Commodity Futures Trading Commission's (CFTC or the "Commission") request for comments on proposed guidance ("Draft Guidance") regarding the listing for trading of voluntary carbon credit derivative contracts.

FACA was founded in 2020 to ensure that stakeholders across the agriculture and forestry value chain have a seat at the table in federal climate policy discussions. We are grateful to you and your fellow Commissioners for facilitating an open dialogue with our membership as the CFTC considers its role in the voluntary carbon marketplace and authorities under the Commodity Exchange Act.

FACA's 80+ members represent farmers, ranchers, forest owners, agribusinesses, manufacturers, the food and innovation sector, state governments, sportsmen and sportswomen, and environmental advocates.

Our coalition supports federal climate policies that:

1. Are voluntary, market- and incentive-based.
2. Advance science-based outcomes.
3. Promote resilience and help rural economies better adapt to climate change.
4. Ensure equitable opportunities for all farmers, ranchers, and forest owners, including historically underserved and small producers.
5. Are strongly bipartisan.

For a list of FACA members, please visit www.agclimatealliance.com.

U.S. farmers, ranchers, and forest owners are at the forefront of national efforts to address climate change. Voluntary carbon markets[1] (VCMs) are a promising tool to help producers capture a new revenue stream for voluntarily implementing production practices that reduce greenhouse gas (GHG) emissions and sequester carbon. Carbon credits can also help companies achieve their sustainability and GHG targets. However, to date, VCM participation among landowners and operators remains low. Low rates of landowner participation can be attributed to a number of factors including:

- Limited return on investment due to high transaction costs (e.g. costs to quantify GHG reductions and removals, verification and reporting costs, registry fees, and compliance costs);
- High upfront costs to implement projects;
- Record keeping and data collection burdens;
- Restrictions on early adopter participation;
- Permanence requirements that do not reflect realities of agricultural production;
- The small scale of agriculture projects; and
- Opaque contracts, lack of awareness, and general confusion about how these nascent markets work.[2]

To help VCMs realize their full potential for agriculture and forestry, carbon credit purchasers must have confidence in the integrity of carbon credits bought and sold, and producers must be adequately compensated for their participation. FACA has supported a number of initiatives to promote the growth of these voluntary markets including the passage of the bipartisan Growing Climate Solutions Act and new funding for the U.S. Department of Agriculture (USDA) to improve the measurement, monitoring, reporting, and verification (MMRV) of GHG mitigation benefits.

To bring greater confidence to the marketplace, there are also international voluntary bodies that have established and are actively developing global benchmarks for high-quality carbon credits. Unfortunately, myriad carbon credit issuing programs use different methodologies and protocols for various credit types, leading to market confusion and fragmentation. The CFTC has proposed a framework for baseline voluntary standards within designated contract markets (DCMs) that adapts concepts and standards from one such voluntary body– the Integrity

[1] References to "voluntary carbon markets" and "voluntary carbon credits" are intended to broadly encompass the avoidance, reduction or sequestration of carbon dioxide and other greenhouse gases, including methane and nitrous oxides.

[2] U.S. Department of Agriculture, "Report to Congress: A General Assessment of the Role of Agriculture and Forestry in U.S. Carbon Markets", pp. 44-46. https://www.usda.gov/sites/default/files/documents/USDA-General-Assessment-of-the-Role-of-Agriculture-and-Forestry-in-US-Carbon-Markets.pdf

Council for the Voluntary Carbon Market (ICVCM), which recently released global benchmarks for credit quality that provide guidelines for credit issuing programs.

With respect to the proposed guidance, FACA is pleased to submit the following recommendations.

CFTC can play a role in promoting integrity and building confidence in high-quality carbon credits.

As VCMs continue to develop to meet the needs of agricultural producers, purchasers of credits, and our environment, the CFTC can play a crucial role in promoting the integrity of carbon credits and instill confidence in these nascent markets at a critical time in their development. Many voluntary carbon market programs – and the evolving science that informs the standards that govern them – have unfortunately created more questions than answers for potential market participants and continue to serve as a barrier to entry for many producers seeking opportunities to capitalize on these new revenue streams.

FACA appreciates the work of voluntary bodies like the ICVCM that are developing and implementing a common understanding of high-quality carbon credits. In its proposed guidance, the CFTC has adopted many of the ICVCM's Core Carbon Principles and its Assessment Framework. We are encouraged that the ICVCM has recently established a multi-stakeholder agricultural working group and implore other similar initiatives and organizations to work with the agriculture sector (including USDA) to better understand how GHG reductions and removals can best be achieved in the sector and in accordance with the latest science.

By uplifting existing internationally recognized standards and certified protocols for VCMs, the CFTC can ensure these markets achieve their intended goals of reducing and removing greenhouse gases while directing new investments to rural communities. Given that VCMs and related multistakeholder efforts to refine international integrity standards are still evolving, we encourage the CFTC to regularly update its guidance to ensure it reflects the latest science and aligns with the conclusions of these standard-setting efforts.

The CFTC should also use its oversight authority to ensure contract terms are transparent, understandable, and safeguarded against manipulation; and that credits are backed by robust accounting mechanisms to provide confidence that reductions or removals are independently verified to avoid fraud or misrepresentation that put agricultural and forestry producers at risk. As such, the CFTC's oversight of futures markets can send a strong signal to spot market actors that these products must be credible, verifiable, and accessible to our nation's farmers, ranchers, and forest owners.

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CFTC should continue to engage stakeholders across the agricultural and forestry supply chain.

FACA commends the Commission for engaging and seeking input from our members as part of its review of the voluntary carbon marketplace. As you know, our coalition was formed in 2020 to ensure that stakeholders across the agricultural and forestry value chain have a seat at the table in federal climate policy discussions. We appreciate your commitment to including our industries in the dialogue early on.

We were pleased to have three FACA co-chair organizations represented in the first Voluntary Carbon Markets Convening in June 2022 – National Council of Farmer Cooperatives, American Farm Bureau Federation, and Environmental Defense Fund. And, in July 2023, one of FACA's founding members – the National Alliance of Forest Owners – participated in the second Voluntary Carbon Markets Convening hosted by the CTFC. We have further appreciated the conversations and outreach that have followed both convenings.

As the voluntary carbon marketplace continues to evolve, stakeholder engagement must remain a priority. We encourage the Commission to continue to offer forums for public input for all market participants, including from the agriculture and forestry sectors. The CFTC – either through roundtables or efforts led by key advisory committees – can also facilitate regular communications with international multi-stakeholder standard-setting efforts including the newly launched ICVCM Multi-Stakeholder Working Group on agriculture. As representatives of major agribusiness, forestry interests, and nongovernmental organizations, FACA members are eager to participate in such engagement opportunities.

Importance of interagency coordination to avoid market confusion.

We are encouraged to see that the USDA was represented in both of the Voluntary Carbon Markets Convenings held in 2022 and 2023. As you know, USDA is responsible for implementing a number of ongoing work streams related to voluntary carbon markets as well as GHG MMRV.

One of FACA's top legislative priorities last Congress was passage of the bipartisan Growing Climate Solutions Act, which authorized USDA to establish a voluntary Greenhouse Gas Technical Assistance Provider and Third-Party Verifier Certification Program. The program is intended to help reduce entry barriers to the VCM by ensuring producers have access to reliable information and resources. As part of USDA's ongoing implementation efforts, we understand the Department will be seeking public input on "*widely accepted protocols that are designed to ensure consistency, reliability, effectiveness, efficiency, and transparency of voluntary* *environmental credit markets.*"[3] This may include documents and details relating to calculations; sampling methodologies; voluntary environmental credit accounting principles; MMRV systems; and methods to account for additionality, permanence, leakage, and avoidance of double counting.

Further, we expect USDA will establish a Greenhouse Gas Advisory Council charged with reviewing USDA's list of widely accepted protocols as well as "*the current methods by voluntary environmental credit markets to quantify and verify the prevention, reduction, or mitigation of greenhouse gas emissions (including the sequestration of carbon)*".[4]

Given these workstreams' applicability to the criteria set forth in the Draft Guidance, FACA strongly encourages close interagency coordination between the CFTC and USDA as both agencies seek to craft policy that ensures credibility and accessibility for agricultural producers in these markets. We are at a critical time in VCM development, and government efforts should not contribute to further fragmentation and confusion within the marketplace, which could occur if quality criteria for high-integrity carbon credits differ across jurisdictions or agencies.

Ensure safeguards and transparency for producers.

CFTC should remain cognizant of its existing requirements[5] to establish and enforce rules to protect markets and market participants from abusive practices, and promote fair and equitable trading in the DCMs. In its preamble to the Draft Guidance, CFTC references these existing requirements, which align closely with ICVCM's principles on social and environmental safeguards, but further discussion of how these safeguards protect farmers, ranchers, and forest owners was omitted in the body of the Draft Guidance. FACA encourages CFTC to leverage these existing requirements on DCMs to ensure agricultural and forestry producers receive transparent, timely, and accurate information about carbon credit transactions and fee structures. Social safeguards and transparency on broker/intermediary fee structures are vital tools to ensure farmers, forest owners, ranchers, and rural communities are protected from abusive practices, including conflicts of interest and misrepresentation.

Need for interagency and private sector engagement on multi-stakeholder efforts to establish quality criteria in agriculture and forestry carbon markets.

FACA organizations recognize that definitions pertaining to "additionality" and "permanence" of carbon credits (and their underlying projects/interventions) are of utmost importance to the

[3] 7 USC 6712: Greenhouse Gas Technical Assistance Provider and Third-Party Verifier Program
[4] *Ibid.*
[5] 17 CFR 38.650: To protect markets and market participants from abusive practices committed by any party, including abusive practices committed by a party acting as an agent for a participant; and to promote fair and equitable trading on the contract market.

short-term scalability and long-term integrity of VCMs, and particularly relevant to credits generated from the agriculture, forestry, and land use sector. CFTC should recognize that these requirements also often limit opportunities for "early adopters" of climate-smart practices to participate in voluntary markets, as noted in USDA's recent assessment on carbon markets for agriculture and forestry.[6] That said, the vast majority of credit purchasers require robust "additionality" and "permanence" terms to justify their purchases and the CFTC should be cognizant that influencing these definitions could negatively impact demand for carbon credits on the VCM, leading to declining value for farmers' and forest owners' efforts. For example, forestry's ability to participate in VCMs at all could be determined by the definition of permanence and the associated time-length requirements. A rigid or unrealistic definition could severely limit the ability of VCMs to scale in the land sector.

Moreover, we foresee some situations in which high-quality carbon reduction/removal activities may have very recently begun or may decline as other voluntary programs or non-regulatory contracts end. Some such scenarios may deserve eligibility consideration for carbon credit generation as market conditions change. More exploration of potential scenarios in the agricultural sectors may be necessary to provide market participants clarity about additionality.

As international standard-setting efforts continue to determine criteria for additionality and permanence, FACA recommends further engagement from USDA and the CFTC in these forums to ensure standards do not create perverse incentives for early adopters at the expense of their existing climate mitigation activities, and that definitions for permanence and additionality do not exclude high-quality credit generation from land-based activities. We encourage CFTC and USDA to consult closely with our sectors in these efforts.

Conclusion

Voluntary carbon markets are a promising finance tool to help the food, agriculture, and forestry sectors achieve our climate mitigation potential. For these markets to work for agriculture and forestry, producers generating credits through the voluntary adoption of climate-smart practices must be protected and credit purchasers must have the confidence that they are purchasing real reductions and removals, based upon the latest science.

FACA appreciates the CFTC's interest in aligning its framework of standards for high-quality carbon credits with voluntary global benchmarks to promote the integrity and growth of voluntary

[6] U.S. Department of Agriculture, "Report to to Congress: A General Assessment of the Role of Agriculture and Forestry in U.S. Carbon Markets", pp. 44-46. https://www.usda.gov/sites/default/files/documents/USDA-General-Assessment-of-the-Role-of-Agriculture-and-Forestry-in-US-Carbon-Markets.pdf

markets. We are grateful to Chairman Behnam for seeking our input and look forward to continued collaboration with the Commission on this topic.

Sincerely,

The Food and Agriculture Climate Alliance