

February 16, 2023

Hon. Chairman Rostin Benham
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, NW
Washington, DC 20581

submitted via CFTC online portal

Responses to CFTC's Specific Questions

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?*

While the characteristics of transparency, additionality, permanence/ risk of reversal, and robust quantification are indeed important categories, the current framework excludes social and environmental nuances, both positive and negative.

BASCS believes that carbon crediting programs eligible to generate and deliver VCCs into listed derivatives contracts must also have clear guidance, tools and compliance procedures to ensure mitigation activities conform or exceed best practices on social and environmental safeguards.

Social safeguards and transparency around benefit sharing provisions and broker/intermediary fee structures are economically significant attributes of the underlying VCC. Sustainable development benefits and safeguards materially influence contract pricing, have a direct impact on the extent to which underlying VCC credit will be delivered, and influence the political durability of those credits. In omitting guidance around ICVCM Core Principle 9, CFTC is missing a critical opportunity to ensure that farmers, foresters, ranchers and local community members are protected from abusive practices including conflicts of interest and misrepresentation. Another important reference is Climate Action Reserve's [Mexico Forest Project Protocol](#)'s Social Safeguards requirements. It provides a comprehensive view of minimum best practices for high integrity and actionable requirements. Table 3.1 of the protocol in particular may be referenced as a core list of topics and themes that may be considered to enable credible Free, Prior, Informed Consent.

In addition, VCC's impact far more than carbon, and it is crucial to integrate the broader environmental impact. This is equally true, with different frameworks, for both technology and nature-based projects.

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?*

BASCS appreciates and endorses the CFTC's use of the ICVCM Core Carbon Principles and believes that the CCP should continue to be heavily leveraged. California's Compliance Offset Program's verifier services requirements (§ 95977.1 of the [Cap and Trade Regulation](#)) may also be leveraged to ensure underlying credit attributes appropriately verified by accredited 3rd parties.

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*

In this iteration, no. However, BASCS recommends for future iterations the requirement of publicly available satellite or other relevant data for each underlying VCC project.

4. *In addition to the criteria and factors discussed in this proposed guidance, are there particular criteria or factors that a DCM should consider, which may inform its analysis of whether or not a VCC derivative contract would be readily susceptible to manipulation?*

No additional factors

5. *Should the VCC commodity characteristics that are identified in this proposed guidance as being relevant to the listing by a DCM of VCC derivative contracts, also be recognized as being relevant to submissions with respect to VCC derivative contracts made by a registered foreign board of trade under CFTC regulation 48.10?*

No additional characteristics

Transparency

6. *Is there particular information that DCMs should take into account when considering, and/or addressing in a VCC derivative contract's terms and conditions, whether a crediting program is providing sufficient access to information about the projects or activities that it credits? Are there particular criteria or factors that a DCM should take into account when considering, and/or addressing in a contract's terms and conditions, whether there is sufficient transparency about credited projects or activities?*

No additional information beyond the current ICVCM CCP guidance on transparency.

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?*

No additional information beyond the current ICVCM CCP guidance on additionality.

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?*

No additional information beyond the current ICVCM CCP guidance on additionality.

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?*

All project types, whether nature based or technological, have the potential for long term carbon storage. Similarly, all projects face reversal risks that can and should be mitigated. Therefore BASCS uses the term “durability” since it more accurately describes a target state that can be improved with best practices. For example, projects should be monitored and evaluated for durability even after a project’s crediting period ends. Registries and other relevant market actors should provide robust reversal insurance mechanisms, such as buffer pools, to ensure that if a reversal occurs, the climate integrity of any offset transaction is preserved.

In summary, BASCS believes that while different project types face different kinds and levels of reversal risk, these risks can often be reduced by project design, and therefore the project type alone is insufficient to estimate durability. Long-term durability is the goal for all mitigation actions, and projects should be incentivized to maintain and further their climate impacts over time.

10. How should DCMs treat contracts where the underlying VCC relates to a project or activity whose underlying GHG emission reductions or removals are subject to reversal? Are there terms, conditions or other rules that a DCM should consider including in a VCC derivative contract in order to account for the risk of reversal?

No additional recommendations.

Robust Quantification

11. Are there particular criteria or factors that a DCM should take into account when considering, and/or addressing in a contract's terms and conditions, whether a crediting program applies a quantification methodology or protocol for calculating the level of GHG reductions or removals associated with credited projects or activities that is robust, conservative and transparent?

No additional information beyond the current ICVCM CCP guidance on quantification.

Governance

12. In addition to a crediting program's decision-making, reporting, disclosure, public and stakeholder engagement, and risk management policies, are there other criteria or factors that a DCM should take into account when considering, and/or addressing in a VCC derivative contract's terms and conditions, whether the crediting program can demonstrate that it has a governance framework that effectively supports the program's transparency and accountability?

No additional information beyond the current ICVCM CCP guidance on governance.

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?

No additional information beyond the current ICVCM CCP guidance on tracking and double counting.

14. Are there particular criteria or factors that a DCM should take into account when considering, and/or addressing in a VCC derivative contract's terms and conditions, whether it can be demonstrated that the registry operated or utilized by a crediting program has in place measures that provide reasonable assurance that credited emission reductions or removals are not double-counted?

No additional recommendations.

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?

No additional recommendations.

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?

Yes, absolutely. As indicated in question 1, while the characteristics of transparency, additionality, permanence/ risk of reversal, and robust quantification are indeed important categories, the current framework excludes social and environmental nuances, both positive and negative.

BASCS believes that carbon crediting programs eligible to generate and deliver VCCs into listed derivatives contracts must also have clear guidance, tools and compliance procedures to ensure mitigation activities conform or exceed best practices on social and environmental safeguards.

Social safeguards and transparency around benefit sharing provisions and broker/intermediary fee structures are economically significant attributes of the underlying VCC. Sustainable development benefits and safeguards materially influence contract pricing, have a direct impact on the extent to which underlying VCC credit will be delivered, and influence the political durability of those credits. In omitting guidance around ICVCM Core Principle 9, CFTC is missing a critical opportunity to

ensure that farmers, foresters, ranchers and local community members are protected from abusive practices including conflicts of interest and misrepresentation. Another important reference is Climate Action Reserve's [Mexico Forest Project Protocol](#)'s Social Safeguards requirements. It provides a comprehensive view of minimum best practices for high integrity and actionable requirements. Table 3.1 of the protocol in particular may be referenced as a core list of topics and themes that may be considered to enable credible Free, Prior, Informed Consent.

In addition, VCC's impact far more than carbon, and it is crucial to integrate the broader environmental impact. This is equally true, with different frameworks, for both technology and nature-based projects.

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?***

No additional information beyond the current ICVCM CCP guidance.