



February 16, 2024

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

Submitted via CFTC Comments Portal

RE: Commission Guidance Regarding the Listing of Voluntary Carbon Credit Derivative Contracts;
Request for Comment RIN 3038–AF40

Dear Secretary Kirkpatrick,

The American National Standards Institute National Accreditation Board (ANAB) welcomes the opportunity to provide input to the Commodity Futures Trading Commission’s Guidance Regarding the Listing of Voluntary Carbon Credit (VCC) Derivative Contracts.

Carbon Markets (voluntary and mandatory) are important tools in efforts to combat climate change and are well-positioned to support corporate net-zero targets. Carbon markets are constantly evolving, with efforts to ensure reliability and transparency ongoing. The CFTC has taken the position that carbon credits are commodities, including by identifying an “environmental commodity, such as an emission allowance” as an example of a deliverable intangible commodity in its 2012 rulemaking. ANAB supports CFTC’s exercise of its enforcement authority in VCMs to protect investors and the integrity of the market. The CFTC is well-positioned, within the bounds of its existing enforcement mechanism, to pursue instances of fraud or market manipulation of VCMs. The oversight and mechanisms for ensuring the physical integrity of VCCs already exist and therefore ANAB’s comments are primarily focused on describing the existing VCM quality assurance system and how it can be utilized to prevent duplication of effort and assist in global harmonization efforts.

Background on ANAB and its involvement with GHG disclosure

ANAB is a U.S.-based non-governmental organization and a wholly owned subsidiary of the American National Standards Institute (ANSI) which is a non-profit organization. ANAB is the largest multi-disciplinary accreditation body in North America and the only peer recognized accreditation body operating an accreditation program for oversight of greenhouse gas (GHG) validation and verification bodies¹ in the United States. ANAB operates in compliance with international standards and requirements for accreditation bodies as outlined in ISO/IEC 17011, *Conformity assessment – Requirements for accreditation bodies accrediting conformity assessment bodies* and accredits greenhouse validation and

¹ Validation and verification are defined in ISO 14065:2020 respectively as: validation – process for evaluating the reasonableness of the assumptions, limitations and methods that support an environmental information statement about the outcome of future activities; and verification - process for evaluating an environmental information statement based on historical data and information to determine whether the statement is materially correct and conforms to criteria.

verification bodies to the requirements of ISO 14065, *General principles and requirements for bodies validating and verifying environmental information* and related standards, as outlined in more detail below.

ANAB is recognized globally as a signatory to the International Accreditation Forum (IAF) Multilateral Recognition Arrangement (MLA) and regionally as signatory to both the Inter-American Accreditation Cooperation (IAAC) MLA and Asia Pacific Accreditation Cooperation (APAC) MRA. ANAB undergoes rigorous peer evaluations to maintain its international recognition in this field. ANAB accredited Validation and Verification Bodies represent engineering firms, accounting firms, qualified environmental consultants, and other specialized GHG validation and verification providers. These accredited VVBs are required to perform their verification work according to the following international standards:

- ISO 14065, *General principles and requirements for bodies validating and verifying environmental information*.
- ISO/IEC 17029, *Conformity assessment – General principles and requirements for validation and verification bodies*
- ISO 14064-3, *Greenhouse gases – Specification with guidance for the verification and validation of greenhouse gas statements*
- ISO 14066, *Greenhouse gases – Competence requirements for greenhouse gas validation teams and verification teams*.

The Integrity Council for Voluntary Carbon Markets (IC VCM) Core Carbon Principles, Criterion 4.1 calls for robust independent third-party validation and verification. This is further elaborated in its Assessment Framework, where it specifically requires carbon-crediting programs to ensure that VVBs are accredited by a recognized international accreditation standard such as ISO 14065 and that the program has a process for managing VVB performance issues including measures to ensure that poor VVB performance is reported to the relevant accreditation body². This relationship between VCM programs and the accreditation body is essential to ensure greater consistency and transparency of GHG disclosures by ensuring that validation and verification bodies meet robust requirements for performing validation or verification engagements and that performance issues are dealt with promptly but also according to due process. The standards to which IAF ABs such as ANAB accredit affirm the vital importance of a regulatory body or carbon crediting program in adding additional requirements to the international standards:

“The ISO 14060 family of standards is GHG programme neutral. If a GHG programme is applicable, requirements of that GHG programme are additional to the requirements of the ISO 14060 family of standards.”³

Programs recognizing or requiring ANAB accredited validation or verification include:

- Province of Alberta, Technology Innovation and Emissions Reduction Regulation⁴
- American Carbon Registry⁵
- Architecture for REDD+ Transactions, The REDD+ Environmental Excellence Standard⁶

² <https://icvcm.org/wp-content/uploads/2024/02/CCP-Section-4-V2-FINAL-6Feb24.pdf>

³ International Organization for Standardization. (2019). Greenhouse gases – Part 3: Specification with guidance for the verification and validation of greenhouse gas statements (ISO Standard No. 14064-3:2019). <https://www.iso.org/standard/66455.html>

⁴ <https://www.alberta.ca/technology-innovation-and-emissions-reduction-regulation.aspx>

⁵ <https://americancarbonregistry.org/>

⁶ <https://www.artredd.org/trees/>

- BioCarbon Standard⁷
- British Columbia Greenhouse Gas Emission Reporting Regulation⁸
- British Columbia Greenhouse Gas Emission Control Regulation⁹
- Climate Action Reserve¹⁰
- The Climate Registry's Greenhouse Gas (GHG) Reporting Program or Carbon Footprint Registry¹¹
- Canadian Greenhouse Gas Offset Credit System Regulations: SOR/2022-111¹²
- Canadian Output-Based Pricing System Regulations¹³
- Canadian Clean Fuel Regulations¹⁴
- Colorado Air Quality Control Commission Recovered Methane Regulation¹⁵
- The Gold Standard, Standard for the Global Goals¹⁶
- International Civil Aviation Organization (ICAO), Carbon Offsetting and Reduction Scheme for International Aviation (CORSA)¹⁷
- Ontario Regulation O.Reg. 390/18¹⁸
- Oregon Department of Environmental Quality, GHG Reporting Program¹⁹
- Plan Vivo²⁰
- Quebec Regulation Q-2, r.15 Reporting Regulation²¹
- Quebec Regulation Q-2, r.46.1 Cap & Trade Regulation²²
- Regional Greenhouse Gas Initiative (RGGI)²³
- Saskatchewan Reporting Regulations²⁴
- Verra's Verified Carbon Standard²⁵
- World Bank Forest Carbon Partnership Facility²⁶

ANAB Comments on CFTC's RFI's Questions

The Commission requested comment from the public on all aspects of the Commission's proposed guidance regarding listing of VCC derivative contracts, and further invited comments on specific questions below.

- 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 list of VCC derivative contracts?**

⁷ <https://biocarbonstandard.com/en/>

⁸ https://www.bclaws.gov.bc.ca/civix/document/id/lc/statreg/249_2015

⁹ https://www.bclaws.gov.bc.ca/civix/document/id/lc/statreg/250_2015

¹⁰ <https://www.climateactionreserve.org/>

¹¹ <https://www.theclimateregistry.org/>

¹² <https://www.codifylaws.com/canada-bill-details/sor-2022-111-canadian-greenhouse-gas-offset-credit-system-regulations-federal-regulation/r/recwt3tvuUZatUkiq>

¹³ <https://laws-lois.justice.gc.ca/eng/regulations/SOR-2019-266/index.html>

¹⁴ https://publications.gc.ca/collections/collection_2020/eccc/En4-419-4-2020-eng.pdf

¹⁵ <https://cdphe.colorado.gov/air-pollution/recovered-methane>

¹⁶ <https://globalgoals.goldstandard.org/109-par-validation-verification-body-requirements/>

¹⁷ <https://www.icao.int/environmental-protection/CORSA/Pages/CCR.aspx>

¹⁸ <https://www.ontario.ca/laws/regulation/180390>

¹⁹ <https://www.oregon.gov/deq/ghgp/3pv/Pages/default.aspx>

²⁰ <https://www.planvivo.org/validation-verification>

²¹ <https://www.legisquebec.gouv.qc.ca/en/document/cr/Q-2,%20r.%2015>

²² <https://www.legisquebec.gouv.qc.ca/en/document/cr/Q-2,%20r.%2046.1>

²³ <https://www.rggi.org/>

²⁴ <https://www.saskatchewan.ca/business/environmental-protection-and-sustainability/a-made-in-saskatchewan-climate-change-strategy/legislation-and-regulations>

²⁵ <https://verra.org/project/vcs-program/>

²⁶ <https://www.forestcarbonpartnership.org/about>

CFTC cites the “absence of a standardized methodology or protocol to quantify GHG emission reduction or removal levels”. As referenced above and in most VCM programs, the use of ISO standards such as ISO 14065 and 14064-3 are widespread as a basis for conducting a validation or verification. When paired with a crediting program with robust and transparently developed methodologies, this helps to ensure that VCCs are robust, conservative, and transparent. Here we offer that the CFTC should consider that DCMs not only consider “how the crediting program for the underlying VCCs requires validation and verification that credited mitigation projects or activities meet the crediting program’s rules and standards”, but also to consider if the crediting program has robust and transparent requirements for accredited validation and verification. This should consider if the crediting program has a system for oversight that includes accreditation of VVBs by an AB that is a signatory to the IAF MLA for ISO 14065.

Additionally, we would like to add here that where a crediting program has specified additional requirements and is cooperating with ABs in the oversight of VVBs, the AB checks these additional requirements. One example is crediting program provisions for validation and verification body rotation. An accreditation body performs additional checks on such rules where they are specified by the crediting program as additional to the ISO standards requirements on VVB impartiality and avoidance of conflicts of interest (familiarity risk, financial risk, self-review risk). The mechanisms in place to achieve cooperation between a crediting program and ABs may vary. In many cases the crediting program has an agreement with ABs where this cooperation and the respective responsibilities of both parties are agreed upon. Whereas in some cases, the program has the objective of achieving global harmonization and may become endorsed by the IAF and its rules enforced in the AB peer evaluation process globally. One example of this is ICAO CORSIA²⁷.

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?

See above recommendation and also IC VCM’s credit quality principles. Crediting programs work with ABs to ensure that there is no manipulation or fraudulent activity associated with validation and verification activities and project crediting.

As an example of this, ISO 14064-3 section 7.1.4.5 addresses a VVB’s validation of a baseline, requiring the VVB to assess whether the baseline is the most appropriate, plausible, and complete hypothetical scenario and includes requirements for the VVB in conducting this assessment. ISO 14064-3 section 7.1.4.8 addresses a VVB’s assessment of quantification methodologies and associated measurements to ensure they are acceptable to the intended user; this must include an assessment of the conservativeness of the quantification methodologies and associated measurements. Again, any additional program requirements are assessed accordingly by a designated AB. Here again, we want to emphasize that many of the market performance issues raised in the guidance are already addressed and are readily available to be utilized by CFTC.

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

²⁷ https://www.icao.int/environmental-protection/Documents/EnvironmentalReports/2019/ENVReport2019_pg232-235.pdf

about credited projects or activities?

Demonstration of the third-party validation and verification of the underlying VCCs should be a standard requirement in a VCC derivative contract's terms and conditions, including the above recommendation that the crediting program has a robust, transparent and enforceable system for accreditation and oversight of VVBs. This includes accreditation to ISO 14065 by a peer recognized Accreditation Body such as ANAB.

- 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?**

Additionality is supported and addressed by the VCM in requiring reasonable assurance that the project's emission reductions exceed those required by law, regulation, or legally binding mandate. DCMs should consider if a program requires investment, barrier, or market penetration analysis to demonstrate financial additionality. This component of validation is required to be assessed by the accredited VVB and crediting programs typically specify specific additionality assessment measures including both regulatory and financial additionality.

Measures in the base standards address the topic of additionality generally. For example, ISO 14064-3 section 7.1.4.2 on recognition states "The validator shall determine whether the intended user(s) recognize the GHG-related activity. In assessing recognition, the validator shall: a) Determine whether the GHG-related activity is acceptable to the intended user, including whether the GHG-related activity meets any eligibility criteria specified by the intended user." Here "eligibility criteria" refers to additionality. Where a crediting program cooperates with ANAB and where a VVB is conducting work under its ANAB accreditation, the program-specific rules on additionality are required to be assessed in addition to the clause of ISO referenced above.

- 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?**

See above recommendations on leveraging the existing systems of accreditation and crediting program oversight of VVBs and the validation and verification process.

- 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?**

The proposed guidance includes reference to three important actors but is silent on accreditation by a competent recognized accreditation authority. Third-party validation and verification should be a requirement, but accreditation of the VVBs to ISO 14065 with an accountable AB should also be required, as included in IC VCM.

ANAB appreciates the opportunity to comment on CFTC's proposed guidance and we welcome the opportunity to collaborate with CFTC on market oversight. We also recognize that as VCMs continue to grow, such guidance may require regular update and maintenance.

Sincerely,

A handwritten signature in black ink that reads "Ann M. Howard". The signature is written in a cursive style with a large initial "A" and "H".

Ann Howard
Senior Director of Accreditation, Validation and Verification
ANSI National Accreditation Board (ANAB)
ahoward@anab.org