puro·earth

February 16, 2024

Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission

Dear Mr. Kirkpatrick:

Puro.earth Oy ("Puro") appreciates the opportunity to comment on the Commodity Futures Trading Commission's ("CFTC" or the "Commission") proposed guidance regarding the listing for trading of voluntary carbon credit (''VCC'') derivative contracts (the "Proposal" or "Proposed Guidance"). The Commission notes that it seeks to issue guidance that will outline factors that designated contract markets (''DCMs'' or "Exchanges") should consider when addressing certain provisions of the Commodity Exchange Act (''CEA''), and CFTC regulations thereunder, that are relevant to the listing of VCC derivative contracts.

The Commission correctly recognizes that VCC derivative contracts are a comparatively new and evolving class of products, and notes that guidance that outlines factors for a DCM to consider in connection with product design may help to promote transparency and liquidity. Puro commends the Commission in its efforts to raise much needed awareness about the voluntary carbon market ("VCM") and provide guidance on which factors are of most significance when listing VCC derivative contracts. Puro is eager to assist in improving the proposed guidance.

Puro is an industry leader as the first and largest carbon crediting platform for durable carbon removal credits. Puro launched in 2019, with the goal of identifying the most accurate means of measuring carbon removal (Puro does not work with carbon avoidance) from the atmosphere that also has the potential to scale to industrial levels. Puro is actively involved in the full life cycle of carbon removal from the setting of carbon removal standards in its various methodologies, to coordination of carbon removal projects with suppliers, the verification (through independent audit) that carbon removal projects have complied with Puro's standards, and the registration, tracking of ownership and eventual retirement of carbon removal credits.[1] Puro focuses on carbon removals that can be measured and verified, rather than relying on estimates of removal through theoretical modeling. Puro is an ICROA-endorsed crediting platform and is in the process of submitting its application to IC-VCM and to CORSIA for their endorsement.

While Puro supports the Commission's Proposal conceptually, we suggest revising the Guidance to require DCMs to allow only those VCCs issued by Carbon Crediting Bodies that have been endorsed by ICROA or IC-VCM to be delivered under a VCC derivative contract. As market conditions develop, the Commission can assess new Carbon Crediting Programs and

[1] See https://puro.earth/CORC-co2-removal-certificate/# for a full list of the suppliers of CO_2 removal products, current and upcoming CO_2 removal projects as well as a map noting the location of CO_2 removal suppliers.

update its Guidance to reflect entities that meet its standards. Such a revision to the Guidance will be beneficial for three main reasons: it will encourage DCMs to list these instruments; it will increase use of VCCs in both the spot and derivatives markets; and it will provide greater clarity for market participants that trade in these instruments.

The Commission's Proposal calls for DCMs to weigh a number of complicated factors, defined as "VCC Commodity Characteristics",[2] and address them in the terms and conditions for each VCC derivative contract. Requiring DCMs to conduct such a substantive analysis of VCC credits would add additional burden on DCMs and most likely discourage the listing of VCC derivative contracts out of concern for potential enforcement actions as a result of non-compliance with the Guidance. Relieving DCMs of this regulatory requirement would encourage the listing of these products. Furthermore, adoption of the Guidance in its current form risks deviating from the emerging industry standards (such as ICROA, IC-VCM, Article 6.4 of the United Nation's Climate Change Initiative and the EU-CRC framework) and stifling development of the VCC market since it will set out another standard by which VCCs are assessed. Finally, revising the Guidance as proposed in this letter will aid market participants trading in both VCCs and VCC derivative contracts as it will provide greater clarity of the inherent value of a VCC through reliance on the assessment performed by the Carbon Crediting Bodies, and not the analysis performed by DCMs, entities with little subject matter expertise in this area.

A. Background on the Voluntary Carbon Market

The issue of climate change and overall impact on the environment has been a point of serious concern for some time now. As a result, there has been a global push to decrease the level of greenhouse gases ("GHG") that are emitted into the atmosphere. The general consensus is that the more we can do to reduce GHG emissions, the better. Unfortunately, actual reduction of GHG emissions to sustainable levels poses an enormous challenge to most large-scale emitters.

To address these concerns, yet recognize the inability to simply reduce emissions to environmentally friendly levels, many corporations have turned to the VCM as a way to reduce their impact on the environment. The benefit of this approach is that it allows companies to acquire carbon reduction or removal credits as a means of reducing their overall carbon footprint. While this is a significant step in the right direction, it is important to note that this approach will only be beneficial if done in an ethical and rigorous manner. This means that when an entity acquires a carbon credit, that credit must represent the actual removal or reduction in the emission of CO_2 from the atmosphere. To this end, a number of entities have been established to implement a structured process to review claims of carbon avoidance/removal so that entities purchasing credits will have confidence that their claims of carbon removal/avoidance are accurate and verifiable. The end goal of this process is to ensure that VCCs can actually document that carbon emissions were reduced, or carbon was removed from the atmosphere.

[2] 88 Federal Register 89410, at 89416.

Puro would note however, that the utilization of carbon markets should only be seen as a complementary tool. The main tool should be reductions in emissions in a corporation's own value chain. The VCM is a necessary complementary tool to enable a swifter path to climate targets and should enable corporations to set more ambitious goals. Durable carbon removal is a necessary tool for corporations to reach net zero.

B. Overview of Proposal

Recognizing the development of the VCM market, the Commission has proposed guidance for the listing of VCC derivative contracts by DCMs. Under the proposed guidance, DCMs should include in each VCC contract's terms and conditions an analysis of what the Commission defined as "VCC Commodity Characteristics" so that market participants would have a clear understanding of the quality of the VCCs that will be delivered under each VCC derivative contract. This clarity would in turn aid in the price discovery of the VCC derivatives traded on DCMs. As noted above, while Puro commends the Commission for attempting to bring greater clarity to the VCM, the proposal places too great a burden on DCMs without providing additional benefit in valuation of VCCs and VCC derivatives.

By way of background, Part 38 of the Commission's Regulations sets out a series of Core Principles that a DCM must demonstrate in order to comply with the provisions of the CEA. Core Principle 3 - contracts not readily subject to manipulation, and Core Principle 4 – Prevention of Market Disruption, apply specifically in the context of derivative contracts listed by a DCM. Appendix C to Part 38 provides additional guidance on what information should be included by a DCM to support the position that a contract is not readily susceptible to manipulation.

With respect to Core Principle 3, the Proposal advises DCMs to take certain VCC Commodity Characteristics into consideration when designing a VCC derivative contract, and addressing those characteristics in the contract's terms and conditions. According to the Proposal, VCC Commodity Characteristics are those characteristics that address the following:

- Quality Standards
    - Transparency
    - Additionality
    - Permanence and risk of reversal, and
    - Robust quantification
- Delivery Points and Facilities, and
- Inspection Provisions

Quality Standards

In the context of Quality Standards, the Proposal states that a DCM should provide, in the terms and conditions of a VCC derivatives contract, information about VCCs that are eligible for delivery under the contract. This should include transparency as to the accrediting program, or programs, as well as the types of projects and activities, from which VCCs that are eligible under the contract are issued. The Commission believes that this will provide clarity to market

participants as to which VCCs will be delivered under the contract and thus aid in the price discovery process for the VCC derivative itself. The Proposal also calls on a DCM to consider if the accrediting program itself makes detailed information about the crediting program's policies and procedures, and the projects or activities that it credits, publicly available in a searchable and comparable manner. Again, the Commission is of the view that the provision of this information in the VCC derivative contract's terms and conditions will aid market participants in assessing the value of the underlying VCC that will be delivered pursuant to the VCC derivatives contract. The Commission provides similar guidance with respect to delivery points and inspection provisions.

The Impact of the Proposed Guidance

The cumulative effect of the analysis required by the Proposal is to impose upon DCMs the requirement to perform their own substantive assessment of each of the enumerated VCC Commodity Characteristics. The Commission justifies this guidance on the fact that the VCM and VCC derivative markets are a comparatively new and evolving class of products with standardization and accountability mechanisms still developing. While the Commission's assessment of the state of development of both markets is not inaccurate, it does not serve as an adequate basis for the adoption of rigorous new standards that must be applied to a nascent market.

Instead, in Puro's view, the VCM and VCC derivative markets would be better served if the Commission's guidance focused on referencing the current standard setting bodies in the VCC space and requiring DCMs to make clear in the terms and conditions of VCC derivative contracts which Accreditation and Governing Bodies ("AGBs"), and the credits issued pursuant to the methodologies of those bodies, are suitable for physical delivery under VCC derivative contracts. By requiring DCMs to conduct their own substantive analysis, the Commission would only increase the level of fragmentation in the VCM by ignoring the emerging industry standards already available today (notably through ICROA and IC-VCM). The Guidance would introduce another standard that would have to be assessed when trading in VCC products. To illustrate why Puro's proposed approach is preferable, it would help to briefly outline the substantive analysis performed by the established VCC Accreditation and Governing Bodies.

As discussed below, the level of detail in the requirements of both ICROA and IC-VCM assessment frameworks reflect the fact that they are dedicated exclusively to ensuring the underlying quality of VCCs, both now and in the future through their continuous improvement program. Establishing and reviewing the framework for quality requirements for VCCs is their main function, and the assessment of the Carbon Crediting Programs against that framework is their main action. DCMs would find it difficult to develop this expertise, and, even if they could, it would not be efficient to have them do so when the existing AGBs already have a framework and competencies in place.

An additional point to consider is that certain VCCs may satisfy a DCM's assessment of the VCC Commodity Characteristics while those same VCCs may not meet the standards established by the AGBs. In such a scenario, market participant would place little, if any, value

on the VCCs that only satisfy a DCM's review. For this reason, it would be preferable to require DCMs to list only those VCCs that are endorsed by AGBs.

C. The VCC Verification Process

The marketplace for VCCs is unregulated with no single governmental entity verifying the accuracy of the credits. This poses a problem as one cannot be sure that a VCC does in fact represent the reduction of emission or removal of CO_2 from the atmosphere that it claims to. To address this problem, a process has developed where different entities take on the responsibility of performing different roles, the end result of which is the issuance and tracking of VCCs that demonstrably reduce or remove carbon from the atmosphere. We have provided a brief summary of these entities and the role they perform below. The process generally involves entities setting standards for how to measure reduced carbon emissions or removals, a verification entity that audits a specific project and confirms the emission reduction or removal has taken place, and a crediting body that issues a VCC once it has confirmed through the verification body that the VCC should in fact be issued.

Carbon Crediting Programs

Carbon Crediting Programs ("CCPs") are organizations that issue VCCs once they have confirmed, through consultation with a VVB (defined below), that a particular project has resulted in the reduction in carbon emissions or active carbon removals it claims to have made. Puro, Verra and Gold Standard are three examples of CCPs.

Verification and Validation Bodies

Verification and Validation Bodies (VVBs) are third party, private entities that conduct an assessment to verify that a carbon reduction or removal project has in fact met the specified set of requirements defined in a CCP's methodology. An example of such an entity is DNV, a corporation that performs an independent review of carbon removal projects to confirm they have been conducted in accordance with the specific terms of the project's administrators.

Accreditation and Governance Bodies

The entire VCC verification process is governed by the standards that are subject to endorsement by AGBs. Entities such as ICROA and IC-VCM (described in more detail below), are examples of AGBs, non-profit, private entities that have established a core set of criteria against which CCBs are assessed. AGBs assess CCPs to determine if the latter issue credits in accordance with the AGB's standard and issue an endorsement if satisfied that they do. Puro, for example, is ICROA-endorsed, and is in the process of applying for IC-VCM endorsement. It is the AGBs that Puro believes are most relevant in terms of determining the value of any VCC delivered pursuant to a VCC derivative contract.

ICROA

The International Carbon Reduction and Offset Alliance ("ICROA") describes itself as the leading industry accreditation program committed to enhancing integrity in the VCM in support of the Paris Agreement Goals.[3] Founded in 2008, ICROA oversees an accreditation program that certifies best practices in GHG emission reductions and offsetting through the use of high-quality carbon credits. The Program is open to VCM service providers who promote the highest standards of environmental integrity in support of the Paris Agreement goals. Participation in the accreditation program requires an ongoing annual independent audit to assure compliance to the ICROA Code of Best Practice (the Code).[4] The Code sets out to define international best practices in carbon crediting and represents the minimum requirements that all ICROA accrediting organizations must meet.[5] Compliance with the Code, and ICROA's accreditation of that compliance, results in a CCP becoming endorsed by ICROA. ICROA conducts the actual audit of CCP programs through the Carbon Crediting Program Endorsement Criteria ("Endorsement Criteria"). Review of the Endorsement Criteria will show some overlap with the CFTC guidance, but more importantly, a significantly broader and more detailed scope of topics that must be assessed in order to obtain ICROA endorsement.

IC-VCM

The Integrity Counsel for the Voluntary Carbon Market ("IC-VCM") is an independent governance body for the voluntary carbon market. The IC-VCM has established a set of Core Carbon Principles ("IC-VCM CCPs") which serve to set threshold standards for high-quality carbon credits and define which carbon-crediting programs and methodology types are IC-VCM CCP-eligible.[6] Similar to the ICROA process for accrediting VCCs, IC-VCM uses the IC-VCM CCPs to set out a standard by which VCCs may be assessed to ensure they are of high quality with the most environmental benefit. To that end, the IC-VCM has published the Core Carbon Principles, Assessment Framework and Assessment Procedure to capture the full scope of the substantive criteria as well as the process by which an AGB can confirm a carbon mitigation or removal project has met those objective standards required to classify a VCC as high-quality.

D. Scope of Substantive Review by Third-Party Accreditation and Governing Bodies

Upon review of both the ICROA Carbon Crediting Endorsement Criteria and the IC-VCM Core Carbon Principles, Assessment Framework and Assessment Procedure, it becomes clear that both the scope and standard of review conducted pursuant to these standards is far broader and more in-depth than any review that would be performed by a DCM as required by the CFTC's Proposed Guidance. Both assessment standards cover all the VCC Commodity Characteristics enumerated in the Proposed Guidance while also addressing a number of other issues that are of importance to the assessment of a VCC. Below we outline two examples, but

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3 https://icroa.org/

4 A full list of ICROA endorsed standards may be found here.

5 https://icroa.org/icroa-code-of-best-practice/

6 https://icvcm.org/about-the-integrity-council/

there are in fact multiple instances, of where the assessment required to meet the ICORA or IC-VCM standards exceeds that which is required by the Proposed Guidance.

Quantification of Carbon Removal

For example, with respect to the robust and transparent quantification of carbon removal, the Commission states that "…a DCM … should consider whether the crediting program for the underlying VCCs can demonstrate that the quantification methodology or protocol that it uses to calculate emission reductions or removals for the underlying VCCs is robust, conservative, and transparent". There is no further guidance however, on how to determine if the quantifying methodology is in fact robust, conservative and transparent.

In contrast, while the IC-VCM defines robust quantification on a similar high level, it also includes in the Assessment Framework two full pages of factors to consider when assessing a quantifying methodology, including the following:

- "Baselines must be conservative, consider uncertainties, legal requirements and rebound effects, avoid perverse incentives, and be reviewed at appropriate intervals"
- "The quantified emission reductions or removals should be attributable to the mitigation activity," and
- "Aggregate duration of crediting periods should be activity-appropriate"

These requirements are essential for the robust quantification of a VCC, but are not explicitly considered by the CFTC guidance.

Third Party Validation and Verification

On the issue of Third-Party Validation and Verification, the Proposed Guidance states:

> *a DCM should consider whether the crediting program has up-to-date, robust and transparent validation and verification procedures, including whether those procedures contemplate validation and verification by a reputable, disinterested party or body. … A DCM should consider whether the crediting program is employing best practices with respect to third-party validation and verification, which may include conducting reviews of the performance of validators, procedures for remediating performance issues, not using the same third party validator to verify every project type or project category, and using a separate third party to conduct ongoing validation and verification from the third party that completed the initial validation and verification process.*

The ICROA Endorsement Criteria on the other hand, includes numerous additional factors, beyond those listed in the Commission's Proposed Guidance, that must be considered when assessing a CCP.[7] The Criteria requires a CCP to verify projects to a reasonable level of assurance as defined in ISO 14064-3; the list of approved VVBs must be published on the CCP's website; the CCP should have at least two organizations approved as VVBs; and the CCP must

[7] See ICROA Carbon Crediting Program Endorsement Criteria, available at Carbon Crediting Program Endorsement Criteria, at page 4.

have a publicly available list of qualifications for VVBs, that includes, at minimum, requirements that VVBs must be accredited under a relevant accreditation program, such as the ISO 14065, CDM/A6.4 Accreditation program or any other accreditation program deemed relevant by the CCP.

Furthermore, the VVBs may only perform validation and/or verification activities for the sectoral scope for which they have been accredited; the CCP must regularly check qualifications of its approved VVBs against the list of requirements; the CCP may have rules that outline the scenarios when it is acceptable to have a validation or verification completed by a qualified individual (sole proprietor) (i.e., micro-scale projects), and must describe what qualifications are required of the individual.

Finally, regarding oversight of the VVB requirements, the ICROA Endorsement Criteria call for a CCP to have a publicly available procedure for providing oversight to VVBs that includes, at minimum: requirements for the VVB to prove independence from the CCP, market, and project; at least two individuals involved in validation and/or verification of each project (peer review); a rule on what number of sequential verifications are allowed before the project must be verified by a new VVB; and procedures for spot checks on quality of validation/verification reports, and mitigation plan.

As noted above, these are just two examples of how the assessment criteria outlined by the industry accepted AGBs are of greater substance and depth than the requirements outlined in the Commission's Proposal. The criteria established by the AGBs provides greater detail for all topics assessed, meaning the assessment that would be performed by a DCM in accordance with the Proposed Guidance will not rise to the same level of diligence and play little role in illuminating the inherent value of any VCC delivered under a VCC derivative contract.

E. The Significance of Avoidance v. Removal & the Duration of Sequestration

The Commission's proposal failed to make any distinction between carbon emission reduction and carbon removal projects. VCCs that have been issued to track the reduction in the emission of CO_2 are based on projections of CO_2 emission avoidance only. VCC credits issued for CO_2 removal on the other hand, are based on quantifiable measurements of CO_2 that have been removed from the atmosphere. Emission avoidance and removal credits are not fungible. Therefore, if a DCM were to allow the delivery of VCCs based on emission reduction as well as CO_2 removal for the same VCC derivative, it would prevent accurate price discovery of those derivatives instrument as the two VCCs have highly divergent values. Instead, a DCM should make clear which VCCs, those tracking emission avoidance or CO_2 removal, are acceptable for physical delivery under a specific contract.

Moreover, in the context of carbon removal VCCs, a DCM must also make clear the duration of the carbon sequestration that is reflected in the VCC. All carbon instruments and tools provide value and benefits (subject to quality aspects defined by e.g. IC-VCM) but they are different tools with very different risk characteristics. Transparency with respect to a VCC's representation of the duration of carbon removal is imperative to build trust in the market.

Finally, when listing carbon removal VCC derivatives, a DCM should specify that only those carbon removal credits that provide for durable CO_2 sequestration will be acceptable for delivery. Carbon removal credits that do not reflect long-term carbon sequestration are not an appropriate means of offsetting fossil-based CO_2 emissions. Commission guidance should make clear that only long-term CO_2 removals may offset long-term CO_2 emissions.

F. Conclusion

The Commission has proposed a thoughtful framework for the listing and trading of VCC derivative contracts. While Puro commends the Commission's effort in this regard, it notes that there are some serious challenges that will be created by this proposal and the Commission would significantly aid the VCM by revising the Proposed Guidance to account for the points raised in this letter. We look forward to reviewing any revised guidance that the Commission may issue and look forward to the possibility of working with the Commission to help develop the VCM. We thank the Commission for its time and consideration of this letter.

DocuSigned by:
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