

CFTC Proposes Highly Anticipated Guidance on Voluntary Carbon Credit Derivatives

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On 4 December 2023, the Commodity Futures Trading Commission (CFTC) [proposed guidance](#) on the listing of voluntary carbon credit (VCC) derivative contracts. The proposal outlines how designated contract markets (DCMs), which are CFTC-registered derivatives exchanges, may list VCC derivative contracts while complying with statutory “Core Principles” set forth in the Commodity Exchange Act (CEA) and applicable CFTC rules and regulations.

VCCs, which represent the reduction or removal of one metric ton of carbon dioxide from the atmosphere, are tradeable intangible instruments. VCCs are typically regulated as “commodities” by the CFTC, in the same manner as oil, gold, wheat and certain types of digital assets. This means that the CFTC has the authority to police fraud and manipulation in VCC markets, but its broader regulatory authority only applies to derivatives based on underlying VCCs.

Following two voluntary carbon market convenings on [June 2, 2022](#) and [July 19, 2023](#), the CFTC received input from industry participants about the lack of universal standards for high integrity VCCs. [According to CFTC Chairman Benham](#), the feedback it received was to “strengthen market integrity, transparency, and liquidity for derivatives with underlying VCCs that are real, additional, permanent, verifiable, and represent unique metric tons of GHG emissions reduced or removed from the atmosphere” (emphasis added).

Although the CFTC cannot directly regulate the quality of VCCs, the proposed guidance sets out obligations that DCMs must satisfy to list VCC derivative contracts. Under the proposal, DCMs would have to evaluate and provide detail on the products and systems of each party in the creation and validation of a VCC. This would require DCMs to consider the quality of the VCC, the delivery points and facilities related to the VCC, and the third-party validation and verification practices.

DCMs would also have to ensure that a VCC derivative contract’s terms and conditions align with the latest certification standards, and provide a thorough, qualitative explanation for how the VCC derivative contract satisfies the listing requirements under the CEA and the applicable CFTC rules.

The comment period is open until 16 February 2024

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