Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st St. NW
Washington, DC 20581

RE: **Climate-Related Financial Risk RFI [87 FR 34856]**

Dear Mr. Kirkpatrick:

On behalf of 67 undersigned organizations with missions to further climate, consumer, environmental, racial and economic justice, we appreciate the opportunity to comment on the above referenced request for information ("RFI") by the Commodity Futures Trading Commission ("CFTC") to inform its understanding and oversight of climate-related financial risk as pertinent to the derivatives market and underlying commodities markets. In particular, we write to highlight the risks and integrity issues associated with carbon offsets, carbon credits, and related derivative products and urge aggressive oversight.

The RFI notes the "growing global market demand for derivatives products that could serve as a hedge against physical risks of climate change as well as transition risks as companies move toward a net zero environment," as well as "concerns about transparency, credibility, and greenwashing," and the CFTC's role in "promoting responsible innovation, which includes the evolution of climate/sustainability products" used for such purposes.[1] As we discuss below, concerns about transparency, credibility, greenwashing, and environmental injustice in the voluntary carbon offsets and derivatives markets are well-founded and will require significant oversight and regulation by the CFTC to prevent fraudulent and misleading claims, market manipulation, and undisclosed financial risk.

Innovation in the voluntary carbon offset spot and derivatives markets has not been responsible to date, but these markets continue to grow exponentially; the spot commodity market is expected to reach $50 billion by 2030.[2] This level of market expansion without guardrails on quality and transparency will create incredible risks for investors, the capital markets, and the broader economy. We recommend that the CFTC:

- Investigate the integrity of currently approved derivatives and their underlying carbon offsets, and develop qualifying standards for carbon offsets that effectively reduce greenhouse gas emissions and can serve as underlying commodities for approved derivatives;
- Create a registration framework for offsets, offset brokers, and offset registries;
- Pursue cases of individual project fraud; and
- Develop a working group to study both the risk to investors associated with carbon offsets and derivatives (including legal, reputational, and regulatory risk) and the systemic climate financial risk created by their availability and usage.

If CFTC finds that integrity issues within the underlying carbon offsets markets cannot be resolved, it should disallow carbon offset derivatives trading. The following integrity issues must be addressed:

---

[1] FR at 34861
[2] Madeleine Jenkins, "Voluntary Carbon Market Rankings 2021," Environmental Finance, https://www.environmental-finance.com/content/awards/voluntary-carbon-market-rankings-2021/

Existing carbon market standards do not ensure quality.

Carbon market guardrails and the systems that exist intended to oversee integrity and quality have failed to deliver. The program design of California's compliance market has been found to result in substantial levels of inflated crediting—where offset credits are issued that do not represent real climate benefits.[3] Likewise, reviews of existing soil offset protocols find that the standards set overwhelmingly fail to deliver confidence regarding credit quality.[4] Studies of other voluntary and compliance market protocols have also found high rates of over-crediting across many other project types, including cookstoves, avoided deforestation, and landfill gas capture.[5]

Offset market quality and integrity issues have also been covered in leading business journalism outlets. Extensive research and reporting[6] indicates systemic, persistent issues with offset quality at the program and protocol level, making it very difficult for buyers to be confident in the integrity of the offsets they purchase from today's markets.

---

[3] Badgley, Grayson, Jeremy Freeman, Joseph J. Hamman, Barbara Haya, Anna T. Trugman, William R. L. Anderegg, and Danny Cullenward. 2021. "Systematic Over-Crediting in California's Forest Carbon Offsets Program." Global Change Biology 28, no. 4 (October): 1433–45. https://doi.org/10.1111/gcb.15943; Haya, Barbara. 2019. *The California Air Resources Board's U.S. Forest offset protocol underestimates leakage*. University of California, Berkeley. https://gspp.berkeley.edu/assets/uploads/research/pdf/Policy_Brief-US_Forest_Projects-Leakage-Haya_4.pdf

[4] Zelikova, Jane, Freya Chay, Jeremy Freeman, and Danny Cullenward. 2021. "A Buyer's Guide to Soil Carbon Offsets." CarbonPlan, July 15, 2021. https://carbonplan.org/research/soil-protocols-explainer

[5] Macintosh, Andrew. 2022. "The Emissions Reduction Fund's Landfill Gas Method: An Assessment of its Integrity." The Australian National University, Canberra, March 16, 2022. https://law.anu.edu.au/sites/all/files/erf_landfill_gas_method_-_an_assessment_of_its_integrity_16_march_2022.pdf ; West, Thales A. P., Jan Börner, Erin O. Sills, and Andreas Kontoleon. 2020. "Overstated Carbon Emissions Reductions from Voluntary REDD+ Projects in the Brazilian Amazon. Proceedings of the National Academy of Sciences 117, no. 39 (September): 24188–194. https://www.pnas.org/doi/full/10.1073/pnas.2004334117; Bailis, Rob, Yiting Wang, Rudi Drigo, Adrian Ghilardi, and Omar Masera. 2017. "Getting the Numbers Right: Revisiting Woodfuel Sustainability in the Developing World." Environmental Research Letters 12, no. 11 (October): 115002. https://doi.org/10.1088/1748-9326/aa83ed; Cames, M., Harthan, R. O., Füssler, J., Lazarus, M., Lee, C. M., Erickson, P., & Spalding-Fecher, R. (2016). *How additional is the Clean Development Mechanism?* Oeko Institut. https://ec.europa.eu/clima/system/files/2017-04/clean_dev_mechanism_en.pdf.

[6] See: White, Natasha, and Akshat Rathi. 2022. "China Says the 2022 Winter Olympics Are Carbon Neutral. They Aren't." Bloomberg, February 16, 2022, sec. Energy & Science. https://www.bloomberg.com/news/articles/2022-02-16/beijing-olympics-carbon-neutral-claim-is-based-on-junk-offsets; Song, Lisa, and James Temple. 2021. "A Nonprofit Promised to Preserve Wildlife. Then it Made Millions Claiming it Could Cut Down Trees." MIT Technology Review, May 10, 2021. https://www.technologyreview.com/2021/05/10/1024751/carbon-credits-massachusetts-audubon-california-logging-co2-emissions-increase/?truid=f0bbe964b0ec5551e17eadca3e0e4e35; Hodgson, Camilla. 2021. "Rush for Carbon Credits Spurs Surge in Power Company Schemes." Financial Times, April 17, 2021. https://www.ft.com/content/93cb7744-529d-4c74-bbb8-5a9bc8d6b321; Elgin, Ben. 2020. "These Trees Are Not What They Seem: How the Nature Conservancy, the World's Biggest Environmental Group, Became a Dealer of Meaningless Carbon Offsets." Bloomberg Green, December 9, 2020. https://www.bloomberg.com/features/2020-nature-conservancy-carbon-offsets-trees/; Mider, Zachary R., and John Quigley. 2020. "Disney's Jungle Cruise: High-Emission Vacations Lead to Trouble in a Rainforest Far, Far Away." Bloomberg, June 9, 2020. https://www.bloomberg.com/graphics/2020-disney-peru-deforestation/; Song, Lisa. 2019. "An (Even More) Inconvenient Truth: Why Carbon Credits For Forest Preservation May Be Worse Than Nothing." ProPublica, May 22, 2019. https://features.propublica.org/brazil-carbon-offsets/inconvenient-truth-carbon-credits-dont-work-deforestation-redd-acre-cambodia/.

Offset markets do not deliver net-zero aligned outcomes, nor do they provide the level of product differentiation and disclosure needed to assess net-zero alignment.

"Net zero" targets and goals now cover the majority of the global economy, including major public corporations and private sector firms.[7] Leading net-zero standards like the Science-based Targets Initiative (SBTi) do not allow for the use of carbon credits in progressing towards targets.[8] However, enforcement and accountability are lacking–many companies subscribed to these initiatives continue to plan for reliance on offsets, demonstrating the need for stronger regulation.[9] Commonly used forms of carbon removal, such as using trees or soils, carry high impermanence risks from wildfire, deforestation, or other disturbances.

In order to make sure carbon credits meet a buyer's risk management needs and intended purpose, markets need to differentiate between types of carbon credits and along crucial dimensions like permanence. However, offset markets do not track whether a credit represents permanent carbon removal, making it very difficult for buyers to differentiate between offsets according to their needs.[10] Further, the vast majority of supply in today's markets do not deliver credits for permanent carbon removal, and permanent removals command a significant premium.[11]

Offset markets are risky.

Carbon offset markets face an uncertain, potentially volatile future that may frustrate attempts to use offsets or derivative products to mitigate risk. Specifically, the underlying offset spot markets themselves are characterized by the following risks:

<u>Litigation risk</u>: Companies that use offsets to meet legal obligations—such as to cover greenhouse gas emissions increases from new construction under the California Environmental Quality Act (CEQA)—face litigation risks from using offsets. For example, building developers in San Diego County, California, were sued based on the lack of substantial evidence that the offsets they purchased from the voluntary offset market mitigated their greenhouse gas emissions.[12] As net-zero pledges and other

---

[7] Net Zero Tracker. n.d. https://zerotracker.net/about

[8] Science Based Targets Initiative (SBTi). 2021. SBTI Corporate Net-Zero Standard at page 21. SBTi. https://sciencebasedtargets.org/resources/files/Net-Zero-Standard.pdf.

[9] "Corporate Climate Responsibility Monitor 2022." New Climate Institute, 7 Feb. 2022, https://newclimate.org/resources/publications/corporate-climate-responsibility-monitor-2022 at Page 6: "For the majority of the 18 companies assessed in this report with an SBTi approved 1.5C (or 2C) compatible target, we would consider that rating either contentious or inaccurate, due to various subtle details and loopholes that significantly undermine the companies' plans (see Figure 3)."

[10] Frank, Sadie, Danny Cullenward, and Freya Chay. 2022. "Why Carbon Offset Disclosure Matters." CarbonPlan. February 8, 2022. https://carbonplan.org/blog/offset-disclosure-needs

[11] Joppa, Lucas, Amy Luers, Elizabeth Willmott, S. Julio Friedmann, Steven P. Hamburg, and Rafael Broze. 2021. "Microsoft's Million-Tonne CO2-Removal Purchase—Lessons for Net Zero." Nature 597, (September): 629–32). https://www.nature.com/articles/d41586-021-02606-3.

[12] Golden Door Properties, LLC v. County of San Diego. 2020. Cal. Ct. App. http://climatecasechart.com/case/sierra-club-v-county-of-san-diego-2/; Elfin Forest Harmony Grove Town Council v. County of San Diego. 2021. Cal. Ct. App., http://climatecasechart.com/case/elfin-forest-harmony-grove-town-council-v-county-of-san-diego/; Smith, Joshua Emerson. 2020. "Court Tosses San Diego County Climate Plan, Calls Carbon-Offset Program 'Unlawful.'" Los

corporate climate claims proliferate, there are also substantial legal risks that may arise from investor concerns over misleading information, potential anti-greenwashing enforcement efforts, or any resulting regulatory oversight of corporate claims. These emerging legal risks may implicate the perceived legitimacy of the offsets market more broadly.

Market/price risk*:* Empirical analysis has confirmed that depending on the trajectory of voluntary market standards, the offset market price outlook could change significantly.[13] For instance, the proliferation of net-zero targets has led to an increased focus on carbon removal—a distinct type of offset credit with specific use in leading net-zero voluntary standards. Since carbon removal tends to be more expensive and faces severe supply constraints, a market suddenly limited to carbon removal—through regulation or stricter voluntary standards for net-zero requirements—could result in a dramatic increase in prices and a decline in credit availability.

This dynamic could also play out if offset programs improve their quality standards by restricting project eligibility and lessening the amount of credits generated by each project. If either of these events happens, companies that have developed strategies based on the assumption of widespread cheap offsets will find themselves effectively exposed to elevated carbon prices, and thus, elevated transition risk.

Regulatory risk*:* Carbon offset markets also face policy and regulatory risks, including risks arising from offset projects located in emerging markets. For example, new regulations at the international level have resulted in commodity traders reporting increased policy and political risks when engaging in carbon trading.[14] Heightened regulatory risk may reduce the willingness of developers to engage in project development due to uncertainty over future eligibility and demand. Likewise, purchasers of derivatives contracts may be impacted by regulatory changes that reduce the supply of available credits.

Offset markets frequently violate the rights of Indigenous and local communities and allow existing polluters to perpetuate environmental injustice.

Offset projects across the world have enabled land grabs and exploitative contracts with Indigenous and local communities. The Peruvian government established a national park without consent on the land of the Indigenous Kichwa people in order to sell offsets to aviation and oil companies.[15] In Brazil, a REDD+ offset project on Indigenous Suruí land failed to adequately and consistently compensate members of the

---

Angeles Times, June 17, 2020.
https://www.latimes.com/california/story/2020-06-17/court-san-diego-carbon-offset-plan

[13] Bullard, Nathaniel. 2022. "Carbon Offsets Trading Could Go Two Very Different Ways." Bloomberg, January 21, 2022.
https://www.bloomberg.com/news/articles/2022-01-21/carbon-offsets-trading-could-go-two-very-different-ways

[14] White, Natasha. 2022. "World's Biggest Carbon Credit Load Pits Firms Against Ministers." Bloomberg, July 7, 2022.
https://www.bloomberg.com/news/articles/2022-07-07/world-s-biggest-carbon-credit-load-pits-firms-against-ministers

[15] Forest Peoples Programme (FPP). (2021, July 1). *Press release: Indigenous Kichwa community take Peruvian State and National Park to Court*. Forest Peoples Programme (FPP). Retrieved July 12, 2022, from https://www.forestpeoples.org/en/press-release/kichwa-take-Peru-state-PNAZ-court; Amazon Watch, "The Amazon Rainforest-sized Loophole in Net Zero: How Net Zero Pledges Can Lead to False Solutions for Amazon Rainforest and Climate Protection," 2021.
https://amazonwatch.org/assets/files/2021-the-amazon-rainforest-sized-loophole-in-net-zero.pdf;

community, fomenting divisions and conflict.[16] In Mexico, oil company BP vastly underpaid rural villagers for forest offset credits.[17] And in Uganda, thousands of villagers were forcibly evicted from their homes to form a Scandinavian-owned carbon offset project.[18] Additionally, extractive industries' purchase of carbon credits allows them to continue their industrial operations, which disproportionately pollute the air and water of low-income communities of color.[19]

Widely-adopted international standards and safeguards such as Verra's Verified Carbon Standard and Climate, Community, and Biodiversity Standards have not eliminated these issues, as claims of exploitation and rights violation persist within programs registered to these standards.[20] Rights violations have even been perpetrated by project developers in pursuit of offset credits which are themselves fraudulent. This is the case with the Madre de Dios offset project in the Peruvian Amazon,[21] where fraudulent offset credits sold to airlines have been generated by incursions into Indigenous territories, and the aforementioned project in Uganda.[22] Projects validated against Verra standards in Colombia have also faced accusations of fraudulent crediting.[23] Verra itself has recently pushed back against additional

---

[16] Bonilha, P. (2015, January 12). *Lideranças Paiter suruí Pedem Extinção de Projeto de Carbono com a natura: CIMI*. Conselho Indigenista Missionário. Retrieved July 12, 2022, from https://cimi.org.br/2015/01/36894/; Lithgow, M. (2017, March). *Analyzing the Environmental Injustices of Carbon Offsetting: The Limits of the California-REDD+ Linkage*. https://library2.smu.ca/bitstream/handle/01/26934/Lithgow_Matthew_MASTERS_2017.pdf?sequence=1&isAllowed=y

[17] De Haldevang, M. (2022, June 27). *BP Paid Rural Mexicans a "Pittance" for Wall Street's Favorite Climate Solution*. Bloomberg. Retrieved July 12, 2022, from https://www.bloomberg.com/features/2022-carbon-offset-credits-mexico-forest-bp/

[18] *Evicted for carbon credits: Norway, Sweden, and Finland displace Ugandan farmers for Carbon Trading*. oaklandinstitute.org. (2020, October 14). Retrieved July 12, 2022, from https://www.oaklandinstitute.org/evicted-carbon-credits-green-resources

[19] Kowalski, K. M. (2019, December 10). *Study: Black, low-income Americans face highest risk from power plant pollution*. Energy News Network. Retrieved July 12, 2022, from https://energynews.us/2019/12/11/study-black-low-income-americans-face-highest-risk-from-power-plant-pollution/

[20] Lang, C. (2022, April 2). Indigenous Kichwa community takes the Peruvian State and Cordillera Azul National Park to court. REDD-Monitor. Retrieved July 25, 2022, from https://redd-monitor.org/2021/07/02/indigenous-kichwa-community-takes-the-peruvian-state-and-cordillera-azul-national-park-to-court/; Amazon Watch, "The Amazon Rainforest-sized Loophole in Net Zero: How Net Zero Pledges Can Lead to False Solutions for Amazon Rainforest and Climate Protection," 2021. https://amazonwatch.org/assets/files/2021-the-amazon-rainforest-sized-loophole-in-net-zero.pdf;

[21] Lang, C.(2021, May 14). Madre de Dios Amazon REDD Project: EasyJet's phantom carbon credits are generated by logging the forest. REDD-Monitor, https://redd-monitor.org/2021/05/14/madre-de-dios-amazon-redd-project-easyjets-phantom-carbon-credits-are-generated-by-logging-the-forest/

[22] *Evicted for carbon credits: Norway, Sweden, and Finland displace Ugandan farmers for Carbon Trading*. oaklandinstitute.org. (2020, October 14). Retrieved July 12, 2022, from https://www.oaklandinstitute.org/evicted-carbon-credits-green-resources

[23] Clarke, J. S., & Barratt, L. (2021, May 4). Top airlines' promises to offset flights rely on 'Phantom credits'. Unearthed. Retrieved July 25, 2022, from https://unearthed.greenpeace.org/2021/05/04/carbon-offsetting-british-airways-easyjet-verra/; Hill, D. (2021, September 14). *EasyJet's Amazon carbon offsets project is even more problematic than you thought*. Retrieved July 25, 2022, from https://hilldavid.substack.com/p/easyjets-amazon-carbon-offsets-project; *Evicted for carbon credits: Norway, Sweden, and Finland displace Ugandan farmers for Carbon Trading*. oaklandinstitute.org. (2020, October 14). Retrieved July 12, 2022, from https://www.oaklandinstitute.org/evicted-carbon-credits-green-resources; Dufrasne, Gilles. "Two Shades of Green: How Hot Air Forest Credits Are Being Used to Avoid Carbon Taxes in Colombia." Carbon Market Watch, 30 June 2021,

standards and guidelines proposed by the Integrity Council for the Voluntary Carbon Market, another independent carbon market governance organization, claiming that the rigorous standards proposed by the group are "infeasible."[24] Meanwhile, climate solutions nonprofit CarbonPlan finds the proposed reforms "fundamentally modest," and claims "Verra's objection is about control."[25] This conflict exposes the limitations of relying on voluntary market standards and private ordering and suggests that oversight and enforcement by financial regulators is necessary to actually prevent the proliferation of low quality offsets, misleading claims, fraud, and rights violations.

CFTC should investigate the integrity of currently approved derivatives and their underlying carbon offsets, and develop qualifying standards for carbon offsets that effectively reduce greenhouse gas emissions and can serve as underlying commodities for approved derivatives.

Historically, the CFTC has played a role in shaping spot markets so they cannot be manipulated to enable reliable futures contracts. For example, the very successful benchmark natural gas futures contract on the Henry Hub was at first disallowed for six years, from 1984 to 1990, until more work was done to assure the spot was competitive and a meaningful indicator of the market price of gas.[26] In this case, CFTC delayed listing futures until significant improvements to the underlying spot market were achieved, a reliable spot was identified, and resulting contracts were carefully designed with qualifying standards that the Division of Economic Analysis found them "not likely to be readily susceptible to price manipulation or distortion," and further, "in the public interest." So, the CFTC's responsibility for a futures contract does give it authority to concern itself with the underlying spot market. Specifically, the Commodity Exchange Act makes it unlawful "to cheat or defraud or attempt to cheat or defraud" other commodity market participants; unlawful "to manipulate or attempt to manipulate the price" of commodities; and a felony "to manipulate or attempt to manipulate the price of any commodity" through "false," "misleading," or "knowingly inaccurate reports." As such, the CFTC has some authority to enforce against fraud and market manipulation in commodities markets.[27]

CFTC should develop qualifying standards for carbon offsets that effectively and permanently reduce 1 ton of greenhouse gas emissions, coordinating with NOAA, EPA, DOE, DOI, industry participants, and academic scientists to establish qualifying criteria. These criteria should include that emissions reductions or removals are:

- Additional;
- Represent 1 ton of GHG in CO_2e (carbon dioxide equivalent);

https://carbonmarketwatch.org/publications/two-shades-of-green-how-hot-air-forest-credits-are-being-used-to-avoid-carbon-taxes-in-colombia/

[24] "Course Correction Needed: ICVCM's Draft Core Carbon Principles and Assessment Framework on Wrong Track." Verra, 26 Sept. 2022, https://verra.org/icvcm-course-correction-needed/.

[25] Cullenward, Danny, et al. "Verra's Broadside against the Integrity Council Props up the Status Quo." *CarbonPlan*, 29 Sept. 2022, https://carbonplan.org/research/verra-integrity-council.

[26] Dearborn, N. W., The Developing Natural Gas Futures Market and Its Potential Impact on Domestic Natural Gas Markets. Energy Information Administration, Natural Gas Monthly, January 1990. https://books.google.com/books?id=SINE8Ej9snAC&pg=RA2-PA1&lpg=RA2-PA1&dq=A+market+for+natural+gas+futures+had+been+proposed+to+the+Commodity+Futures+Trading+Commission+(CFTC)+by+the+New+York+Mercantile+Exchange+(NYMEX)+in+1984,+but+was+not+approved+until+1990.&source=bl&ots=3hs_9FiMiR&sig=ACfU3U1zHmFBiKsVHEnQj4Xce1KeGq839A&hl=en&sa=X&ved=2ahUKEwjE4MXOz7b6AhV_FVkFHTRKBKUQ6AF6BAgCEAM#v=onepage&q&f=false

[27] See 7 U.S. Code § 6b, 7 U.S. Code § 9, 7 U.S. Code § 13, 17 CFR § 180.1.

- Permanent;
- Not claimed by multiple entities;
- Retired by the claimant; and
- Not in violation of the rights of Indigenous and local communities.

CFTC should also investigate the integrity of currently approved derivatives and their underlying carbon offsets. Specifically, CFTC should examine the self-certification of the GEO and N-GEO futures contracts by CME Group last year. The CFTC should investigate whether these contracts effectively met the core principle for avoiding products that are susceptible to manipulation. The self-certification documents for these contracts merely state that "The Contract is not readily subject to manipulation due to the deep liquidity and robustness in the underlying cash market, which provides diverse participation and sufficient spot transactions to support the final settlement index."[28] With all of the inherent problems in underlying markets (described above), the validity of this statement is questionable. The CFTC should investigate whether these contracts are subject to manipulation and consider delisting the contracts if it finds that this is the case.

CFTC should create a registration framework for offsets, offset registries and offset brokers, and conduct oversight of the existing registries to ensure adequate transparency and disclosure for market participants. (Question 24)

The main offset registries – Verra, ACR, CAR, and Gold Standard – play an important role in offset derivatives markets because they track ownership of the underlying offsets throughout their life cycle, including when they change ownership. The registries therefore function as "delivery points" at which futures contracts based on offsets are settled. The CFTC has broad authority over delivery points and could use this authority to bring oversight to registries in which offsets underlying derivatives contracts are tracked. As noted in a report by the International Swaps and Derivatives Association:

"It is important to ensure registries have consistent and transparent rules on how offsets are verified, counted and transferred. Failure to correctly track and safeguard carbon credits, or a gap in standards in the creation of a carbon credit itself, could lead to fraudulent practices, such as greenwashing and double counting. As with other rules for delivery points, consistent and transparent requirements for carbon registries help guarantee the legitimacy of transactions and ensure they are entered for legitimate purposes."[29]

Offset brokers are another set of market participants that should register information with the CFTCs offset registry. Offset brokers are for-profit companies that purchase offsets on behalf of other customers, for example businesses seeking to meet net zero goals. These companies typically purchase offsets from developers after being paid by their customers and, in theory, immediately retire the credit (sometimes, without ever transferring ownership to the customer who is actually taking credit for the offset). These businesses appear to operate without any government supervision, raising three main concerns: 1) the

---

[28] CME Group, "CFTC Regulation 40.2(a) Certification. Initial Listing of the Physically-Delivered CBL Nature-Based Global Emissions Offset Futures Contract. NYMEX Submission No. 21-183," July 16, 2021, available at https://www.cftc.gov/sites/default/files/filings/ptc/21/07/ptc072921nymexdcm001.pdf.
[29] ISDA, "Voluntary Carbon Markets: Analysis of Regulatory Oversight in the US" (New York: 2022), available at https://www.isda.org/a/93WgE/Voluntary-Carbon-Markets-Analysis-of-Regulatory-Oversight-in-the-US.pdf.

registry database might list the broker as the purchaser and retiree of an offset, making it difficult to verify the customer's claim to the offset;[30] 2) the brokers may be selling the credits at a significant markup; and 3) without government oversight, it is impossible to know for certain whether these businesses are engaging in double-counting or other fraudulent behavior. The CFTC should use its anti-fraud and anti-manipulation authority over spot markets to investigate the role that these companies play in the offsets markets and whether they are affecting the quality of derivatives based on offsets.

The CFTC should keep a public database of all listed carbon offset derivatives, including underlying offsets and the corresponding offset registries, and the ownership and retirement status of all underlying offsets.

CFTC should pursue cases of individual project fraud.

The CFTC should use its authority under the CEA to bring enforcement actions cracking down on fraud and manipulation in offset spot markets. Specifically, the CFTC should consider investigating and bringing enforcement actions against projects that demonstrably failed to deliver on what they promised, including the many clear examples of projects that are not permanent or additional.[31] Bringing enforcement actions against even a few project developers could send an important market signal and strongly disincentivize developers from selling offsets that are not actually additional or permanent.

CFTC should develop a working group to study both the risk to investors associated with carbon offsets and derivatives (legal, reputational, and regulatory risks) and the systemic climate financial risk created by their availability and usage.

The CFTC Market Risk Advisory Committee recommended in 2020 that "CFTC should coordinate with other regulators to support the development of a robust ecosystem of climate-related risk management products."[32] Products such as carbon offsets and derivatives may be effective for risk transfer and hedging for individual financial institutions, but will ultimately contribute to, rather than ameliorate, systemic climate risk that harms the financial system, consumers, and the broader economy.[33]

---

[30] Sadie Frank, Danny Cullenward, and Freya Chay, "Why carbon offset disclosure matters," Carbon Plan, February 8, 2022, available at https://carbonplan.org/research/offset-disclosure-needs.

[31] See, for example, Lisa Song and Paula Moura, "An Even More Inconvenient Truth: Why Carbon Credits for Forest Preservation May Be Worse Than Nothing," ProPublica, May 22, 2019, available at https://features.propublica.org/brazil-carbon-offsets/inconvenient-truth-carbon-credits-dont-work-deforestation-redd-acre-cambodia/; Ben Elgin, "This Timber Company Sold Millions of Dollars of Useless Carbon Offsets," Bloomberg, March 17, 2022, available at https://www.bloomberg.com/news/articles/2022-03-17/timber-ceo-wants-to-reform-flawed-carbon-offset-market; Lisa Song and James Temple, "A nonprofit promised to preserve wildlife. Then it made millions claiming it could cut down trees," MIT Technology Review, May 10, 2021, available at https://www.technologyreview.com/2021/05/10/1024751/carbon-credits-massachusetts-audubon-california-logging-co2-emissions-increase/.

[32] CFTC, "Managing Climate Risk in the U.S. Financial System," Sept 2020. https://www.cftc.gov/PressRoom/PressReleases/8234-20

[33] See E.g., "Wall Street's Favorite Climate Solution is Mired in Disagreements," Bloomberg, June 2021. https://www.bloomberg.com/news/features/2021-06-02/carbon-offsets-new-100-billion-market-faces-disputes-over-trading-rules?sref=f7rH2jWS

In dealing with climate risk–which poses a broad and deep emerging threat to financial stability and the financial health of communities and households across the country–risk transfer cannot be a substitute for true systemic risk mitigation.[34] While derivatives may help individual institutions hedge climate change risks in the short-term, climate change is not a short-term challenge, and risk transfer products allow institutions to support further fossil fuel expansion which exacerbates climate change and generates new systemic physical risk. CFTC should research the use and impacts across all of these hedging products alongside the Financial Stability Oversight Council (FSOC) to better understand the potential microprudential and macroprudential implications.

Finally, if CFTC finds that integrity issues within the carbon offsets markets cannot be resolved, it should disallow carbon offset derivatives trading. Thank you for your careful attention to these issues. If you have any questions please reach out to Roshan Krishnan (roshan@amazonwatch.org) and Alex Martin (alex@ourfinancialsecurity.org).

Sincerely,

Amazon Watch
Americans for Financial Reform Education Fund

Accelerate Neighborhood Climate Action
Action Center on Race and the Economy
Animals Are Sentient Beings
Biofuelwatch
Blue Ridge Environmental Defense League
Businesses for a Livable Climate
Call to Action Colorado
CatholicNetwork US
Center for Biological Diversity
Chapel Hill Organization for Clean Energy
Citizen's Alliance for a Sustainable Englewood
Clean Air Action Network of Glens Falls (NY)
Climate Action California
CO Businesses for a Livable Climate
Coalition Against Pilgrim Pipeline - NJ
Community for Sustainable Energy
Don't Waste Arizona
Extinction Rebellion San Francisco Bay Area
Family Farm Defenders
Friends of the Earth US
Grand(m)others Act to Save the Planet
Greater New Orleans Housing Alliance
Green State Solutions
Hands off the Hudson

[34] Financial Stability Oversight Council, "Report on Climate-Related Financial Risk," 2021. https://home.treasury.gov/system/files/261/FSOC-Climate-Report.pdf

Honor the Earth
I-70 Citizens Advisory Group
Indivisible Ambassadors
Institute for Agriculture and Trade Policy
Intheshadowofthewolf
Larimer Alliance for Health, Safety and Environment
Mayfair Park Neighborhood Association Board
Mental Health & Inclusion Ministries
Montbello Neighborhood Improvement Association
MoveOn.org Hoboken
North American Climate, Conservation and Environment
North Country Earth Action
North Range Concerned Citizens
Oil and Gas Action Network
Physicians for Social Responsibility Pennsylvania
Private Equity Stakeholder Project
Protect All Children's Environment
PSR Arizona
Public Citizen
Putnam Progressives
RapidShift Network
Revolving Door Project
River Guardian Foundation
Save EPA (former employees)
Scientist Rebellion, Turtle Island
Small Business Alliance
SOMA Action
Southwest Organization for Sustainability
Spirit of the Sun, Inc.
System Change Not Climate Change
Taproot Earth
Terra Advocati
The Green House Connection Center
The Greenlining Institute
The Sunrise Project
TIAA-Divest!
Unite North Metro Denver
Western Slope Businesses for a Livable Climate
Womxn from the Mountain
Working for Racial Equity
10 Votes
350 Seattle
350.org

Individuals:

Amy Sherwood, Climate Reality Project
Barbara Brandom, MD
Clayton Dewey, Denver DSA
David Bezanson, Ph.D.
David S Newman, Ph.D.
Dennis Wilwerding, Wilwerding Consulting
Ed Behan, Larimer Alliance for Health, Safety, & the Environment
Elysa Firestone, 350Colorado
John Alder, Peace and Justice Action League of Spokane
Larry Coble, 350 Chicago
Manuel J. Espinosa, The Phoenix Group
Marie Venner, Former Natural Resources Unit Manager, CO DOT
Patrick Santana, Vibrant Littleton
Rabbi Eliot J Baskin, D Min
Samantha Iyer, Assistant Professor
Scott Denning, Professor
Sr. Anna Koop, Denver Catholic Worker and Sister of Loretto
Sr. Joan Agro, OP
Stephen Baines, Professor