



October 7, 2022

Mr. Christopher Kirkpatrick
Secretary
Commodity Futures Trading Commission
1155 21st St. NW
Washington, DC 20581

Dear Mr. Kirkpatrick,

The Futures Industry Association (FIA)¹ welcomes the opportunity to respond to the Commodity Futures Trading Commission (“CFTC” or “Commission”) [Request for Information \(RFI\)](#), which seeks public comment on climate-related financial risk to better inform the agency’s understanding and oversight of climate-related financial risk as pertinent to derivatives and underlying commodities markets.

FIA members know that risks posed by global climate change and energy transition are real and urgent. They include direct financial impacts from extreme weather, as well as the instability associated with fundamental changes in how the world does business.

Commodity markets, as well as related futures, options and centrally cleared derivatives markets, are playing -- and will continue to play -- a critical role in helping the global economy navigate and manage these risks. As the leading global trade organization for these markets, FIA members are committed to working with the public and private sectors to help foster robust and transparent market solutions to help meet the needs of a lower carbon economy.

In just the last few years, we have witnessed extraordinary growth in carbon, climate and sustainability-linked markets. We expect this growth to continue on an upward trajectory in the years to come. FIA believes in the power of regulated markets to drive price discovery and provide opportunities for risk management that are critically important for the transition to a more sustainable economy. We therefore encourage policymakers and regulators, including the CFTC, to allow for continued innovation and growth of nascent and emerging markets and products.

FIA welcomes the goal of the CFTC's RFI of promoting public dialogue toward better understanding of climate-related financial risk related to derivatives and their underlying commodities markets. We also believe it is important that the CFTC focus on its jurisdictional remit in weighing action on climate-related matters and coordinate closely with other financial regulators, both in the US and internationally, to foster global clarity for these important markets, including requirements related to data collection, disclosure, scenario analysis and stress testing. The Commodity Exchange Act (“CEA”), existing CFTC regulations, and self-regulatory regime administered by the National Futures Association (“NFA”) provide a flexible, principles-based regulatory framework that allows for effectively regulation of existing and new environmental products.

¹ FIA is the leading global trade organization for the futures, options and centrally cleared derivatives markets, with offices in Brussels, London, Singapore and Washington, D.C. Our membership includes clearing firms, exchanges, clearinghouses, trading firms and commodities specialists from about 50 countries as well as technology vendors, law firms and other professional service providers.



FIA’s response seeks to address core risk management issues related to the listed derivatives markets, focusing on specific topics outlined in the RFI related to data, scenario analysis and stress testing, risk management, product innovation, voluntary carbon markets, digital assets, public-private partnerships, and capacity and coordination.

FIA Efforts Related to Sustainable Finance and Market-Driven Energy Solutions

FIA is committed to assisting the private and public sectors to meet the needs of a lower carbon economy.

In September 2020, FIA published a policy paper titled, "[How derivatives markets are helping the world fight climate change.](#)" The paper highlights existing industry solutions and potential partnerships with the public sector to help build a more sustainable economy.

In 2021, FIA published a [2021 Sustainable Finance Report](#) to highlight the derivatives industry’s work on climate-related policy and other efforts to combat climate change. FIA also joined three major trade groups to represent market participants in the derivatives industry in the broader conversation about climate change and sustainable finance.

- FIA joined the [Taskforce on Scaling Voluntary Carbon Markets](#) (“TSVCM”), a private sector-led initiative working to scale an effective, efficient, and global voluntary carbon market. The goal of the Taskforce was to gather stakeholders across the carbon markets value-chain to put forth a fully functional voluntary carbon market that can scale up to effectively reduce emissions. Following two consultations, the TSVCM formed The Integrity Council for Voluntary Carbon Markets (“IC-VCM”), an independent governance body for the voluntary carbon market which seeks to set and enforce global threshold standards. The purpose of these standards is to allow high-quality carbon offsets to channel finance towards genuine and additional greenhouse gas reductions and contribute to climate resilient development.
- The [Global Sustainable Finance Council](#) (“GSFC”) welcomed FIA as a member. Sponsored by the International Capital Markets Association, the GSFC’s objective is to bring together key global and regional associations and other stakeholders to coordinate and promote sustainable finance efforts and act as a representative counterparty to the official sector on sustainable finance policy matters.
- FIA also joined the US Climate Finance Working Group, a body of 11 financial services trade associations. The group published its [Principles for a US Transition to a Sustainable Low-Carbon Economy](#) in February 2021 and since then has met on key issues related to sustainable finance.

Jurisdiction of the CFTC

FIA appreciates the efforts of the CFTC to encourage public dialogue on the impact of climate change on the commodity and financial markets and how the impact and effects of climate change can be mitigated by commodity derivatives instruments. As noted above, FIA has sought out opportunities to bring the expertise of its members to bear on private and public-sector initiatives. And, while FIA has sought to lend its expertise to climate-related issues, we have endeavored to do so judiciously, focusing where



climate risks and exchange-traded and cleared derivatives markets intersect. We believe we can add the most value in the areas where we have the most expertise and should generally defer to other industry experts where derivatives are not directly implicated.

The CEA² gives the CFTC exclusive regulatory jurisdiction with respect to commodity derivatives markets³ (*i.e.*, “commodity interests”)⁴ and enforcement authority over underlying commodities markets.⁵ In exercising its regulatory and enforcement authority over the decades, the CFTC has developed unique expertise in these areas. We appreciate that the CFTC’s jurisdiction on climate is limited by the statutory authority provided in the CEA.

To the extent that the CFTC determines that additional rules or regulations are needed within the scope of its authority, we further encourage the CFTC to work through the formal rulemaking process to consider the costs and benefits and provide the public sufficient opportunity for public comments on the specific proposal before promulgating a final regulation. Climate issues are interconnected with the global economy and oftentimes the purview of other federal and state agencies. We urge the CFTC not to take action short of the deliberative processes provided for in the CEA and Administrative Procedure Act.

At present, we do not see a compelling need for significant new regulations by the CFTC to ensure that regulated entities and market participants are appropriately accounting for climate-related financial risks. We believe the principles-based regulatory framework established by the CEA and administered by the CFTC and NFA provides the foundation for effective regulation and oversight of climate-related derivatives markets now, and in the future.

Data

As noted above, the CFTC’s exclusive jurisdictional reach is limited to transactions in derivatives and to the extent certain physical commodities impact “commodity interests”, to prosecuting fraud and manipulation with respect to these physical commodities. To fulfill this mission, the CFTC requires regulated entities to file numerous reports. FIA urges caution in requiring more information and data from clearing members and exchanges related specifically to climate-related listed derivatives products as climate assessments and disclosure are all still developing.

FIA acknowledges that, to date, market participants are presented with significant challenges related to climate markets, including a lack of shared standards and criteria for the quality of carbon offsets and credits, a lack of a transparent process for reviewing and verifying offset projects against the standards, and a lack of consistency across registry systems and other similar mechanisms for the issuance, transfer, and retirement of offsets and credits.

FIA believes further study is necessary to consider whether there are data standards or definitions that should be incorporated into existing reporting requirements. FIA urges the CFTC to consider whether existing data reporting requirements for registered entities could yield relevant climate-related data for the agency. FIA also encourages the CFTC to consider entering into Memorandums of Understanding (“MOUs”) with other US agencies to gather data that is already being reported by registered entities or

² 7 USC § 1 *et seq.*

³ Sec. 2(a)(1) and Sec. 4b-1 of the CEA.

⁴ 17 CFR § 1.3 (defining “Commodity Interest”).

⁵ Sec. 1a(9) of the CEA.



their affiliates. This data may help the Commission fulfill its mandate without new, possibly duplicative, reporting requirements.⁶

Collection of information relating to commodities that do not serve as an underlier to “commodity interests” and do not otherwise have direct or a quantifiable indirect impact on “commodity interests” should be analyzed further in the context of CFTC’s “national public interest” standard.⁷

Scenario Analysis and Stress Testing

Regulators, in their role conducting supervisory and risk assessments of financial institutions, already employ tools such as scenario analyses and stress testing exercises to monitor financial institutions. However, climate stress testing and scenario analysis specifically remain in their infancy, both in the US and globally. In September 2022, for example, US Acting Comptroller of the Currency Michael J. Hsu raised concerns that “the muscle memory of capital stress testing is more likely to handicap climate scenario analysis than to help it.”⁸ For these reasons, FIA urges caution in developing long-term stress testing scenarios for derivatives market participants subject to CFTC oversight. FIA’s view is it is premature to require registered entities and registrants to incorporate climate risks for commodity-related derivatives into stress testing or existing risk management processes, as registrants are already required to establish and routinely update their risk management programs as new risks arise.

Additionally, the inclusion of stress scenarios that capture acute physical risk is likely relevant to CFTC registered entities that clear products and asset classes that are exposed to the risk of climate-related disaster events (i.e., those events that occur over a short timeframe). As supported by current CFTC regulations, derivatives clearing organizations (“DCOs”) already employ stress scenarios in their stress testing that capture these types of events. Current risk management expectations are sufficient to address all material risks, climate change included.⁹

Risk Management

FIA members know that climate change poses a serious risk to the global economy and to our markets. The risks include direct financial risks including physical and transition risks such as extreme weather events and changes in policy as the economy begins to decarbonize.

⁶ <https://www.cftc.gov/IndustryOversight/MarketSurveillance/CFTCMarketSurveillanceProgram/index.htm>

⁷ FIA Response to RFI Question 2 – “Would it help the Commission, registered entities, registrants, market participants and/or the public to understand and/or to manage climate related financial risk if Commission reporting requirements included information about climate-related aspects of listed derivatives products, reported transactions, and/or open positions? Are there data standards or definitions that the Commission should consider incorporating into any such reporting?”

⁸ <https://www.occ.gov/news-issuances/speeches/2022/pub-speech-2022-106.pdf>

⁹ FIA Response to RFI Question 6 and 7 – “Is a long-term (e.g., 30-year or 50- year) stress testing scenario relevant for derivatives markets subject to CFTC oversight? Is there a more relevant set of forward-looking climate relevant scenarios? Should these scenarios account for geographical stress? Should these scenarios try to target certain asset types? Can scenarios be customized to be more relevant for certain types of derivatives markets or registered entities?” and “Should registered entities and registrants be required to incorporate climate stress tests into their risk management processes? Do registered entities and registrants have the capability currently to conduct climate related stress tests? If not, what would be needed in order to achieve this capability and on what timeline?”



Derivatives markets play a critical role in the global economy, providing price discovery on a wide variety of goods and commodities. These markets provide important hedging mechanisms for businesses to manage a wide variety of risks attendant to their operations.

The core risk management functions of derivatives markets are integral for the global response to climate change. By discovering prices for everything from a barrel of crude oil to a megawatt of solar energy to a ton of CO₂, our markets help businesses and policymakers understand the true costs of climate change, and, importantly, they provide tools for energy producers and commercial end users to free up capital for innovation that will help the world transition to a low-carbon future. Well-functioning markets help businesses find ways to quantify and mitigate risk and meet regulatory objectives related to climate change risk. Functioning markets also play a critical and necessary role for commercial firms that have made important commitments related sustainable finance. Several large global corporations have made voluntary and substantial public climate commitments to achieve ambitious goals aligned with economic decarbonization.

Commercial and financial firms, which are heavily regulated and are held responsible for the safety and soundness of the markets in which they operate, take into consideration several factors when considering whether to enter a new market or clear new products. Through our engagement in projects like the TSVC, FIA members have identified several specific legal areas related to risk management that require consideration for an efficient global marketplace.

For example, FIA is acutely aware of the importance of closeout netting to clearing firms' management of counterparty credit risk and their regulatory capital obligations. Oftentimes, the availability of closeout netting under governing law is a binding constraint to a firm's ability to serve certain derivatives markets. There will need to be legal certainty on market issues such as netting and the enforceability of collateral transfers for carbon markets to flourish. Additionally, the legal nature of carbon offsets and credits, including issues related to reversibility and insolvency, must be considered.

Market participants face other significant challenges, including a lack of shared standards and criteria for the quality of carbon offsets and credits, a lack of a transparent process for reviewing and verifying of offset projects against the standards, and a lack of consistency across registry systems and other mechanisms where those systems would issue, transfer, and retire offsets and credits – all of which creates uncertainty and confusion. Absent legislative action that would provide the CFTC expanded authority to address these challenges, FIA urges the CFTC to support industry-led efforts to address uncertainty and confusion in the nascent markets. For example, the CFTC could support the work of groups like the TSVC, the private sector-led initiative working to scale an effective and efficient voluntary carbon market, and their new, independent governance body, the IC-VC.

A lack of harmonization across jurisdictions, and within the US regulatory system, in these and other technical areas is a key risk to consider, which could inhibit the scaling of these markets to meet the goals of a lower carbon economy. We therefore encourage the CFTC to coordinate with regulators both in the US and in other jurisdictions prior to taking any regulatory action.

When there is harmonization across jurisdictions and standardization and certainty for market participants, it fosters a transparent price discovery process.

FIA encourages the CFTC to take a holistic view of any new regulations or actions that are under consideration, including any regulations or actions related to public disclosure, both to avoid conflicts and



to allow appropriate time and opportunity for industry input. For example, the US Securities and Exchange Commission (“SEC”) is engaging in a substantial rulemaking related to climate disclosure that seeks to incorporate climate risk for registered entities at a firmwide level. Assuming the rulemaking were to be adopted as proposed, implementation of this proposed rule along with a separate disclosure regime imposed by the CFTC applicable to only the CFTC registered subsidiaries within the firmwide organization would be potentially redundant and confusing. Distinguishing the climate-related financial risk that may be posed to an organization’s separate swap dealers, futures commission merchants, introducing brokers, commodity trading advisors and commodity pool operators may be a complex and significant undertaking with no material additional benefit to the disclosure provided by the parent holding company of these subsidiaries as provided on a firmwide basis. FIA urges the Commission to continue to work with other domestic and international regulators and standards setters as it considers any new action related to climate-risk.¹⁰

Importantly, FIA believes it may be premature for registered entities and/or registrants to determine if they need to adapt their risk management frameworks -- including, but not limited to, margin models, scenario analysis, stress-testing, collateral haircuts, portfolio management strategies, counterparty and third-party service provider risk assessments, and/or enterprise risk management programs -- to specifically address climate-related financial risk. Banks, for example, should continue to adapt margin models for risks they deem appropriate. Climate change will certainly present numerous risks over the coming years – both transition and physical, among others. Registered entities and registrants are regularly adapting their internal risk taxonomies to consider how to incorporate emerging risks organizationally within their existing risk management framework.

Further, as noted above with respect to stress testing, the CFTC’s current principles-based regulatory framework already appropriately lays out the policies and procedures a DCO is required to use in addressing the range of risks it faces in its margin modelling. A DCO’s margin models are designed to yield margin requirements that are commensurate with the risks of the products and portfolios it clears, including for climate-related financial risks. Those margin requirements are designed to meet at least a 99% portfolio-level coverage standard. So, where relevant to a DCO’s products, if climate-related financial risks result in price movements over a time period of under five days, they are already captured by a DCO’s margin requirements. This is especially true for margin models calculated for products tied to asset classes that are exposed to the risk of climate-related disaster events.¹¹

Product Innovation

Market-based innovations in derivatives markets are vital to addressing climate change concerns. Derivatives markets are naturally innovative and have already positively influenced sustainable finance strategies around the globe through their support of new products and trading venues. Indeed, renewable project development is deeply dependent on derivative markets to thrive and grow.

¹⁰ FIA response to RFI Question 13 – “The Commission staff is evaluating the Commission’s public disclosure, including public information, requirements to assess whether existing requirements need to be updated to effectively provide decision-useful, consistent, and comparable information on climate related risks. Are there ways in which updated disclosure requirements could aid market participants in better assessing climate-related risks?”

¹¹ FIA response to RFI Question 8 – “How might registered entities and/ or registrants need to adapt their risk management frameworks—including, but not limited to, margin models, scenario analysis, stress-testing, collateral haircuts, portfolio management strategies, counterparty and third-party service provider risk assessments, and/or enterprise risk management programs—to address climate-related financial risk?”



The listed derivatives markets have a strong track record of success in scaling high-integrity markets for a variety of asset classes. We are confident that new and existing exchanges, in collaboration with market participants and self-regulatory authorities, will develop the derivatives products necessary to support robust voluntary primary carbon markets. We are also confident that market participants will be able to trade these listed derivatives products with confidence given the comprehensive set of regulations to which these products are already subject across the world.¹²

Derivatives products are used today to promote sustainable project development, manage climate related financial risk, facilitate price discovery for climate-related financial risk, and/or allocate capital to climate benefiting projects.¹³

Examples include:

- Carbon markets – futures on carbon allowances have become a core component of cap-and-trade schemes. They complement the issuance of allowances by providing a continuous source for price discovery and risk management. In plain English, these markets work a lot like other commodity markets – everyone looks to them for the price on carbon. The largest market is in Europe, but there also are two regional markets in the US – The Regional Greenhouse Gas Initiative (“RGGI”) in the east, and the California Cap-and-Trade Program in the west. If policymakers want to support a transparent price for carbon that drives capital allocation in the United States, FIA strongly believes these markets are the best way to do so. FIA encourages the CFTC to monitor developments in the US state and regional regulated markets, including utilizing tools like the Commission’s advisory committees, and to ensure any action taken by the Commission does no harm to these markets or duplicates efforts in the regulatory space. Additionally, FIA welcomes the private-sector led effort of the IC-VCM to set and enforce a definitive global threshold for high-quality carbon offsets.¹⁴
- Energy and natural resource markets – both the supply of and the demand for electricity are extremely sensitive to weather, and the more extreme weather becomes, the more it affects supply and demand for electricity. For example, Winter Storm Uri had a significant impact on power prices in Texas because of the disruption to the power supply that winter. Hotter than normal summers can create higher demand for electricity to power air conditioning in residential and

¹² For example, the US Commodity Exchange Act requires designated contract markets (exchanges) to monitor and enforce the trading of products for market abuse, to ensure any listed product is not subject to manipulation, to collect information on traders and their trade positions, to set position limits on products to avoid market manipulation, to ensure the segregation and protection of customer funds, and to ensure the financial integrity of these markets. See CEA Section 5, 7 U.S.C. § 7; *see also* Designated Contract Markets, Commodity Futures Trading Commission, <https://www.cftc.gov/IndustryOversight/TradingOrganizations/DCMs/index.htm>.

¹³ FIA response to RFI Question 18 - *“What derivatives products are currently used to manage climate related financial risk, facilitate price discovery for climate-related financial risk, and/or allocate capital to climate benefiting projects? Please explain how these products are used, negotiated, and traded. What, if any, conditions, including market practices and/or regulatory requirements, may constrain or promote their expanded use or development to address climate-related financial risk? Are there ways in which Commission regulations or guidance could better address particular considerations relating to the listing of these types of products for trading?”*

¹⁴ <https://icvcm.org/public-consultation/>



commercial settings. Electricity futures markets are very well established in the US and widely used by utilities to manage their price risks. Electricity has historically been among the most volatile of all commodities because 1) demand can be extremely variable, and 2) there are challenges to long-term, grid-scale storage. The supply side of power markets could change dramatically, however, if and when new methods for storing electricity are developed.¹⁵ Any such storage facilities will need to be financed, and the companies providing that financing will need to hedge their risks. That in turn points to another key role for the electricity futures markets as a potential key input in project finance. Additionally, in the transition to cleaner energy price discovery and price risk management for traditional copper, aluminum and critical minerals and the need for price discovery and price risk management are key. These metals and minerals are necessary components for electric vehicles, wind and solar power, as well as the infrastructure that transports and stores renewable energy and electricity.

Beyond these examples, there are several potential innovations in climate-risk-related technology that could shape derivatives product innovation or impact the derivatives markets overseen by the Commission. FIA member exchanges are offering tools necessary to access emerging ESG markets and help clients manage risk to achieve their sustainability objectives and meet their risk management needs.¹⁶

Examples include:

- There is rising demand for battery metals such as lithium due to the increase in demand for electric vehicles as well as advances in battery technology – The London Metal Exchange (“LME”)¹⁷ and the CME Group (“CME”)¹⁸ recently introduced futures on cobalt and lithium. Additionally, firms pursuing Long Duration Energy Storage (LDES) applications are relying on new battery chemistries based on iron, silicon, sodium and other elements and minerals.
- There is rising demand for biofuels. The Intercontinental Exchange (“ICE”)¹⁹ and CME²⁰ offer futures on ethanol, biodiesel, and used cooking oil. As with other energy commodities, the futures support price discovery and risk management.
- There is rising demand for carbon emission offsets and credits, as companies work to meet ambitious goals for reducing greenhouse-gas emissions. ICE offers futures on voluntary carbon offsets²¹ and on physically delivered California Air Resources Board greenhouse gas emissions offset credits²² from the "California Cap and Trade Program" compliance market, as well as in

¹⁵ <https://e360.yale.edu/features/in-boost-for-renewables-grid-scale-battery-storage-is-on-the-rise>

¹⁶ FIA response to RFI Question 20 – “Are there any potential innovations in climate-risk-related technology that could shape derivatives product innovation or are otherwise likely to impact the derivatives markets overseen by the Commission?”

¹⁷ <https://www.lme.com/en/news/press-releases/2021/lme-progresses-sustainability-agenda-with-launch-of-new-lithium-and-scrap-cash-settled-futures>

¹⁸ <https://www.cmegroup.com/trading/metals/other/lithium-futures.html>

¹⁹ <https://www.theice.com/energy/biofuels>

²⁰ <https://www.cmegroup.com/trading/agricultural/biofuel.html>

²¹ <https://ir.theice.com/press/news-details/2022/ICE-Launches-its-First-Nature-Based-Solutions-Carbon-Credit-Futures-Contract/default.aspx>

²² <https://www.theice.com/products/71544060/California-Carbon-Offset-Futures>



connection with the RGGI²³ compliance market. CME²⁴ offers voluntary carbon emissions offset futures. Nodal Exchange²⁵ offers several types of physically delivered contracts in voluntary carbon offsets and emission reduction futures.

- Both corporations and the general investing public are increasingly seeking efficient ways to track the performance of companies that are leading the way on reducing emissions. Exchanges including Eurex,²⁶ CME²⁷ and ICE²⁸ offer climate impact indices.
- There have been significant advances in the availability of data on the risk of physical damage to commodity industry infrastructure including power plants, refineries and farms. Better data will lead to a better understanding of the potential impact on prices in futures markets. In other words, futures markets will work more efficiently if market participants have a better way to model the risk of physical damage.

Voluntary Carbon Markets

Voluntary carbon markets are a prime example of the kind of innovation financial markets can provide to the global economy to help address climate-related risks. FIA is committed to working with the public and private sectors to develop voluntary carbon markets that are of the highest integrity, resilience, and transparency.

Regulators and industry participants are presently working in several jurisdictions and international bodies to develop standards for emerging environmental products, carbon products chief among them.

Regulatory certainty is necessary for robust participation in markets, and carbon markets are no exception. FIA encourages the CFTC to coordinate with global regulators and standard-setting bodies to examine their treatment of voluntary carbon offsets to better align these programs across jurisdictions.²⁹

FIA notes that established and mature markets typically have cash-settled contracts as well as contracts that allow for physical delivery to encourage diversified participation by end users to allow hedging and risk management functions. In addition, physical delivery can support “cash convergence” and therefore, a higher degree of transparency in these markets. Through our engagement with the TSVCM, FIA has encouraged private sector-led efforts to promote the introduction of carbon spot and futures contracts and design the contracts to be homogeneous across markets, with the hope of improving primary and secondary market liquidity and price discovery. More standardized contracts will improve primary and secondary market liquidity and should be traded in parallel with contracts that allow for physical delivery.

²³ <https://www.theice.com/products/71544087/Regional-Greenhouse-Gas-Initiative-Vintage-2022-Future>

²⁴ <https://www.cmegroup.com/markets/energy/emissions/voluntary-carbon-emissions-offset-futures-product-group.html>

²⁵ <https://www.nodalexchange.com/products-services/environmental/>

²⁶ <https://www.eurex.com/ex-en/markets/idx/Equity-and-Index-ESG-Derivatives>

²⁷ <https://www.cmegroup.com/trading/equity-index/us-index/emini-sandp-500-esg-futures.html>

²⁸ https://www.theice.com/publicdocs/ICE_MSCI_Climate_Index_Futures_Factsheet.pdf

²⁹ FIA response to RFI Question 22 – “Are there way in which the Commission could enhance the integrity of voluntary carbon markets and foster transparency, fairness, and liquidity in those markets?”



FIA supports the standardization of voluntary carbon market offsets and efforts to enhance the integrity of the voluntary carbon markets generally; however, we urge the CFTC not to establish a registration framework for market participants specific to the voluntary carbon markets. Such registration requirements could inhibit the growth of these emerging markets, which are in need of liquidity.³⁰ A registration regime would likely have a disproportionate impact to smaller market participants, such as farming organizations, that are keen to contribute to the overall success of carbon markets, but may find that registration creates insurmountable barriers to entry.

While, unfortunately, there are aspects of virtually all asset classes that are susceptible to fraud and manipulation, FIA does not view the voluntary carbon markets as an area that requires enhanced Commission oversight. It is worth noting that Section 750 of the Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)³¹ established an interagency working group to “conduct a study on the oversight of existing and prospective carbon markets to ensure efficient, secure, and transparent carbon markets, including oversight of spot markets and derivative markets.”

A little over a decade ago, on January 18, 2011, the interagency working group, led by the CFTC, released their report. Based on its study, the interagency group recommended to “rely on the existing regulatory oversight program, as enhanced by the Dodd-Frank Act, for both existing and prospective carbon allowance and offset derivatives markets.” The interagency group went on to state that the “current legal framework for oversight of derivative markets, as enhanced by provisions in the Dodd-Frank Act...will provide for robust and effective oversight of carbon derivatives markets and closely linked derivative markets, such as those based on energy commodities.”³²

Digital Assets

Although Blockchain/distributed ledger technology (DLT) and digital assets usage in climate-related finance is still very much in its infancy, the underlying technology has strong potential to accelerate climate reduction efforts for CFTC registrants and other market participants. For example, Blockchain/DLT allows for deeper access to underlying data and confirmation of that data’s provenance, allowing investors to potentially have access to real-time raw data, which could minimize risks of greenwashing and use of process validation. Risk reduction is possible with this greater visibility since issuers have greater credibility by being associated with a carbon project.³³

Public-Private Partnerships/Engagement

The listed derivatives markets have a strong track record of success in scaling high-integrity markets for a variety of asset classes, with exchanges often acting as regulator and standard-setter to deploy industry-

³⁰ FIA response to RFI Question 24 – “Should the Commission consider creating some form of registration framework for any market participants within the voluntary carbon markets to enhance the integrity of the voluntary carbon markets? If so, what would a registration framework entail?”

³¹ Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law No. 111-203, 124 Stat. 1376 (2010).

³² FIA response to RFI Question 23 – “Are there aspects of the voluntary carbon markets that are susceptible to fraud and manipulation and/or merit enhanced Commission oversight?”

³³ FIA response to RFI Question 25 – “Are digital asset markets creating climate-related financial risk for CFTC registrants, registered entities, other derivatives market participants, or derivatives markets? Are there any aspects of climate-related financial risk related to digital assets that the Commission should address within its statutory authority? Do digital assets and/or distributed ledger technology offer climate-related financial risk mitigating benefits?”



led solutions effectively and transparently. Derivatives exchanges have accomplished this by relying on existing governance and self-regulatory bodies that have proven to be both agile and responsible platforms for innovation.

Industry-developed best practices and standards highlight the importance of collaboration among market participants and leveraging industry expertise.

The Commission should be commended for its efforts in fostering public-private sector dialogue related to climate-related financial risk, notably using advisory committees and, more recently, the Voluntary Carbon Markets Convening in June 2022. FIA also strongly supports the Commission’s creation of a Climate Risk Unit in 2021 and believes that it may serve as a fulcrum for public-private discourse regarding the role that derivatives can and should play in mitigating climate-related risks and fostering sustainable projects globally. FIA encourages the CFTC to continue engaging with stakeholders, including farmers, ranchers, and producers, prior to taking any specific future actions.³⁴

Capacity and Coordination³⁵

Derivatives markets are both global and highly interconnected, yet face fragmented regulatory landscapes across jurisdictions. Indeed, while we agree that climate change may pose systemic or sub-systemic risks to the US financial system, many of the jurisdictions most threatened by and vulnerable to climate change events are outside the US.

It is crucial for the CFTC, global standard-setters, policymakers, and the private sectors to work together and with a global perspective to ensure laws and regulations avoid unnecessary conflicts and support market-driven solutions that can be accessible, especially by those jurisdictions and communities that are most vulnerable. A patchwork of regional solutions will create challenges for liquidity providers, resulting in less liquidity and higher regulatory risk when trying to comply with the disparate climate regulations. The higher regulatory risk will be priced into the derivatives markets which will also impact vulnerable jurisdictions and communities.

To that end, FIA appreciates CFTC Chairman Rostin Behnam’s leadership as the co-chair of the International Organization of Securities Commissions (IOSCO) Sustainable Task Force’s (STF) Carbon Markets Workstream.

FIA believes the CFTC, in coordination with global standard-setters and lawmakers, can play an important role by encouraging consistency in policy actions across jurisdictions. The CFTC can also serve as a model for other domestic and international financial regulators by acting deliberately with the benefit of robust industry dialogue and by allowing sufficient time to accommodate legitimate industry concerns before rolling out any new rule or regulation.

³⁴ FIA response to RFI Question 28 – “What mechanism(s), if any, would be useful for the Commission to employ to foster public-private partnerships to address climate-related financial risk within the derivatives markets?”

³⁵ FIA response to RFI Question 34 – “How should the Commission coordinate its efforts with international groups and other regulatory bodies and supervisors? Are there standards, definitions, or metrics that could facilitate the sharing of relevant climate related information amongst regulatory bodies and supervisors, and/or their analyses and aggregation of climate related data? Are there specific steps that could be taken to enhance global coordination and regulatory comity?”



Additionally, it is important to note that post-financial crisis reforms have codified the global standards for derivatives trading and clearing and provided mechanisms for recognition of the high standards of other regulatory regimes. This has allowed investors and market participants to trade with confidence, knowing that the integrity and quality of the marketplace and its regulations are of the highest global standards and that they will not be subject to overlapping and duplicative regulations. This regulatory coordination allows market participants to access exchanges and clearinghouses cross-border to hedge and manage risk in the countries and regions where they operate.

Beyond this, it is important to fully understand how any future regulatory action taken by the CFTC could affect the US and global financial industry in years to come.

FIA members are eager to partner with the CFTC on solutions that address climate risk and are hopeful that the Commission will play a leading role in coordinating with the global regulatory community towards the harmonization and clarity that is necessary to build deep, liquid, and transparent markets and a more sustainable global financial system.

Closing

FIA members are committed to working with the public and private sectors to help respond to the real and urgent threat of climate change. Thank you for the opportunity to comment on climate-related financial risk, the role of the Commission, and the future of carbon markets.

Most respectfully,

A handwritten signature in cursive script that reads 'Walt L. Lukken'.

Walt L. Lukken
President and CEO