

Monday, 3 June 2024

Australian Securities and Investments Commission (ASIC),
GPO Box 9827
Melbourne VIC 3001

To whom it may concern,

Re: Consultation Paper 378 Safeguard mechanism reforms: Updates to RG 236

Corporate Carbon Advisory Pty Ltd (CCA) welcomes the opportunity to offer its views on Consultation Paper 378 Safeguard mechanism reforms: Updates to RG 236, issued by ASIC.

We support ASIC's proposed updates to ASIC's regulatory guidance in the current version of Regulatory Guide 236 *Do I need an AFS licence to participate in carbon markets?*

- Proposal to update guidance to include SMCs as a type of EIEU, to reflect that they are financial products, and to provide guidance on how the relevant parts of Ch 7 of the Corporations Act involving licensing, financial services and product disclosure apply to activities involving SMCs.
- Proposal to provide examples of types of financial products other than ACCUs and SMCs that may involve emissions units.
- Proposal to update RG 236 to provide more detailed guidance on when a person may be providing financial product advice in relation to offset projects related to regulated emissions units.
- Proposal to include guidance on making a market.

B1 – Proposal to include SMCs in guidance on emissions units to reflect they are financial products.

Updating guidance to include SMCs as a type of Eligible International Emissions Units (EIEU), reflecting their definition as financial products, is a necessary measure. This ensures that activities in the carbon market involving SMCs are regulated under the appropriate sections of the Corporations Act and properly defined under Sect 9 of the Corporations Act.

B2 – Proposal on providing examples of types of financial product other than ACCUs and SMC that may involve emissions units.

Providing examples and explanatory material on derivatives involving emissions units is necessary to clearly define the types of financial products that are subject to the regulatory requirements that also apply to ACCUs and SMCs. This will provide greater transparency for carbon market participants to ensure comprehension of their regulatory obligations. The updated examples on options contracts for SMCs are practical and should assist carbon market participants in understanding when such contracts may be considered derivatives.



C1 – Proposal on guidance on providing financial advice in relation to regulated emissions units.

Providing more detailed guidance on when financial advice can be given in relation to SMCs is needed to avoid unintentional breaches. The updated guidance is clear and helpful but could benefit from more examples of advisory scenarios that might commonly arise in the context of SMCs. More specifically, draft RG 236.146 would benefit from more examples of dealing on behalf of others concerning regulated emissions units.

C2 – Proposal on guidance on making a market in relation to regulated emissions units.

The proposed additional guidance on making a market is beneficial. Draft RG 236.152 would benefit from relevant examples applicable to both a) they regularly state the prices at which they propose to buy or sell these units on their own behalf and b) other people can reasonably expect to be able to enter into transactions at the stated prices. More transparent and clear definitions of participants making a market will prevent regulatory breaches.

Recommendation

The proposed updates to RG 236 are well-conceived and necessary for maintaining clear regulatory framework for the carbon market. These updates will provide clarity to help guide safeguard facilities, advisers, intermediaries, and participants navigate their obligations under the Corporations Act. Corporate Carbon Advisory Pty Ltd (CCA) endorses these proposals in the interest of supporting market integrity and effectiveness.

Sincerely,

Head of Carbon Trading