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What the Commodity Futures Trading Commission's Recent Actions on Digital Assets and Environmental/Sustainable Commodities Signal to the Market

Deanna R. Reitman, Tamara Criss, Erica H. MacDonald, and Henry P. Van Dyck*

In this article, the authors explain that the Commodity Futures Trading Commission's enforcement resources are being reoriented away from technical violations, such as registration requirements, unless there is evidence of willful misconduct.

In March 2025, the Commodity Futures Trading Commission (CFTC) removed its advisory, Review of Risks Associated with Expansion of DCO (Derivatives Clearing Organization) Clearing of Digital Assets, with immediate effect, stating that the regulatory treatment of digital asset derivatives will vary from its treatment of other products.

Additionally, in April 2025, CFTC Acting Chair Caroline Pham directed agency staff to comply with a new Department of Justice (DOJ) policy ending the practice of "regulation by prosecution" in the digital assets industry.[1] Pham directed CFTC staff to focus on fraud and manipulation cases, complying with DOJ's enforcement priorities, and avoiding charges for regulatory violations unless willfully committed. Emphasizing lawful governance, Pham realigned enforcement resources to combat fraud, and issued new policies to encourage self-reporting and resolve noncompliance matters efficiently. This initiative aims to eliminate uncertainty for innovators while protecting market integrity and aiding victims. Under this shift, enforcement resources are being reoriented away from technical violations, such as registration requirements, unless there is evidence of willful misconduct.

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Why It Matters

The U.S. regulatory environment for digital assets is entering a new phase. Rather than regulating compliance primarily through enforcement, agencies, such as the CFTC, are being tasked with setting clearer rules, fostering responsible innovation, and prioritizing fraud prevention. For investment leaders, this signals a need to pivot from defensive posturing to proactive engagement with emerging standards. With these new changes to the enforcement landscape and regulatory focus on fraud prevention, companies in the digital asset space should consider allocating additional resources to their compliance functions.

Market Impact

The CFTC announcement could positively impact U.S. digital asset markets in several ways:

1. *Increased Regulatory Clarity*. By ending "regulation by prosecution," the CFTC provides clearer guidelines for digital asset companies, reducing uncertainty and promoting compliance.
2. *Encouragement of Innovation*. Clearer rules and a focus on fraud prevention rather than punitive measures encourage innovation and growth in the digital asset sector.
3. *Investor Confidence*. A stable and predictable regulatory environment can boost investor confidence, potentially leading to increased investment in digital assets.
4. *Resource Allocation*. By prioritizing fraud and manipulation cases, the CFTC ensures that enforcement resources are used effectively, protecting market integrity and helping victims.
5. *Economic Competitiveness*. The policy shift can enhance the position of the United States as a competitive and attractive market for digital asset businesses, fostering economic growth and technological advancement.

Overall, the announcement aims to create a balanced regulatory framework that supports responsible innovation while safeguarding market participants.

Environmental and Sustainable Commodity Derivatives Markets: From Opaque to Transparent

In September 2024, the CFTC approved final guidance for the listing and trading of voluntary carbon credit derivative contracts on designated contract markets (DCMs). This guidance outlined key considerations for DCMs to meet core principle requirements under the Commodity Exchange Act and CFTC regulations. It also addressed requirements under the CFTC's Part 40 regulations related to new derivative contracts and contract amendments.

CFTC Chairman Rostin Behnam emphasized that the guidance was the result of a public-private partnership aimed at supporting transparency, liquidity and market integrity in voluntary carbon credit (VCC) derivatives markets. The guidance aimed to standardize VCC derivative contracts and reflects input from more than five years of collaboration with diverse market participants, including agricultural stakeholders, energy market entities, carbon credit rating agencies, and public interest groups. The initiative underscored the CFTC's commitment to leveraging its expertise to support decarbonization efforts and build a financial system that aids in emission reductions.

Why It Matters

Environmental and sustainable commodity derivative products are becoming a cornerstone of modern portfolios, but only if they can withstand legal and reputational tests.

Market Impact

Although others would like to focus on the negatives of this guidance, this implementation of the above CFTC guidance can also have several positive impacts on the voluntary carbon market and sustainable commodities markets:

- *Increased Transparency*. The guidance promotes transparency in the listing and trading of VCC derivatives, which can help build trust among market participants and stakeholders.

- *Enhanced Liquidity*. By fostering standardization of contracts, the guidance can increase market liquidity, making it easier for participants to buy and sell carbon credits and related derivatives.
- *Market Integrity*. Clear guidelines and regulatory oversight help ensure market integrity, reducing the risk of fraud and manipulation, and providing a secure environment for trading.
- *Support for Decarbonization*. The guidance supports the development of financial tools that can facilitate efforts to reduce emissions, aligning financial markets with global decarbonization goals.
- *Efficient Capital Allocation*. Standardized and transparent markets can attract more investors, leading to more efficient allocation of capital towards sustainable projects and technologies.
- *Broader Participation*. The inclusion of diverse stakeholders in the development of the guidance encourages broader market participation, including agricultural stakeholders, energy market participants and public interest groups.
- *Innovation and Growth*. The regulatory clarity provided by the guidance can spur innovation in the creation of new financial products and services related to carbon credits and sustainable commodities, fostering market growth.

Leading Through Complexity: Navigating the Path Forward

The CFTC's actions are a signal for market participants to pivot from reactive compliance to proactive leadership. Here's what you can do:

- *Elevate Digital Asset Strategy*. Revisit digital asset strategies considering Executive Order 14219 and DOJ/CFTC guidance, identifying opportunities to lead through compliance, transparency, and collaboration with regulators.
- *Look to Environmental and Sustainable Commodities Markets for Investment*. As the environmental and sustainable commodities markets grow with this new CFTC guidance

promoting integrity, look to environmental and sustainable commodities for investment.

- *Invest in Compliance as a Strategy*. View compliance as a tool for innovation, risk mitigation, and market leadership, rather than a mere check box.
- *Stay Ahead of Enforcement Trends*. Leverage data and technology to anticipate regulatory focus areas, from digital assets to carbon markets. The best leaders move before the market does.

In Summary

- The U.S. regulatory environment for digital assets is entering a new phase. Rather than regulating primarily through enforcement, agencies, such as the CFTC, are being tasked with setting clearer rules, fostering responsible innovation, and prioritizing fraud prevention. For market participants, this signals a need to pivot from defensive posturing to proactive engagement with emerging standards. With these new changes to the enforcement landscape and regulatory focus on fraud prevention, companies in the digital asset space should consider allocating additional resources to their market development functions.
- Similarly, the CFTC guidance on voluntary carbon credit derivatives is set to increase transparency, liquidity, and support for decarbonization efforts, ensuring that environmental and sustainable commodities markets can thrive. Environmental and sustainable commodity derivative products are becoming a cornerstone of modern portfolios, but only if they can withstand legal and reputational tests.
- These recent initiatives highlight the commitment of the CFTC to building a regulatory environment that supports a robust digital asset and environmental/sustainable commodities market that benefits all stakeholders, from innovators to investors. As these markets continue to evolve, it is an opportunity for leaders to step ahead, set the standard, and build strategies that thrive in complexity. The market is shifting, and those who lead with adaptability and innovation will define its future.

Conclusion

The recent actions by the CFTC mark a pivotal shift in the regulatory landscape for both digital assets and voluntary carbon credit markets. By moving away from a punitive approach to one that emphasizes clear guidelines and proactive engagement, the CFTC is fostering an environment that may instead encourage innovation, transparency, and market integrity. For the digital asset market, this means a focus on reduced uncertainty, enhanced investor confidence, and greater economic competitiveness.

Similarly, the guidance on voluntary carbon credit derivatives is designed to increase transparency, liquidity, and support for decarbonization efforts, in an effort to ensure that sustainable commodities markets can thrive.

These initiatives collectively highlight the CFTC's shift to new priorities designed to help build a robust and sustainable financial system that could benefit all stakeholders, from innovators and investors to the broader public and the environment. As these markets continue to evolve, it is an opportunity for leaders to step ahead, set the standard and build strategies that thrive in complexity. The market is shifting, and those who lead with adaptability and innovation will define its future.

The choice is yours: Will you react to change, or will you lead it?

Notes

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1. https://www.cftc.gov/PressRoom/PressReleases/9063-25.