The new european regulation on the voluntary carbon market

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Regulation (EU) 2024/3012 of the European Parliament and of the Council of 27 November 2024 entered into force on 26 December 2024 ("Regulation"). The Regulation establishes a European Union ("EU") certification framework for permanent carbon removals, carbon farming and carbon storage in products[1].

This Informative Note provides a practical and objective summary of this Regulation.

1. What are the objectives of the Regulation?

The aim of the Regulation is to establish harmonised rules in the EU for carbon credit certification schemes (also known as carbon markets) to ensure that they:

- Issue carbon credits that reflect actual and verifiable removals or reductions in soil emissions
- Ensure transparency and trust in carbon markets through disclosure requirements and interoperability between their platforms, avoiding double counting of credits
- Ensure environmental integrity by promoting associated biodiversity benefits while avoiding greenwashing

The Regulation is voluntary, so there may be carbon markets that choose not to fall within the scope of the new European rules. However, it is likely that the demand side of these markets will move towards favouring credits issued under the Regulation. This is because credibility will be key to the growth of this market, and carbon removal/reduction tokens that comply with the standardised rules will benefit from enhanced credibility.

2. What is the Regulation's certification framework?

The certification framework provided for in the Regulation does not concern the carbon credits themselves (referred to as "certified units" in the Regulation), but the certification frameworks (carbon markets) under which they are issued and registered.

Certification frameworks for carbon credits are recognised by a decision of the European Commission. This decision assesses whether the rules of the market are such as to guarantee that the carbon projects and carbon credits that enter it meet the criteria of the Regulation and therefore deserve to benefit from the credibility factor associated with it.

The frameworks will be required to submit annual reports to the Commission. Certification is valid for five years and must be renewed with the Commission.

The Regulation's schematic certification chain, from the Commission to each carbon credit, is intended to ensure the quality of these climate change instruments within the EU.

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1 See information on the predecessors of this Regulation. "Voluntary offset markets for carbon (and other GHGs)", "Voluntary carbon markets in Portugal and the European Union" and "The new portuguese voluntary carbon market law".

3. Which projects are eligible to generate carbon credits under the Regulation?

Carbon credits are generated by projects that carry out one of the following three activities:

i) **Permanent carbon removal**, which corresponds to the sequestration of atmospheric or biogenic carbon by means that ensure that it will not be emitted to the atmosphere for several centuries. Examples of permanent carbon removal include the chemical bonding of carbon to products on a permanent basis, where the carbon is not released under normal conditions of use of the product, including any normal activity carried out after the end of the product's life, and sequestration in geological reservoirs;

ii) **Carbon farming**, which corresponds to the sequestration of carbon, atmospheric or biogenic, for a period of at least 5 years, being a temporary removal. This is where the most typical projects are found, such as carbon sequestration in forestry projects and blue carbon projects. Carbon farming also includes projects that reduce soil emissions;

iii) **Carbon storage in products**, corresponding to practices and processes that store atmospheric or biogenic carbon in durable products for at least 35 years. This is *long-term removal*.

In turn, the activities described above can generate carbon credits under the Regulation if they meet four quality criteria, which will be verified by the certification schemes

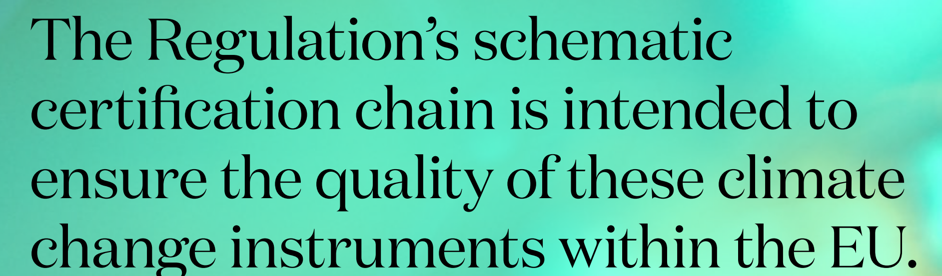
i) **Quantification** - there must be a net increase in carbon removal or reduction compared to a baseline set for each activity.

ii) **Additionality** - the implementation of projects must not be due to the fulfilment of legal obligations, nor a business-as-usual practice, i.e. eligible projects must have the certification of carbon credits as a decisive incentive. The difficulty of verifying this criterion led the Regulation to provide for a presumption of compliance if projects meet the standardised reference values that the Commission may set in the methodologies applicable to them.

iii) **Permanence** - requirements to monitor and mitigate the risk of accidental release of stored carbon into the atmosphere must be met;

iv) **Sustainability** - activities must meet minimum sustainability requirements by demonstrating that they do not cause significant damage to the environment (do no significant harm). They must also demonstrate that they generate related benefits for climate change mitigation and adaptation, the protection and restoration of biodiversity, ecosystems, water and marine resources, the transition to a circular economy and the prevention and control of pollution.

The European Commission is responsible for approving methodologies that define, in a harmonised way and for each type of project, how the various quality criteria are to be met.



4. What is the step-by-step process for obtaining carbon credits under the Regulation?

From a bottom-up perspective, the first step is to register a project with a certification scheme that has already been recognised by a decision of the European Commission (see §2 above).

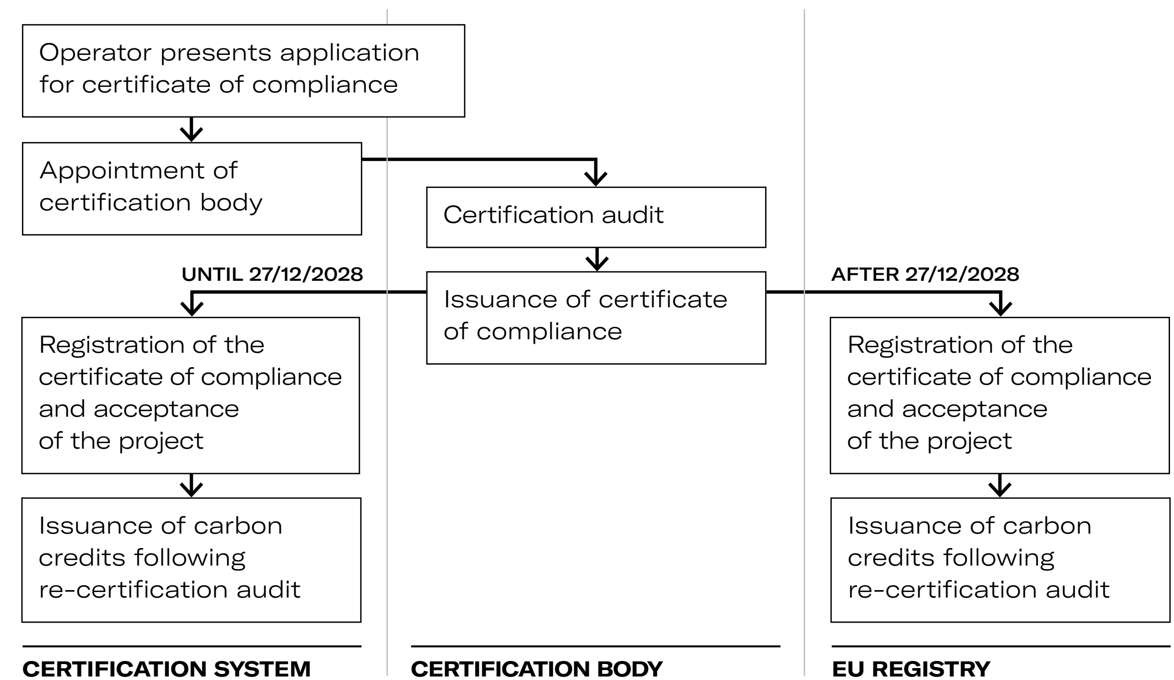
In order to determine the eligibility of the project, the certification system (i.e. the carbon market chosen by the project promoter(s)) will appoint an accredited verifier or recognised verifier (called a certification body in the nomenclature of the Regulation) to carry out a certification audit of the carbon removal/reduction project.

> Only after verification of actual reductions can the certification scheme issue the corresponding carbon credits.

The result of the verifier's audit, if positive, is the issuance of a certificate of compliance, which is registered in the certification scheme pending the establishment of the EU registry.

This first step determines the "acceptance" of the project into the certification scheme. However, only after verification of actual removals / reductions can the certification scheme issue the corresponding carbon credits. To this end, the project must undergo re-certification audits on a regular basis, as defined by the methodology for the project type, and at least every five years. It is precisely following these audits that carbon credits are issued, according to the emissions that the audit certifies have been removed/reduced.

General outline of the carbon crediting process



5. What types of carbon credits are there?

Carbon credits are issued with reference to the activity that generates them. Four different types of carbon credits can be issued, representing units of net, additional and sustainable additions:

- permanent carbon removal
- carbon sequestration through carbon farming
- carbon storage in products
- soil emission reduction

The unit of each carbon credit is 1 tonne of CO_2eq.

6. How are different types of carbon credits traded and used?

Carbon credits are issued by the carbon market registry in which the underlying project has been registered (or, once the EU registry is operational, by that registry). It is also through this market that transactions and retirements (through use) of these credits take place, in particular for corporate sustainability reporting purposes (see recital 42 of the Regulation).

Transactions and retirements necessarily take place during the validity period of the credits. The general principle is that carbon credits expire at the end of the monitoring period of the project under which they were generated. In other words, as a rule, and always if the project period is not extended after re-certification, credits related to carbon farming expire after 5 years and those related to storage in products after 35 years. Due to the permanent nature of storage, credits from permanent carbon removal activities have no expiry date.

> If the VCM-PT wants to benefit from additional credibility, the Portuguese State must apply to the European Commission for a certification decision under the Regulation.

7. How does this scheme fit in with the Portuguese voluntary carbon market?

The Portuguese Voluntary Carbon Market ("VCM-PT"), established by Decree-Law No 4/2024 of 5 January, is a public certification scheme in the nomenclature of the Regulation. This means that if the VCM-PT wants to benefit from additional credibility for the credits it generates, trades and uses, the Portuguese State must apply to the European Commission for a certification decision under the Regulation. If a certification decision is granted, the registration platform managed by ADENE will have to be made compatible with the Union registry, which is expected to be operational from 27 December 2028.

The VCM-PT regime set out in Decree-Law 4/2024 is very similar and in line with the requirements set out in the Regulation. However, there are two major differences. First, concerning carbon reduction projects, as within the scope of the Regulation only soil emission reduction projects are admitted, while within the scope of the VCM-PT such limitation is not present. Second, relating to the future carbon credits, which are provided for in the VCM-PT as an instrument to leverage the financing of carbon projects but having no clear place in the framework of the Regulation (see Article 12(4)(1) of the Regulation).

Thus, unless the possibility of partial recognition of a market for the purposes of the Regulation is accepted (which could have the economic effect of devaluing credits that fall outside the recognized part of that market), it seems that VCM-PT, if it wishes to obtain recognition, will likely need to alter its current configuration, at least regarding these two points.

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