Carbon offset regulations

BUSA submission to National Treasury Consultation Workshop
November 2016
General comments

• Draft regulations and Explanatory Memorandum reflect significant differences in approach
• Previous comments on policy paper not taken into account in draft regulations
• Need for regulations to be clearly aligned to the provisions in the Bill
• Essential that Bill and regulations are published simultaneously
• Operational system to be aligned to regulations
Terminology and drafting

- Definitions not in line with international standards
- Project and standard used interchangeably
- Number of definitions need to be included
- Number of inconsistencies to be remedied
Legislative basis for institutional arrangements

• The legal basis for extending the legal mandate of an entity established by NEMA being extended by National Treasury legislation needs to be explained

• NEMA regulations should also be amended to give effect to the change

• Treasury delegation of power to Minister of Energy also not considered proper
Legislative basis (2)

- Administrator cannot introduce its own requirements; must only apply the provisions of the regulations.
- All requirements to be complied with must be in the regulations.
Institutional arrangements

• Effectiveness of DNA has not been consistently demonstrated
• Potential for additional capacity clearly limited
• Operating system needs to be aligned with provisions in regulation
• Registry should be located separately from the administration
Approved standards

- Significant challenges face project proponents in respect of the three approved standards
- Generally biased towards large projects which are more able to afford high transaction costs
- The inclusion of carbon offsets in legislation will have an impact on the SA market for carbon credits
- Other standards particularly those operating in South Africa should not be excluded
- Clear set of criteria for approval of standards needs to be developed
Approved standards (2)

- Current list of standards should be extended on the basis of the criteria in the revised version
- Provision should be made in the regulations for additional standards to be approved in the future
- Responsibility for this approval should be the Minister of Finance not Minister of Energy
Eligibility

- Regulations only make provision for projects to comply with approved standards and located in South Africa.
- The explanatory memorandum contemplates additional criteria which also appear to have been incorporated into the operating system.
- The concept of compliance with “approved standards” requires only demonstration of that compliance; no other criteria are needed.
Eligibility (2)

• Geographic location needs to be discussed

• Difference between ownership of activity and activity

• Inclusion of REIPP was subject to further discussion – what was the outcome?

• Scope 2 energy projects should be eligible
Timing

- Timing provisions need to be reviewed
- Validity of credits must be related to tax period
- Need to recognize the timeframes in approved standards
- Turnaround times for all required responses from government including DNA must be included in regulations
Further discussion required

- **Management of registry**
- **Eligibility criteria**
- **Even handed approach to approved standards**