

REPUBLIC OF SOUTH AFRICA

EXPLANATORY NOTE

FOR

**DRAFT CARBON TAX BILL: DRAFT REGULATIONS MADE IN TERMS OF
CLAUSE 19(c) OF THE DRAFT CARBON TAX BILL**

November 2018

EXPLANATORY NOTE FOR THE DRAFT REGULATION ON THE CARBON OFFSET

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BACKGROUND

Government published the Draft Carbon Tax Bill for public comments and further consultation on the 14th of December 2017. The Draft Carbon Tax Bill includes the detailed and revised carbon tax design features as per the 2015 Draft Carbon Tax Bill, the Carbon Tax Policy Paper of 2013, announcements in Budget 2014 and the Carbon Offsets Paper of 2014 and takes into account public comments received following extensive stakeholder consultations since 2011.

The overarching design of the carbon tax is informed by the administrative feasibility and practicality of covering most greenhouse gas (GHG) emissions and takes into account the need for a long and smooth transition to a low carbon economy in a sustainable manner. The significantly high level of tax-free allowances, recycling of revenues through a reduction in the electricity generation levy and energy efficiency savings tax incentive, and phased approach to the introduction of the tax will ensure that South Africa's competitiveness is not compromised and vulnerable households are protected.

The Draft Carbon Tax Bill gives effect to the design features of the carbon tax as outlined below, including the carbon offset allowance:

- A fossil fuel combustion tax-free allowance of 60 per cent;
- An additional tax-free allowance of 10 per cent for process emissions;
- An additional tax-free allowance of 10 per cent for fugitive emissions;
- A variable tax-free allowance for trade-exposed sectors (up to a 10 per cent maximum);
- A maximum tax-free allowance of 5 per cent for above-average performance;
- A 5 per cent tax-free allowance for companies allocated and complying with a Carbon Budget;
- ***A carbon offset allowance of either 5 per cent or 10 per cent.***

The combined effect of the above tax-free allowances during the first phase of the carbon tax will be capped at 95 per cent. An initial headline tax rate of R120 per ton carbon dioxide equivalent (CO_{2e}) and various tax-free allowances will thus result in an effective tax rate that will vary between R6.00 and R48.00 per ton of CO_{2e}.

An initial Draft Regulation on the Carbon Offsets was developed in terms of Section 19(c) of the 2015 Draft Carbon Tax Bill and published for public comment on 20 June 2016. The Draft Regulation on the Carbon Offset outlined the eligibility criteria, administration and technical details on the framework for the implementation of the carbon offsetting scheme under the proposed carbon tax. Sixty-six sets of

written submissions on the Draft Regulation on the Carbon Offset were received from a wide range of stakeholders. The comments focused on the general design of the carbon tax including the role of the carbon offset, cap on the allowance, scope and eligibility criteria of the offsets, and specific comments on the technical, legal and administrative aspects of the regulation.

Following extensive stakeholder consultations, substantial changes were made to the initial Draft Regulation on the Carbon Offset to take into account stakeholder comments. This includes a revision of some sections whilst providing more details and further clarity on the administration of the offsets. The Draft Regulation on the Carbon Offset is hereby published for public comment.

Policy Rationale for the Carbon offset system

Carbon offsets are investments in specific projects that reduce, avoid or sequester emissions. As defined in the 2014 Carbon Offsets Paper, a carbon offset is an external investment that allows a firm to access GHG mitigation options at a lower cost than investment in its current operations. Under the carbon tax policy framework, firms will be able to reduce their carbon tax liability by using offset credits up to a maximum of 5 or 10 per cent of their process or fuel combustion GHG emissions respectively.

The carbon offset system serves a dual purpose that is:

- As a flexibility mechanism to enable industry to deliver least cost mitigation, that is, mitigation at a lower cost to what would be achieved in their own operations, and thereby lower their tax liability; and
- Incentivises mitigation in sectors or activities that are not directly covered by the tax and/or benefiting from other government incentives, especially, transport, Agriculture, Forestry and Other Land Use (AFOLU) and waste.

The design of the carbon tax follows the design of carbon pricing schemes internationally that provide for the use of carbon offsets by firms to reduce their carbon tax liability. This includes schemes such as the European Union Emissions Trading Scheme (EU ETS) which allows for the use of offset credits generated by projects approved under the Clean Development Mechanism (CDM), as well as schemes in California and the Canadian Province of Alberta.

Carbon offset projects are likely to generate sustainable development benefits and employment opportunities in South Africa by encouraging investments in energy efficiency and renewable energy, rural development projects, and initiatives aimed at restoring landscapes, reducing land degradation and biodiversity protection.

Eligible standards

During the first phase of the carbon tax, the carbon offset system will rely primarily on existing international carbon offset standards namely, the CDM, Verified Carbon Standard (VCS) and the Gold Standard (GS). To be accepted under the South African carbon offset system, the offset projects will

need to be developed in line with one of these accepted international standards. Provision has been made to evaluate the robustness of existing domestic standards for eligibility to be used within the carbon offsets scheme. Under the World Bank's Partnership for Market Readiness (PMR) project, the government will develop a user manual to provide information and guide carbon offset project developers on eligible standards, and the administration process for claiming the carbon offset allowance. This will also include the development of a framework and guidance for the development and design of domestic standards, as well as a pilot review of a domestic standard for inclusion under the carbon offset system.

The Department of Energy (DoE) will consider establishing a technical committee consisting of relevant institutions to review and evaluate the robustness of potential local standards to be used within the carbon offsets scheme. The technical committee will consist of sector technical experts with representatives from relevant government departments and agencies, academia, industry and non-governmental organisations (NGOs) who will be guided by the methodological framework from existing international standards within carbon offsets framework. As the administrator of the carbon offset system, it is envisaged that the DoE will lead the process for evaluating domestic standards in line with the guidance from the user manual developed under the PMR project.

The offset project approval process is specific to each standard. In the case of the CDM, a validation of the offset project by a Designated Operational Entity (DOE) is followed by registration of the project by the CDM Executive Board. Under the VCS now VERRA standard, a validation/verification body (VVB) validates the project and the VCS Association is responsible for the registration of the project. Under the GS, a DOE validates the project and the GS registers the project for the compliance market under the CDM while projects developed for the voluntary market can choose an accredited verification body. The offset project developer is responsible for ensuring this external validation and the registration.

Carbon offset project eligibility criteria

In addition, all projects approved under the eligible international standards, will be required to meet the South African specific requirements of the carbon offsets system. The main eligibility criteria are:

- In the first phase of the carbon tax, only projects implemented on or after the start date of the carbon tax and located in South Africa will be eligible under the carbon offset system in order to support GHG emissions mitigation in South Africa.
- Projects should occur outside the scope of activities that are subject to the carbon tax to prevent double counting of the carbon emission reduction benefit. The carbon offset system will focus on activities that are not included in the carbon tax net, which includes the transport, waste and AFOLU sector activities.

Administration of the scheme

To facilitate the development of carbon offset projects and a credible carbon offset scheme, appropriate technical infrastructure is required such as a programme administrator; carbon offsets registry; and possible third party verification by accredited third party verifiers as identified in the Carbon Offsets Paper.

The Designated National Authority (DNA), residing within the Clean Energy Unit of the Department of Energy which was established to support the development and implementation of CDM projects under the Kyoto Protocol of the United Nations Framework Convention on Climate Change (UNFCCC), will be responsible for administering the carbon offset scheme. The Director-General of the Department of Energy; or an official employed in the Department of Energy's Clean Energy programme to whom the Director General may delegate exercise of power and discharging of responsibilities conferred by these regulations will act as the carbon offsets system administrator.

The DoE's Clean Energy Unit has developed a carbon offsets administrative system (COAS) which will be used to administer the carbon offset scheme. A Standard Operating Procedure (SOP) manual has been developed which provides details on how to process and approve applications for projects in line with the eligibility criteria for offset projects; the process to be followed for the delisting of projects and credits in international standards, and transfer, listing and retirement of these offsets for purposes of the carbon tax; and oversight of the carbon offset registry that is, the electronic security system which will house the credits.

Elements of the SOP were incorporated into the Draft Regulation for quality, transparency, operational functionality and efficiency to ensure tasks are carried out in a standardised, and correct manner within the South African carbon offset administration system. This ensures alignment of the definitions and processes in the Regulation with those in the SOP.

South Africa is a participant in the Partnership for Market Readiness (PMR) project, administered by the World Bank, which provides technical assistance to countries to support the implementation of carbon pricing policies. Building on the current COAS developed for the DoE, further technical work will be undertaken through the PMR to:

- Review the COAS which has been developed by the Department of Energy and an assessment of the options for hosting of the carbon offset registry;
- Compile a technical user manual to guide carbon offset project developers; and
- Provide a framework and guidance note to support the development of local carbon offset standards.

PART I: DEFINITIONS

Definitions: Regulation 1

This section provides an explanation of the main definitions that inform the establishment of the carbon offset system.

Administrator means the The Director-General of the Department of Energy; or an official employed in the Department of Energy's Clean Energy programme to whom the Director General may delegate exercise of power and discharging of responsibilities and is appointed in terms of regulation 5.

Approved project means a CDM project, VCS project or GS project (as defined below) or a project that complies with another local standard approved by the Minister of Energy or a delegated authority, which also meets the South Africa specific additionality criteria in terms of regulation 2. For the local standard to be approved, it will undergo a robustness assessment by a technical committee.

Attestation of voluntary cancelation means a document issued by the CDM, VCS/VERRA or GS certifying that a carbon credit has been cancelled in the original registry of the issuing standard for the purpose of being used in the South African carbon tax offset scheme.

Cancelation of carbon credit means the permanent removal of a carbon credit from circulation in the CDM, VCS/VERRA or Gold Standard registry system for purposes other than retirement.

CDM means the Clean Development Mechanism as defined in the Kyoto Protocol to the United Nations Framework Convention on Climate Change.

CDM project means a project—

(a) that has been registered as contemplated in paragraph 36 of the Modalities and procedures for a clean development mechanism as contained in the Annex to Decision 3/CMP.1 in Part Two of the Addendum to the Report of the Conference of the Parties serving as the meeting of the Parties to the Protocol to the United Nations Framework Convention on Climate Change adopted at the third session of the Conference of the Parties to the United Nations Framework Convention on Climate Change in Kyoto, Japan, on 11 December 1997 on its first session, held at Montreal from 28 November to 10 December 2005 (FCCC/KP/CMP/2005/8 Add.1); and

(b) in respect of which a letter of approval as contemplated in regulation 7(3) of the National Environmental Management Act, 1998 Regulations for the establishment of a designated national authority for the Clean Development Mechanism (Government Notice No. R.721 published in *Government Gazette* No. 27788 of 22 July 2005) has been issued.

Extended letter of approval means a letter issued by the carbon offsets administrator confirming that a project qualifies in respect of creating an offset i.e. it meets the South African specific criteria in addition to meeting the qualifying criteria of the respective standard.

Gold Standard means the Gold Standard and Certification Body, a non-profit organisation established in 2003;

Gold Standard project means a project that complies with the requirements set out in "Revised Annex C: Guidance on Project Type Eligibility" issued by the Gold Standard.

List means the entry of an offset in the South African carbon offsets registry. This is done upon presentation of an attestation of cancellation and an extended letter of approval to the administrator.

Listing confirmation means a confirmatory document issued in accordance with regulation 9(g). It reflects the amount of credits indicated on the attestation of voluntary cancellation and is only issued upon successful listing of an offset in the South African offset registry.

Offset means an avoidance, a reduction or a sequestration of carbon dioxide equivalent (CO_{2e}) emissions recognised in terms of an approved project, which is equal to one metric tonne of CO_{2e} that can be traded, sold, or retired.

Offset owner means a person that owns an offset, whether by generating that offset by means of a CDM project, a Gold Standard project or a VCS/VERRA project or by purchasing that offset from another person.

Offset registry means the offset registry created by regulation 6.

Retire means when an offset is used to claim the tax-free allowance and the carbon offsets administrator permanently removes that offset from the South Africa offset registry.

Sequesterate means the process of storing a greenhouse gas or increasing the carbon content of a carbon reservoir other than the atmosphere;

VCS means the non-profit non-governmental association, the Verified Carbon Standard.

VCS project means a GHG reduction program voluntarily entered into that is registered on the VCS project database in respect of which a verified carbon unit is issued.

VCS project database means the central VCS project database to which the VCS registry system is able to connect.

VCS registry system means the platform where offsets are assigned unique serial numbers for the purposes of tracking the VCS project in respect of that offset.

PART II: ELIGIBILITY

Allowances of carbon offset in respect of an approved project against carbon tax liability: Regulation 2

This section specifies the eligibility criteria for the offset projects in line with the Carbon Offsets Paper of 2014.

1. (a) To encourage the development of new locally based projects and GHG-mitigation in South Africa, only credits from South African-based project activities implemented on or after the start date of the carbon tax will be eligible for use within the carbon offsets system.
(b) Projects that generate carbon offset credits must occur outside the scope of activities that are subject to the carbon tax to maintain the environmental integrity of the carbon price. This is to prevent potential double counting of:
 - the carbon emissions reduction benefit if a carbon offset project is implemented on an activity within the carbon tax net (direct emissions); and
 - financial benefits from GHG mitigation which could increase distortions in the carbon market due to an entity generating the credits being able to potentially sell the credits to other entities for lower prices than projects in sectors that are not covered by the tax.(c) Provision has been made to allow all existing projects with credits generated from activities within the tax net to be eligible as carbon offsets where these credits should be utilised ONLY within the first phase of the carbon tax. This seeks to improve market liquidity in the nascent carbon offsets market.
2. In addition, *projects registered prior to the implementation of the carbon tax* will have to meet the following conditions to be eligible under the scheme:
 - *Registered projects*: offset credits issued prior to the implementation date of the carbon tax which have not yet been retired will be eligible, provided they are transferred from an international registry to the South African registry within the first phase of the carbon tax.
 - *Projects that are currently under development* and which will be registered before the start date of the carbon tax, credits issued following the introduction of the carbon tax will have to be transferred from an international registry to the South African registry and used within one year after the end of the first phase of the carbon tax.

Project activities eligible as carbon offsets include:

- small and medium-scale renewable energy projects with a generating capacity of up to 50MW;
- projects receiving benefits through the renewable energy independent power producers procurement programme (REIPPPP) with project bids signed after 9 May 2013;
- energy efficiency projects on project activities outside the carbon tax net not claiming the 12L energy efficiency savings tax incentive e.g. energy efficiency in buildings; energy efficiency in the residential and commercial sector, electricity transmission and distribution efficiency;
- transport e.g. transport energy efficiency, public transport;
- waste e.g. municipal waste projects; and
- Agriculture, forestry and other land use (AFOLU) e.g. restoration of sub-tropical thicket, forests and woodlands, restoration and management of grassland, small scale afforestation, wetland drainage and rewetting, anaerobic biogas digesters, and reduced tillage.

It is important to note that the above-listed project activities are only indicative and new project types could be included should they meet the required criteria.

Offset utilisation period: Regulation 3

This section specifies the crediting periods for non-permanent emission reductions in line with the relevant standards. During the first phase of the carbon tax, eligible carbon offset projects will be based mainly on the CDM, VCS/VERRA and GS, and the rules for the offset crediting periods for temporary credits for the respective standards, will apply, even when offsets are listed in the South African registry.

The crediting period for certain carbon offset projects will require periodic reviews to ensure that the baseline assumptions for the project are still valid. Table 1 below shows the applicable offset crediting duration periods for offset projects developed under the different standards. These range from 7 years with options for renewal to 10 year crediting periods with no option for renewal. In the case of the VCS, the crediting periods are further defined specifically for AFOLU and non-AFOLU projects.

Table 1: Offset Crediting Period for International Standards

ELIGIBLE STANDARD	OFFSET / CREDITING DURATION PERIOD
1. CDM	Once-off 10 year crediting period with no option for renewal or 7 year crediting period (Renewable twice, for 21 years in total).
2. GS	Same as CDM - Once-off 10 year crediting period with no option for renewal or 7 year crediting period (Renewable twice, for 21 years in total).
3. VCS	Two times 10 years for all non-AFOLU projects, other than AFOLU projects or ALM (Agricultural Land Management) ¹ projects focusing exclusively on N ₂ O, CH ₄ or fossil-derived CO ₂ ; For all other AFOLU projects, the project crediting period shall be <ul style="list-style-type: none"> • a minimum of 20 years up to a maximum of 100 years • renewed at most four times • renewal of baseline every 10 years.
4. Project approved under other standards	The offset crediting period for SA specific projects will be specified and approved by the Minister of Energy or a delegated authority.

Source: Adapted from the different offset standards.

It should be noted that the offset “crediting period” stipulated above for each respective carbon standard (CDM, VCS/VERRA and GS) does not change once credits are transferred to the South African registry. Only the respective standard may extend the crediting period of a project according to its rules. The crediting period is time-bound whilst the duration is not and is set by the respective standard but in the majority of cases, offset credits are valid indefinitely until they are permanently retired.

¹ The methodology quantifies the GHG emission reductions of sustainable land management practice activities that enhance aboveground, belowground and soil-based carbon stocks of agricultural areas. This methodology is applicable to projects that introduce sustainable management practices to an agricultural landscape where the soil organic carbon would have remained constant or decreased in time without the intervention of the project.

ALM includes soil nutrient management, tillage and residue management, agronomic practices, integrated pest management, agroforestry, soil and water management and improved livestock management. ALM involves generating carbon credits by building organic matter in agricultural soils

PART III: NON-ELIGIBILITY

Limitation on allowance: Regulation 4

This section specifies carbon offset projects that are not eligible for use in the South African carbon offsets scheme.

This provides clarity on the type of project activities that would be ineligible as carbon offset projects in South Africa. Some stakeholders requested that specific projects that are not allowed / eligible (negative list) are identified and included in the non-eligibility criteria of the Regulation. Detailed criteria for ineligible projects have already been included in the Regulation therefore a specific negative list cannot be accommodated within the framework of the regulation.

The South African non-eligibility criteria will be consistent and comparable with existing jurisdictions/ carbon markets. Overall, the CDM exclusions will be applicable as it is the largest offset generator, which are subjected to more scrutiny to ensure uniform standards for diversified projects and high quality credits generation. This ensures the environmental integrity of the South African system as exclusions in most jurisdictions are based on years of experience in implementing carbon offsets e.g. the EU ETS, New Zealand, Australia, Canada, and California.

In summary, the non-eligible list of activities covers, at the minimum:

- Energy efficiency projects implemented on activities that are owned or controlled by companies that are covered by the carbon tax;
- Cogeneration of renewable energy projects implemented on activities that are owned or controlled by companies that are covered by the carbon tax;
- Fuel-switch projects implemented on activities that are owned or controlled by companies that are covered by the carbon tax;
- Projects that benefit from the Energy Efficiency Savings Tax Incentive (section 12L of Income Tax Act No. 58 of 1962);
- Bid one and two windows' renewable energy projects with project bids signed on or before 9 May 2013 developed under the REIPPPP (under section 35(4) of the Electricity Regulation Act, 2006);
- Renewable energy projects with a generating capacity exceeding 50MW;
- Industrial gas destruction projects, including trifluoromethane (HFC-23) and nitrous oxide (N₂O) from adipic acid production;
- Nuclear power projects; and
- Projects for geological CO₂ capture and storage.

These projects should also have identifiable sustainable development, local development and empowerment co-benefits and should not result in social or environmental harm i.e. negative social or ecological effects.

Energy efficiency, cogeneration of renewable energy and fuel switch projects implemented on activities owned or controlled by companies subject to the carbon tax are excluded. These project activities are already incentivised by the carbon tax so generating carbon offsets from such activities will not represent real emission reductions and result in double counting of effort including emission reductions.

Projects benefiting from other government incentives that could result in a double counting of the emission reduction benefits and financial incentives for the projects are excluded:

- The 12L incentive is part of a package of tax instruments designed to incentivise industry behaviour and contribute towards climate change mitigation hence should not be seen as an isolated instrument as it contributes to the objective of the carbon tax.
- Some renewable energy projects under the REIPPPP are excluded, from participating as eligible carbon offset projects i.e. those from Bid 1 and 2 windows as they were granted generous return on investment rates to ensure their bankability and success.

Small and medium scale renewable energy projects with a generating capacity exceeding 50MW are excluded as these are already incentivised through other financing mechanisms such as government guarantees under the REIPPPP.

Industrial gas destruction projects from adipic acid production are excluded. Evidence from other jurisdictions including the EU, Australia and New Zealand show that the high profit margins from these gas destruction projects created a perverse incentive to increase their production to earn money from destroying them. This resulted in companies shifting production from non-CDM plants to CDM plants, which undermines climate goals.

Projects for geological carbon capture and storage are excluded because of concerns on permanence, as there could be potential seepage of the stored CO₂ from the reservoirs over time and a lack of sustainable development co-benefits as this technology will continue to incentivise use of fossil fuels for energy production. Besides, a majority of current CCS projects are still demonstration projects in South Africa hence to be cautionary until the technology is better understood, these projects will not be eligible as carbon offsets. Also, within the framework of the carbon tax bill, CCS could be allowed as a sequestration activity therefore allowing them to be used as carbon offsets will result in them getting a double benefit.

In the case of sectors not covered by the carbon tax in the first phase such as AFOLU and waste and therefore eligible to generate offsets, but could be included in the carbon tax net in subsequent phases, those offset projects would be allowed to generate offset credits up to their original sunset date.

Part IV: ADMINISTRATOR

Designation of administrator: Regulation 5

This section specifies the administrator of the carbon offsets system.

The Designated National Authority (DNA), residing within the Clean Energy Unit of the Department of Energy which was established to support the development and implementation of CDM projects under the Kyoto Protocol of the United Nations Framework Convention on Climate Change (UNFCCC), will be responsible for administering the carbon offset scheme.

The Director-General of the Department of Energy; or an official employed in the Clean Energy programme of the Department of Energy to whom the Director-General may delegate exercise of power and discharging of responsibilities will fulfil this oversight role to enable the implementation of the carbon offset system.

Part V: OFFSET REGISTRY

Creation of Carbon offsets registry: Regulation 6

This section specifies the creation of a carbon offsets registry. A registry² will be crucial to ensure the credibility of the carbon offset system and avoid double counting of emission reductions. A large amount of data on the underlying projects, listing of the carbon credits in the ownership repository, transfer of carbon credit ownership, and retirement of credits and the corresponding carbon offset certificates will be generated under the carbon offset system. In line with the SOP and COAS, the registry will consist of two distinct components:

- **Project database** - is used to store the information of organizations and users who make use of the COAS through facilitating the smooth administration of the system while ensuring environmental integrity of the offset credits in the system and conforming to the South African project eligibility criteria. It gives access to specified users for inputs and reports, keeps an accurate record of project documents and contains the following information:
 - Project details and history;
 - Project approval history;
 - Project documents;
 - Validation reports;
 - Verification reports; and
 - Listing history.
- **Ownership repository** - stores the carbon credits and information relating to the carbon credits of each project owner and credit owner through maintaining a record of and facilitating the transfer of ownership of credits between offset generators and taxpayers. The ownership repository has to ensure commercial and financial integrity while giving access to specified users for inputs and reports and contains:

² This summary draws extensively on the DoE SOP and COAS

- Ownership records;
- Transfer of ownership records; and
- Retirement details.

Any action or change in information within the registry is recorded in the transaction log to ensure an accurate database of all actions taken in the system are recorded and stored for auditing purposes including an auditable record of all transactions involving the issuance, change of ownership and retirement of carbon offset credits in the system. The transaction log and ownership repository are linked through the project registration number, credit serial numbers and credit listing certificate reference number.

The current COAS is designed to link with existing infrastructure of trading commodities in South Africa, governed by the Financial Services Board. An evaluation of the whole COAS system will be undertaken and a suitable registry mechanism identified for use in the carbon offset system.

This assessment will need to address a number of issues including international developments such as Article 6 of the Paris Agreement, the Carbon Offset and Reduction Scheme for International Aviation (CORSIA), future linkages with international registries and standards as well as linkages with the broader Monitoring Reporting and Verification systems developed to support the implementation of the carbon tax. As countries work towards achieving their Paris Agreement commitments, cooperation across borders will be key for many jurisdictions' strategies as this helps ensure that the goals of the Paris Agreement are met in a cost effective manner.

An in-depth assessment is required to understand which type of data management and registry tool(s) are appropriate for the South African offset scheme and how to best roll these out. Under the Partnership for Market readiness (PMR) administered by the World Bank, technical assistance is provided to South Africa to support the refinement and implementation of the carbon tax, including the carbon offset scheme. A review of the Carbon Offset Administration System which has been developed by the Department of Energy and an assessment of the options for hosting of the carbon offset registry will be undertaken to strengthen the existing system. Existing platforms that could be considered include:

- APX;
- JSE;
- Markit and APX;
- Markit; or
- Other domestic platform.

Development of a South African specific registry system is envisaged over the medium to long term.

Maintaining, overseeing of offset registry and access to offset registry: Regulation 7

This section specifies that the administrator will have oversight on the registry and that the SARS and National Treasury will have access to the registry.

Part VI: CLAIMING OF ALLOWANCE

Procedure for claiming allowance by taxpayer: Regulation 8

This section specifies procedures to be followed by a taxpayer to:

1. obtain an extended letter of approval,
2. documents required for listing of the offset in the South African registry, and
3. generation of offset certificate specifying the emission reductions, which the taxpayer will use to reduce their carbon tax liability.

A description of the envisaged process for the registration of project, cancellation, transfer, listing and retirement of the offsets is provided below:

1. The project owner after initiating project development under a particular standard will obtain approval from the South African government (DoE) prior to project registration in the South African system i.e. ensure that the project meets the carbon offset criteria for the South African carbon tax specified in regulation 2. The project owner must also present a Letter of Approval (LoA) to confirm that the project meets the sustainable development criteria of the project for the in terms of the CDM or GS compliance projects or an agreed to confirmation document for the VCS/VERRA and voluntary GS projects.
2. If a project owner meets all these requirements, he/she is granted an Extended Letter of Approval (ELoA) by the carbon offset administrator, which allows the project to go ahead. The project owner can then implement the project in South Africa.
3. Once the project has been implemented, it generates carbon credits according to the methodologies and modalities including the various verification audits of the approving standard, namely CDM standard, VCS/VERRA or GS. Thus, prior to projects entering the COAS, these projects will have passed through the registration and issuance processes of the international standards.
4. Once emission reductions are verified, the project developer may request issuance of carbon credits (Certified Emission reductions (CERs) under the CDM, Verified Carbon Units (VCUs) under the VCS/VERRA and GS credits under the GS). Therefore, the CERs, VCUs and GS credits are all of equal tax compliance value.
5. For the credits to be used to offset the tax liability under the South African carbon tax scheme, credit owners and / or taxpayers will then request credits to be cancelled in the respective international standard registry for transfer into the South African registry. Once the credits have been cancelled in the international standard registry, they can be listed in the South African registry system. This will follow a mirror system where one tonne CO₂e is transferred as such into the South African registry.

6. The credit owner and / or taxpayer then initiates the carbon offset credit listing and obtains the attestation of voluntary cancellation for CDM projects or certificate of voluntary cancellation for VCS and GS from the international market and submits it to the carbon offset administrator who will evaluate the listing request.
7. The listing process entails the approval of carbon offset credits to be listed in the South African Ownership Repository, only after the carbon offset administrator has attestation to the fact that the same credits have been cancelled in the respective international registry.
8. Once successfully listed, the credit owner and / or taxpayer is issued with a listing confirmation by the carbon-offset administrator.
9. If the credit owner or taxpayer would like to sell or retire a portion of the carbon offset credits on the listing confirmation, the confirmation has to be split. The split action allows listing confirmation to be split into two new confirmations. The credit owner or taxpayer can select the number of carbon offset credits contained in each of the new listing confirmations. The two new listing confirmations will reference back to the initial listing confirmation that was issued to ensure traceability is maintained.
10. Should the carbon offset credits owner not be the taxpayer, they could transfer ownership of listed carbon offset credits to a taxpayer through issuing a transfer instruction to the carbon offsets administrator to facilitate change in ownership details. The transfer of ownership of the listed carbon offset credits to a taxpayer could take place directly between a credit owner and the taxpayer (who will use it to mitigate his tax liability), or it can be traded through intermediaries.
11. Once ready to utilise the carbon offset credits to reduce carbon tax liability, the taxpayer retires the carbon offset credits to gain an offset certificate from the administrator. The carbon offset administrator then deactivates the carbon offset credits in the South African ownership repository.
12. The carbon offset certificate can then be surrendered to SARS and used in mitigation of carbon tax liabilities.

A system to ensure that SARS has access to the South African Ownership Repository containing proof of retirement of the carbon offset credits will be developed.

Duties of administrator for purpose of claiming of allowance by taxpayer: Regulation 9

This section specifies the duties of the carbon offsets administrator to enable the taxpayer to claim the tax allowance. This will include but are not limited to:

1. Pre-screening of approved project ideas from different standards to ensure they comply with the carbon offset criteria for the South African carbon tax specified in regulation 2 and satisfaction with the presented agreed to confirmation documents from the respective standard

that they met the sustainable development criteria of the project prior to project registration in the South African system.

2. Issuance of an Extended Letter of Approval (ELoA) to the project owner if the project meets all of the above requirements, which allows the project to go ahead.
3. Evaluation of the listing request by the credit owner or taxpayer to ensure compliance with the listing requirements i.e. the ELoA is provided together with the attestation of voluntary cancellation (for CDM projects or certificate of voluntary cancellation for VCS and GS) from the international standard.
4. If the administrator is satisfied that the application is complete, the carbon offset credits will be listed in the South African Ownership Repository and issue carbon offset credits owner or taxpayer with a confirmation document for the successful listing (listing confirmation).
5. The listing of credits in the South African Ownership Repository involves the generation of the carbon offset credits in the electronic database. Each carbon offset credit will have a unique identifier or serial number.
6. If the credit owner or taxpayer issues a transfer instruction request for credit ownership transfer, the carbon offsets administrator will need to approve the transfer and then execute the transfer to facilitate change in ownership details.
7. When the taxpayer is ready to utilise the carbon offset credits to reduce their carbon tax liability, a retirement instruction is issued to the carbon offsets administrator. The administrator then executes the retirement through deactivating the carbon offset credits in the South African Ownership Repository and issues the taxpayer with a carbon offset certificate (which will be surrendered to SARS to mitigate carbon tax liabilities).

Part VII: REQUIREMENTS FOR DOCUMENTS

Requirements for extended letter of approval: Regulation 10

This section specifies the requirements for the project owner to obtain an extended letter of approval (ELoA) from the carbon offsets administrator, which allows the project to be implemented in South Africa for purposes of the carbon offsets under the carbon tax. The requirements for an ELoA are that the project owner must present:

- a Letter of Approval (LoA) to confirm that the project meets the South African sustainable development criteria in terms of the CDM or GS compliance projects or an agreed to confirmation document for the VCS/VERRA and voluntary GS; and
- confirmation that the project meets the carbon offset criteria for the South African carbon tax specified in regulation 2.

Content of certificate: Regulation 11

This section specifies the information that will be contained in the carbon offset certificate issued by the carbon offsets administrator to the taxpayer and stored in the South African Ownership Repository. The information that must be on the certificate will include:

- a unique number that must be allocated for each carbon offset credit that is registered by the administrator;
- the geographical location of the activity undertaken in respect of which the carbon offset credit is created;
- the identity of the person conducting or managing the conducting of the activity in respect of which the carbon offset credit is created;
- the methodological basis in respect of which the approved project is developed as contemplated in the definition of "approved project" in regulation 1;
- the date of the commencement of the activity in respect of which the carbon offset credit is created;
- an indication of whether the carbon offset credit is utilised for the first time for the purposes of these Regulations or whether the carbon offset credit is extended in terms of regulation 3; and
- the carbon offset credit duration period as stipulated by regulation 3.

The carbon offset certificate for purposes of the carbon tax will only be issued once the carbon offset credits have been retired in the South African Ownership Repository. SARS can carry out tax audits on carbon tax liable entities, in which case, the carbon offsets administrator will allow SARS access to the South African Ownership Repository containing proof of retirement of the carbon offset credits.

Retaining of certificate: Regulation 12

The carbon taxpayer or tax liable entities should keep the carbon offset certificate and related documentation for at least 15 years for auditing purposes in line with international practice.

Part VIII: MISCELLANEOUS

Short title and commencement: Regulation 13

This section specifies the name and commencement date of the Regulations on carbon offsets.