

# (carbon)plan

AUG 12 2022

Rachel Kyte, Co-Chair, Steering Committee  
Tariye Gbadegesin, Co-Chair, Steering Committee  
Voluntary Carbon Markets Integrity Initiative (VCMI)

**RE: VCMI's Provisional Claims Code of Practice**

Dear Ms. Kyte and Ms. Gbadegesin,

Thank you for the opportunity to comment on VCMI's Provisional Claims Code of Practice.<sup>1</sup> For context, signatories Danny Cullenward and Sadie Frank work at CarbonPlan, a nonprofit research organization dedicated to improving the transparency and scientific integrity of carbon removal and climate solutions. Signatory Zeke Hausfather is the climate research lead at Stripe, a financial technology company. Our comments today are informed by extensive research on carbon markets and private sector climate standards.<sup>2</sup>

We welcome VCMI's efforts to recognize corporate climate strategies that take additional action beyond companies' value chains, and agree that credible claims require robust standards. As explained below, however, we are concerned that two of the proposed labels are inconsistent with well-established net-zero standards and risk creating significant market confusion as a result. We write to explain these concerns and to offer constructive feedback on how to resolve them.

Before addressing our concerns, we first want to acknowledge the laudable goals of the Provisional Code and the merits of several of its key provisions. For example, the proposed transparency requirements would provide much-needed information that is often unavailable today.<sup>3</sup> We also appreciate the requirement for companies to publicly affirm the consistency of their advocacy activities with the Paris Agreement and ambitious climate regulation.<sup>4</sup>

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<sup>1</sup> VCMI, Provisional Claims Code of Practice (June 7, 2022) (hereinafter "Provisional Code").

<sup>2</sup> For example, CarbonPlan's research and policy commentary are available here.

<sup>3</sup> Provisional Code at 32 (specifying disclosure requirements in Step 4); Sadie Frank et al., Why carbon offset disclosure matters, *CarbonPlan* (Feb. 8, 2022).

<sup>4</sup> Provisional Code at 20 (requiring a public affirmation). It would help to clarify whether VCMI intends to require companies to attest to the advocacy efforts of their trade bodies, or whether VCMI will allow companies to make a statement that excludes any applicable trade bodies' advocacy efforts. We

Nevertheless, the Provisional Code raises three significant issues of concern that should be revised in the final VCMI Claims Code of Practice. We summarize and address each in turn.

First, the Provisional Code does not specify rigorous standards for companies' net-zero emissions targets, nor what constitutes a "high-quality" carbon credit. VCMI should identify the specific external standards that demonstrate compliance with these requirements, and exclude from those lists any standards that are not yet finalized.

Second, the proposed Gold and Bronze labels are inconsistent with leading net-zero standards. The Gold label inappropriately suggests that a company has achieved net-zero emissions without a corresponding requirement to neutralize all unabated emissions with permanent atmospheric removals, while the Bronze label allows companies to contradict their own net-zero targets and use carbon credits in lieu of required emission reductions. VCMI's labeling standards should be revised as summarized in an Appendix to this letter.

Third, the Provisional Code lacks any governance or enforcement mechanisms. While we appreciate that VCMI's efforts are only in their initial stages, we are concerned that the public consultation process asks for input on whether the Provisional Code is ready for external regulatory adoption when it lacks even the most basic elements of a governance structure designed to check and transparently report compliance outcomes. The governance process should also include a mechanism for addressing concerns raised by members of the public.

**1. The Provisional Code is based on external net-zero and credit quality standards, but does not specify adequate requirements for either.**

The Provisional Code depends on external standards in two fundamental areas. First, companies must make a "public commitment to achieve [a] science-aligned long-term net-zero emissions" target, and second, companies must purchase a minimum number of "high-quality" carbon credits.<sup>5</sup> Unfortunately, neither concept is adequately defined in the Provisional Code.

The foundation of the Provisional Code is a company's public commitment to a net-zero emissions target and trajectory. The Provisional Code makes repeated reference to a leading private-sector net-zero standard from the Science Based Targets initiative (SBTi),<sup>6</sup> but neither limits compliance options to SBTi's well-known standard nor indicates what other approaches might be valid for VCMI's purposes. Although we strongly support the use of SBTi's net-zero

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recommend VCMI require that companies attest that the advocacy efforts of their trade bodies are also aligned with ambitious climate action.

<sup>5</sup> Provisional Code at 20 (Step 1 for net-zero targets); *id.* at 30-31 (Step 3 for high-quality credits).

<sup>6</sup> Provisional Code at 14, 20, and 40.

standard for VCMI compliance, the lack of specificity on what other approaches constitute a “science-based” standard is concerning given the complexity of the issues involved.

We recommend that VCMI limit eligibility to a fixed list of methods for establishing a valid net-zero target. If VCMI proposes to make any non-SBTi net-zero standards eligible, VCMI should provide a detailed justification of why alternative standards are no less stringent than SBTi’s approach and an opportunity for further public consultation.

We have similar concerns about the definition of “high-quality” carbon credits. The Provisional Code makes reference to abstract principles, such as requiring that credits be issued by “a recognized and credibly governed standard-setting body” that establishes rules for additionality and third-party validation, but does not elaborate further.<sup>7</sup> Instead of listing the approaches that meet these principles, the text makes reference to a wide-ranging and apparently open list that includes the forthcoming standards from the Integrity Council for the Voluntary Carbon Markets (IC-VCM), future guidance under Article 6 of the UNFCCC Paris Agreement, and the international aviation industry’s CORSIA program.<sup>8</sup> None of these options represents a reasonable definition of “high-quality” credits, for two reasons.

First, as of this writing, two of the three listed options remain in their initial development phases. The IC-VCM only released a draft of its Core Carbon Principles in July, which must be finalized after an ongoing public consultation process and then applied to global market offerings in a subsequent screening process.<sup>9</sup> Similarly, the Article 6 rules are still in development and contingent on the creation of an entirely new governance framework.<sup>10</sup> As a result, it is premature and prejudicial to identify the future outcome of the ongoing IC-VCM or Paris Agreement Article 6 processes as satisfactory quality control standards.

Second, while the CORSIA eligibility rules are final as of this writing,<sup>11</sup> they do not offer a reasonable definition of quality and should not be used as a basis for VCMI’s definition. Although the CORSIA rules generally prohibit older projects — and thus address, in part, a

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<sup>7</sup> Provisional Code at 30 (Step 3).

<sup>8</sup> Provisional Code at 14, 30.

<sup>9</sup> IC-VCM, Core Carbon Principles, Assessment Framework, and Assessment Procedure: Draft for public consultation (July 2022) (with public comments due Sept. 27, 2022).

<sup>10</sup> United Nations Framework Convention on Climate Change, Rules, modalities and procedures for the mechanism established by Article 6, paragraph 4, of the Paris Agreement, FCCC/PA/CMA/2021/10/Add.1, Decision 3/CMA.3 (Mar. 8, 2022).

<sup>11</sup> International Civil Aviation Organization, CORSIA Eligible Emissions Units (7th edition, Mar. 2022).

backlog of low-quality credits that threaten the integrity of the voluntary carbon market<sup>12</sup> — CORSIA qualifies the newer offerings of nearly every major carbon offset registry in the world.

It is highly likely that these eligibility rules will prove more permissive than other supply-side standards, such as the IC-VCM, and in any case there are several CORSIA-eligible offerings that should be ruled out at face value. For example, the CORSIA-approved Global Carbon Council issues offset credits to new renewable energy projects that other registries now prohibit because renewable energy is non-additional in nearly all applications.<sup>13</sup> Despite violating a broadly accepted market judgment about the non-additionality of commercially feasible renewable energy projects, these credits are nevertheless CORSIA-eligible and would thus be deemed “credible” under the terms of the Provisional Code.

We urge VCMI to specify a fixed list of carbon credit quality control standards that can be updated over time as needed. The list should not rely on CORSIA definitions to establish a credit as “high quality,” nor should it include standards that are still in development. To the extent such a list cannot be generated today, that would be a sign that a Code of Practice remains contingent on future standards development and may be premature as a functional document that is ready for robust implementation.

**2. The Provisional Code proposes a scientifically inaccurate definition for the proposed Gold: Net Zero label, while its proposed Bronze label conflicts with leading net-zero standards. Both should be revised.**

The Provisional Code indicates that its “primary purpose” is to “provide clear guidance to companies ... on when they can credibly make voluntary use of carbon credits as part of their net zero commitments.”<sup>14</sup> Despite the document’s rhetorical emphasis on net-zero emissions, its substantive guidance fails to address the physical requirements of net-zero targets. As explained further below, the proposed definition for the Gold: Net Zero label is scientifically invalid and the Bronze label contradicts leading private sector standards. We provide comprehensive recommendations to address these concerns in an Appendix.

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<sup>12</sup> See, e.g., Mark Maslin and Simon Lewis, Outdated carbon credits from old wind and solar farms are threatening climate change efforts, *The Conversation* (Jan. 14, 2021).

<sup>13</sup> ICAO, *supra* note 11 at 5 (qualifying Global Carbon Council Registry credits); Global Carbon Council Registry, Approved Projects (listing new renewable energy projects hosted in Serbia and Turkey); Global Carbon Council Registry, Submitted Projects (showing over 300 proposed projects as of this writing, with most involving renewable energy projects outside of “Least Developed Countries”); Verra, VCS Standard v4.3 (June 2022) at § 2.1 (Table 1) (excluding renewable energy projects outside of countries designated by the United Nations as “Least Developed Countries”); United Nations Committee for Development Policy, List of Least Developed Countries (Nov. 2021).

<sup>14</sup> Provisional Code at 13.

**2.1. VCMI should eliminate the “Net Zero” descriptor from its proposed Gold label and require companies earning its most stringent labels to procure a growing share of atmospheric carbon dioxide removal credits.**

The Intergovernmental Panel on Climate Change (IPCC) defines “net-zero greenhouse gas emissions” as the “[c]ondition in which metric-weighted anthropogenic greenhouse gas (GHG) emissions are balanced by metric-weighted anthropogenic GHG removals over a specified period.”<sup>15</sup> Critically, as several of the foundational standards referenced in the Provisional Code properly acknowledge, this definition involves a balance between greenhouse gas emissions and permanent atmospheric removals — most likely of carbon dioxide.<sup>16</sup> In contrast, the Provisional Code does not require the use of carbon credits that reflect durable atmospheric carbon removals for any of its labels.

The lack of any guidance on removals is particularly concerning with respect to the Provisional Code’s most stringent label, “VCMI Gold: Net Zero.” This label is scientifically inaccurate. The phrase “Net Zero” should not be used with any label for which compliance is not predicated on the use of permanent greenhouse gas removals to compensate for any remaining greenhouse gas emissions. A company that complies with the proposed Gold label has not achieved net-zero emissions and should not be marketed as such.

It would be more accurate to describe the proposed Gold label as a *carbon neutrality* claim, in which the use of carbon credits is intended to compensate on a ton-for-ton basis the greenhouse gas emissions footprint of a company, brand, or product — without any corresponding requirement that the credits reflect atmospheric removal services that are a necessary prerequisite to a net-zero claims.<sup>17</sup> And although a net-zero aligned carbon neutrality standard should require a growing share of credits to reflect carbon removal services over

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<sup>15</sup> J.B. Robin Matthews et al. (eds.), Climate Change 2021: The Physical Science Basis, Annex VII: Glossary (2021) at 2240 (providing the IPCC’s definition for “net-zero greenhouse gas emissions”).

<sup>16</sup> See, e.g., SBTi, Corporate Net-Zero Standard Version 1.0 (Oct. 2021) at 9 (“[Greenhouse gasses] released into the atmosphere when the company has achieved their long-term [Science-Based Target] must be counterbalanced through the permanent removal and storage of carbon from the atmosphere”); Myles Allen et al., The Oxford Principles for Net Zero Aligned Offsetting, University of Oxford (Sept. 2020) at 1 (“Users of offsets should increase the portion of their offsets that come from carbon removals, rather than from emission reductions, ultimately reaching 100% carbon removals by mid-century to ensure compatibility with the Paris Agreement goals”).

<sup>17</sup> Provisional Code at 28 (see Table 1). In contrast, most carbon neutrality definitions require credit usage to cover 100% of unmitigated emissions. See, e.g., SBTi, Beyond Value Chain Mitigation FAQ, Version 1.0 (Oct. 2021) at 8 (“when companies purchase carbon credits in an amount equal to their remaining emissions, the ‘carbon neutral’ claim can facilitate increased beyond-value chain mitigation.”). Although the VCMI Silver and VCMI Bronze labels also lack any guidance around the use of carbon removal credits, it would *not* be appropriate to refer to them as carbon neutrality claims because they only require offset use equal to 20% of unmitigated emissions.

time,<sup>18</sup> the Provisional Code currently lacks specific guidance on whether and how companies should transition their credit portfolios toward more permanent removals.

Because long-term net-zero emission targets require permanent atmospheric removals, the Provisional Code could be improved by incorporating guidance on how companies should begin a transition in credit use to this end. Guidance on future carbon removals would be consistent with other leading standards and therefore would contribute to bringing greater clarity to private credit markets. For example, SBTi appropriately acknowledges that a growing share of companies' beyond value chain" mitigation should come from carbon removals over time, and identifies "a critical need for companies to invest in nascent [greenhouse gas] removal technologies" that permanently store CO<sub>2</sub> through mineralization or in geologic formations.<sup>19</sup> Similar recommendations are provided in the Oxford Principles for Net Zero Aligned Carbon Offsetting, which recommend that companies transition their portfolio of voluntary carbon market purchases to permanent removals over time.<sup>20</sup>

We believe it would be helpful for VCMI to develop guidance to require companies to achieve a growing minimum share of credits procured from permanent carbon removal, similar to the rising share of high-quality carbon credits required under the Provisional Code's Bronze and Silver labels. We recommend that the final Gold and Silver labels require minimum standards for carbon removal, as detailed in the Appendix to this letter.

## **2.2. VCMI should reform its proposed Bronze label to require standards that are not in conflict with the SBTi Corporate Net-Zero Standard.**

The proposed Bronze label raises distinct concerns. Although the proposed Silver and Gold: Net Zero labels require companies to set science-based net-zero targets and show that they are "on track" to meet interim emission reduction targets for their Scope 1, 2, and 3 emissions, the proposed Bronze label explicitly allows companies to deviate from their interim Scope 3 emissions targets. Specifically, the technical definition allows a company to procure carbon credits to offset up to 50% of its Scope 3 emissions in lieu of reducing those emissions in line with its official Scope 3 emissions target.<sup>21</sup>

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<sup>18</sup> Myles Allen et al., *supra* note 16.

<sup>19</sup> SBTi, *supra* note 16 at 9 (Figure 2) (indicating a growing need for carbon removal over time); see also *id.* at 11 ("There is also a critical need for companies to invest in nascent GHG removal technologies (e.g. direct air capture (DAC) and storage).").

<sup>20</sup> Myles Allen et al., *supra* note 16 at 2 ("It is therefore critical that investment in scaling and improving the technologies that enable long-lived storage begins now. Creating demand for long-lived offsets today sends a signal to the market to grow the supply of such offsets.").

<sup>21</sup> Provisional Code at 28 (see Table 1). Our concern applies to companies that SBTi requires to set Scope 3 targets. SBTi, *supra* note 16 at 22 (describing SBTi guidance on Scope 3 inclusion).

Beyond the danger of promoting companies' use of carbon offsets as "responsible" when the use of those credits violates their own climate pledges, it is important to emphasize that VCMI's proposed approach directly conflicts with the SBTi standard — a standard on which the Provisional Code is supposedly based. The SBTi Corporate Net-Zero Standard specifically prohibits the use of carbon credits for compliance with required emission reductions, and instead encourages optional "beyond value chain mitigation" investments in carbon credits — ultimately leading to the requirement to "neutralize" any remaining emissions with permanent carbon removal.<sup>22</sup> In contrast, the proposed Bronze label allows companies to use carbon credits to cover shortfalls in achieving their Scope 3 emission targets. As a result, a company could pledge a net-zero target, fail to achieve interim milestones, use carbon credits in place of promised emission reductions, and nevertheless earn a VCMI Bronze label.

Thus, rather than providing clarity on the responsible use of carbon credits, the Provisional Code risks creating significant confusion by contradicting the widely-used SBTi standard. Because the minimum standards under the proposed VCMI Bronze label directly contradicts core net-zero principles and practically serve to undermine SBTi's leading private sector net-zero standard, VCMI should revise the current Bronze standard.

### **3. The Provisional Code lacks a governance mechanism to ensure that predicate standards for net-zero targets and carbon credit quality are in place.**

Finally, we respectfully note that the Provisional Code lacks any formal governance or enforcement mechanisms. For example, the Provisional Code does not specify who would check to ensure that a participating company has met the prerequisites for a VCMI label, nor whether and how stakeholders might raise concerns about whether a company has satisfied those requirements in practice. We urge VCMI to develop a mechanism by which members of the public can identify potential issues with the VCMI standards or their use and provide for adequate review of any good-faith concerns that arise.<sup>23</sup>

While we appreciate that the Provisional Code represents an initial effort, any governance shortcomings are particularly concerning due to the lack of specificity around which external

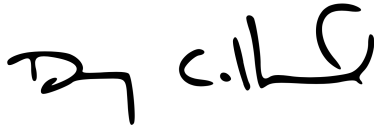
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<sup>22</sup> SBTi, *supra* note 16 at 21 ("Carbon credits do not count as reductions toward meeting your science-based targets. Companies should only account for reductions that occur within their operations and value chain."); *id.* at 10 (promoting "beyond value chain mitigation" that does not count toward companies' net-zero targets); *id.* at 11 (requiring that "when the net-zero target date is reached, companies must neutralize any [residual] emissions by permanently removing carbon from the atmosphere").

<sup>23</sup> We note that, in contrast to Provisional Code's lack of specificity, parallel draft consultation documents for the provided by IC-VCMI do contemplate more thorough governance provisions, including grievance mechanism and performance monitoring.

standards VCMI proposes to accept to demonstrate the rigor of a company's net-zero emissions pledge and the quality of its carbon credit purchases. This is all the more reason for VCMI to establish a clear and fixed list of eligible predicate standards to reduce complexity, increase transparency, and facilitate reasonable governance going forward.

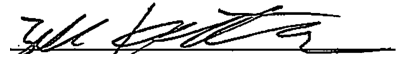
Thank you for the opportunity to comment on the Provisional Code.



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## Appendix — Recommended VCMI labeling requirements

### Proposed alternative labels:

Label	Interim targets (Scope 1+2)	Interim targets (Scope 3)	Credit use	Growing share of CDR credits
Gold	On track	On track	100% of remaining	Required
Silver	On track	On track	20% of remaining (escalating)	Required
Bronze	On track	On track	20% of remaining (escalating)	Not required

### Current labels in the Provisional Code:

Label	Interim targets (Scope 1+2)	Interim targets (Scope 3)	Credit use	Growing share of CDR credits
Gold: Net Zero *	On track	On track	100% of remaining	Not required
Silver	On track	On track	20% of remaining (escalating)	Not required
Bronze **	On track	Offsets allowed, up to 50% **	20% of remaining (escalating)	Not required

### Notes

\* The standard for “Gold: Net Zero” does not achieve net-zero emissions because it does not balance remaining emissions with permanent carbon dioxide removals.

\*\* The standard for “Bronze” allows a company to contradict its own Scope 3 target and is inconsistent with the SBTi corporate net-zero standard.