



## The win-win situation of issuing and selling carbon credits

Despite a seemingly recent topic, discussions involving global warming and climate change have been part of our daily lives for more than 30 years since the Intergovernmental Panel on Climate Change (IPCC), established in 1990.

Over time, terms like low carbon economy and carbon credits were allowed to be explored as new actors and players, such as the market and investors, recognized the magnitude of the challenge and opportunities involved in reducing the carbon footprint and the environment protection.

Currently, governments, companies and investors can contribute to the reduction of GreenHouse Gases (GHG) emissions that cause global warming through investing in carbon projects or through the purchase of final credits, called carbon credits and/or verified emission reductions (RVE), thus reducing GHG emissions into the atmosphere.

RVE, or carbon credits, represent, per unit, one ton of carbon dioxide (CO<sub>2</sub>), or the equivalent amount of another greenhouse gas, not released into the atmosphere. Once generated and certified, these credits can be traded on the voluntary carbon market, where there are numerous opportunities to buy and sell the credits, always aiming to reduce GHG emissions.

### Carbon offset projects

The COP26 (26<sup>th</sup> session of the Conference of the Parties), held in Glasgow, UK, in November 2021, was an important step towards the voluntary carbon market as it regulated international transactions, which facilitates the purchase of credits generated in a country by companies and people from other nations.

This regulation made room for a promising market, estimated at between 30 billion and 50 billion dollars by 2030, in projects that generate carbon credits. Brazil is able to be responsible for 20% of the world market, the equivalent of 6 billion dollars (or about 30 billion reais) by 2030.

Currently, there are many investors interested in significantly providing funds to carbon projects, which represents a great opportunity for owners of areas suitable for carrying out such projects. They will be able to increase their land value and still receive a percentage of the results without the often prohibitive amount needed to finance a carbon project.

For rural producers, carbon credits represent the chance to generate green income and real estate appreciation combined with the preservation of the environment and the fight against climate change, and their exploitation is increasingly accessible to all interested parties.

Furthermore, with Law No. 14.119/21, which regulated the payment for environmental services, the income received for environmental services that carbon projects can generate will not be part of the basis for calculation of the Income Tax, Corporate Tax, contribution to the Social Integration Program and to the Public Servants' Fund Financing Program (PIS/Pasep) and Contribution for Social Security Financing (Cofins), making the carbon market even more attractive.

With technical advances and investments made in the area, operational aspects related to the generation of carbon credits were also improved. As a result, more people can benefit from this market. It is not only the large landowners of areas with



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untouched native forest that can join the projects, but also the farmers and ranchers who own smaller areas.

Investors today can count on Redd+ (Reduced Emissions from Deforestation and Degradation) projects, which conserve existing standing forests, avoiding the release of carbon into the atmosphere; ARR (Afforestation, Reforestation and Revegetation), which carry out the afforestation or reforestation of areas, so that the trees capture, as they grow, carbon from the atmosphere; ALM (Agricultural Land Management), which, from the professional management of agriculture or livestock, manages to both reduce GHG emissions into the atmosphere as well as capture these gases from the atmosphere, in both cases keeping them in the soil.

Brazil has great potential for all these modalities, either because it has a huge forest asset in different biomes, such as the Amazon or the Pantanal, or because of its large areas suitable for reforestation, besides the large agricultural market that it holds. Given this scenario, how can producers in the agricultural sector and other investors enter the brave new world of the carbon market?

### Steps for the issue of carbon credits

The issue of carbon credits requires the fulfillment of several steps that range from the elaboration of a Redd+, ARR or ALM project in an area, formal contracting between the owner of the area and the company that will execute the project, through monitoring of the area, followed by a thorough examination by a certifier that will attest that the project has generated a certain amount of carbon credits by capturing or preventing the release of GHGs into the atmosphere.

Once the credits are certified and registered, the sale stage begins through a carbon credit assignment agreement to an interested party who can “retire” them on their behalf, which means that they will offset their emissions with the carbon credits purchased or simply keep them in their possession to sell at another time.

For the smooth progress of all these stages, there are now companies and law firms ready to advise rural producers in areas suitable for the development of carbon projects. These specialized companies are responsible for the feasibility study, preparation of the credit issuance report, technical proposal, validation, monitoring, certification of credits and their issuance, as well as intermediating the search for buyers. Law firms, on the other hand, take care of aspects related to land tenure in the area where the project is intended to be carried out and the contracts for the purchase and sale of credits.

To have access to the promising carbon market, the holder or owner of the credits shall have a title or legitimate possession, have their Rural Property Registration Certificate (CCIR), the Georeferencing certification by The National Institute for Colonization and Agrarian Reform (SIGEF) legally endorsed and when applicable, the Environmental Rural Registry (CAR), the Environmental Declaratory Act (ADA) and the regular payment of the Rural Property Tax (ITR).

Another important contribution of legal advice concerns contractual commitments, since carbon projects, although they may yield credits in five-year “harvests”, are generally long-term projects whose contracts can reach or exceed 30 years of validity. Thus, it is essential that the parties involved are well advised so that they do not have their expectations frustrated.



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The carbon credit market is booming and there is an increasing social and governmental pressure for landowners to comply with environmental requirements and reduce GHG emissions, at the same time as the search for carbon credits by institutions that wish to neutralize their emissions only increase. It is essential to be prepared to enter this promising market

The text above was published in Portuguese in the Legislação & Mercado section of Capital Aberto on April 26th, and can be accessed through the link below:

<https://legislacaoemercados.capitalaberto.com.br/o-ganha-ganha-da-emissao-e-venda-de-creditos-de-carbono/>



## CVM resolution on corporate lawsuits benefits minority shareholders

The Brazilian Securities and Exchange Commission (CVM) introduced a new regulation to improve investors and minority shareholders' access to information, through which listed companies shall disclose information about lawsuits or arbitrations based, in whole or in part, on corporate or securities legislation, or on the rules issued by CVM, in which the company itself, its shareholders or its managers are involved as a party.

The regulation determines rules for which information must be disclosed and the deadlines vary according to which side the company, shareholder or manager is (plaintiff's or defendant's). The disclosure of the communication on corporate lawsuits shall be made through CVM's electronic system and the company website.

A controversial point in the new communication is confidentiality: the regulation provides that only confidentiality established by law shall be respected, therefore, arbitration confidentiality clauses, as a rule, may not be used as an excuse for restricting the disclosure of such information.

The resolution is part of an effort made by the CVM together with other organization to improve the mechanisms of protection of investors and minority shareholders, which aims to elevate the Brazilian legal system closer to the ones found in countries with more developed markets.

We contributed on the subject in the article "*Resolução da CVM sobre demandas societárias beneficia minoritários*" published in Portuguese in the Legislação & Mercado section of Capital Aberto on June, 2<sup>nd</sup>, 2022, which can be accessed through the following link:

<https://legislacaoemercados.capitalaberto.com.br/resolucao-da-cvm-sobre-demandas-societarias-beneficia-minoritarios/>