



Legal characteristics of Australian carbon credit units

About this statement

This is a statement¹ setting out a concise description of the characteristics of Australian Carbon Credit Units (ACCUs). This statement is published, and will be kept up-to-date, under section 162 of the [Carbon Credits \(Carbon Farming Initiative\) Act 2011](#) (CFI Act 2011). It is not a Product Disclosure Statement within the meaning of Part 7.9 of the [Corporations Act 2001](#)².

This statement is general in nature and does not apply to any particular situation, transaction or organisation. It is not legal or financial advice. You should seek your own legal or financial advice with particular reference to your own circumstances and requirements. This statement does not provide specific information or advice concerning, among other things, the detailed characteristics of ACCUs, the costs associated with them, their legal status, their taxation treatment, or the potential benefits and risks of dealing in them.

Neither the Commonwealth of Australia or the Clean Energy Regulator, nor any of their officers or related bodies, make any representation as to the future nature, characteristics or performance of ACCUs. Nor can they provide any specific advice concerning ACCUs. You may obtain professional advice from a person who holds an Australian Financial Services Licence (AFS licence) that authorises them to provide financial advice in relation to ACCUs or is exempt from the requirement to hold an AFS licence for this purpose. You can visit the [ASIC website](#) to search the register of AFS licensees, or visit the [Money Smart website](#) for more information on obtaining professional financial advice.

Please note that any financial product which is related to or associated with an ACCU, such as a derivative or a managed investment scheme, may require a Product Disclosure Statement to be provided by the person offering or recommending that financial product.

What is an ACCU?

An ACCU is a unit issued to a person by the Clean Energy Regulator (Regulator) by making an entry for the unit in an account kept by the person in the electronic [Australian National Registry of Emissions Units](#) (Registry)³. Each ACCU issued represents one tonne of carbon dioxide equivalent (tCO₂-e) greenhouse gases

¹ The information set out in this statement is correct as at 31 August 2023.

² Generally speaking, Subdivision 4.1A of Part 7.9 of the *Corporations Regulations 2001* provides that provisions in Part 7.9 of the *Corporations Act 2001* dealing with the need to give a Product Disclosure Statement do not apply in relation to an ACCU. Part 19 of Schedule 10A to the *Corporations Regulations 2001* modifies Part 7.9 of the *Corporations Act 2001* so that a person who would otherwise be required to give a Product Disclosure Statement in relation to an ACCU is instead required to direct its clients to this statement.

³ Sections 11(5), 11(6), 147 and 148, CFI Act 2011; sections 9(3) and (4) and 17(1), *Australian National Registry of Emissions Units Act 2011* (ANREU Act 2011). If a registered native title body corporate is taken to be the project proponent for an eligible offsets project under section 46 of the CFI Act 2011, ACCUs can only be issued by making an entry in the special native title account for the project: section 49, CFI Act 2011. ACCUs held in a special native title account are held on trust for the relevant common law holders of the



stored or avoided by an eligible project under the Australian Government's Australian Carbon Credit Unit Scheme (ACCU Scheme). An ACCU can only be issued to a person if the person has a Registry account⁴ and a Registry account can only be opened in a person's name if the Regulator is satisfied that the person passes the 'fit and proper person' test⁵.

Issue of ACCUs

The Regulator issues ACCUs for greenhouse gas abatement activities undertaken as part of the ACCU scheme. The issuance of ACCUs is governed by the CFI Act 2011 and the [Carbon Credits \(Carbon Farming Initiative\) Rule 2015](#) (CFI Rule 2015). Each ACCU represents one tonne of carbon dioxide equivalent net abatement of greenhouse gases (through either emissions avoidance or carbon sequestration) achieved by eligible activities.

Eligible activities are undertaken as 'eligible offsets projects'⁶. There are a number of requirements that must be satisfied before a project can be declared an 'eligible offsets project', and there are ongoing requirements in undertaking an eligible offsets project. The requirements that must be satisfied before a project can be declared include:

- The project must be carried on in Australia⁷
- The applicant for the declaration of the project as an eligible offsets project must be the project proponent⁸ for the project⁹ must pass a 'fit and proper person test'¹⁰
- There must be an approved methodology determination for the type of project¹¹
- The project must meet eligibility requirements set out in the methodology determination¹²
- The project must meet the applicable additionality requirements¹³

native title in relation to the project area/s for the project: section 50(2), CFI Act 2011. Regulations or rules may make provision for the account holder to consult, and act in accordance with the directions of, the beneficiaries in relation to, amongst other things, the account: section 51, CFI Act 2011. If there are multiple project proponents for a project, ACCUs can only be issued by making an entry in the nominee account for the project kept in the name of the nominee of the multiple project proponent whose nomination is in force: section 141, CFI Act 2011. ACCUs held in a nominee account for a project are held on trust for the persons who are, for the time being, the project proponents for the project: section 142, CFI Act 2011.

⁴ Sections 11(5), 49(4), 141(4) and 148(2), CFI Act 2011.

⁵ Regulation 13(2)(c), *Australian National Registry of Emissions Units Regulations 2011* (ANREU Regulations 2011). The 'fit and proper person test' is defined in section 3, ANREU Regulations 2011 by reference to the definition of that term provided in the CFI Act 2011, where it is defined in section 60, CFI Act 2011.

⁶ An 'eligible offsets project' can be a sequestration offsets project (defined in section 54 of the CFI Act 2011) or an emissions avoidance offsets project (defined in section 53 of the CFI Act 2011) that has been declared by the Regulator to be an eligible offsets project under section 27(2) of the CFI Act 2011. An emissions avoidance offsets project can be an area-based emissions avoidance project (defined in section 53A of the CFI Act 2011 read with section 50 of the CFI Rule 2015).

⁷ Section 27(4)(a), CFI Act 2011. See also s 5, CFI Act 2011 (definition of 'Australia').

⁸ The project proponent is the person who is responsible for carrying out the project and has the legal right to carry it out: section 5, CFI Act 2011 (definition of 'project proponent').

⁹ Section 27(4)(e), CFI Act 2011.

¹⁰ Sections 27(4)(f) and 60, CFI Act 2011 and Part 4, CFI Rule 2015.

¹¹ Section 27(4)(b), CFI Act 2011.

¹² Section 27(4)(c), CFI Act 2011.

¹³ Section 27(4)(d). The additionality requirements are set out in section 27(4A) of the CFI Act 2011, section 21 of the CFI Rule 2015 and in applicable methodology determinations. They include the government program requirement, the regulatory additionality requirement and the newness requirement.



- The project must meet the scheme eligibility requirements specified in the CFI Rule 2015¹⁴
- The project must not be an excluded offsets project¹⁵.

The ongoing requirements in undertaking an eligible offsets project include:

- The project proponent must report to the Regulator about the conduct of the project and the abatement achieved¹⁶. Certain reports must be accompanied by a report prepared by a registered greenhouse and energy auditor¹⁷
- The project proponent (or the person who was the project proponent for an eligible offsets project, or the legal personal representative of a deceased project proponent) must comply with notification¹⁸, record-keeping¹⁹ and monitoring requirements²⁰ relating to the project.
- The declaration of an offsets project as an eligible offsets project can be voluntarily revoked by the Regulator upon application made by the project proponent for the project²¹, or it can be revoked by the Regulator at its discretion if certain requirements are met²².
- ACCUs can only be issued for an offsets project that has been declared by the Regulator as an eligible offsets project, and may be issued as long as that declaration has not been revoked²³.

ACCUs are issued as Kyoto ACCUs if the project has resulted in eligible carbon abatement, or as non-Kyoto ACCUs if the project has not resulted in eligible carbon abatement²⁴.

A person must hold a certificate of entitlement²⁵ before an ACCU can be issued to that person²⁶. The number of ACCUs issued to the person is equivalent to the number specified in that certificate²⁷. This number, generally speaking, reflects the number of tonnes of carbon dioxide equivalent net abatement of greenhouse gases achieved by the project over the reporting period²⁸. If the project is a sequestration offsets project, the number is reduced by a risk of reversal buffer set at 5 per cent or another percentage specified in the legislative rules that is applicable to the project at the start of the project's crediting period

¹⁴ Section 27(4)(l), CFI Act 2011. Scheme eligibility requirements for the purposes of section 27(4)(l) of the CFI Act 2011 are set out in sections 20 and 20A of the CFI Rule 2015.

¹⁵ Sections 27(4)(m), 5 (definition of 'excluded offsets project') and 56, CFI Act 2011. See also sections 20AA, 20AB, 20B, and 20C of the CFI Rule 2015 for projects specified as excluded offsets projects.

¹⁶ Part 6, Division 2 CFI Act 2011 and Part 6, Division 2, CFI Rule 2015.

¹⁷ Subsection 76(4), CFI Act 2011 and Part 6, Division 3, CFI Rule 2015.

¹⁸ Part 6, Division 3, CFI Act 2011 and Part 6, Division 4, CFI Rule 2015.

¹⁹ Part 17, Division 2, CFI Act 2011 and Part 17, CFI Rule 2015.

²⁰ Part 17, Division 3, CFI Act 2011.

²¹ Part 3, Division 4, Subdivision A, CFI Act 2011 and sections 29 and 30, CFI Rule 2015.

²² Part 3, Division 4, Subdivision B and section 139, CFI Act 2011 and Part 3, Division 2B, Subdivision C, CFI Rule 2015.

²³ Sections 12 and 15, CFI Act 2011.

²⁴ Sections 11(2) and (3), CFI Act 2011. Section 5, CFI Act 2011 defines the term 'eligible carbon abatement' as meaning carbon abatement resulting from the carrying out of an offsets project that is able to be used to meet Australia's climate change targets under the Kyoto Protocol or the Paris Agreement. That section also defines the term 'carbon abatement' as meaning removal of any greenhouse gases from the atmosphere or avoidance of release of any greenhouse gases into the atmosphere. An ACCU issued after 13 December 2014 is a Kyoto ACCU if it is, or is to be, identified as a Kyoto ACCU in the Registry. An ACCU issued before 13 December 2014 is a Kyoto ACCU if it has the attributes specified in the Ministerial determination Carbon Credits (Carbon Farming Initiative) – Kyoto Australian Carbon Credit Unit Specification 2011: section 5, CFI Act 2011 (definition of 'Kyoto Australian carbon credit unit'). A non-Kyoto ACCU is an ACCU other than a Kyoto ACCU: section 5, CFI Act 2011 (definition of 'non-Kyoto ACCU').

²⁵ Also referred to as an abatement statement.

²⁶ Section 11(1), CFI Act 2011. The certificate of entitlement is issued by the Regulator. The criteria for the issue of a certificate are set out in section 15 of the CFI Act 2011 and sections 9 and 9AA of the CFI Rule 2015.

²⁷ Sections 11(2) and (3), CFI Act 2011.

²⁸ See sections 16 and 18 of the CFI Act 2011 for details as to how unit entitlements are calculated.



²⁹. If the project is a 25-year permanence period project³⁰, the number is reduced by another 20 per cent or another percentage specified in the legislative rules that is applicable to the project at the start of the project's crediting period³¹.

If the project is a native forest protection project covered by Item 387 of Schedule 1 to the [Carbon Farming Initiative Amendment Act 2014](#)³² the number is reduced by the risk of reversal buffer, and one-twentieth of the resulting number is attributed to each year of the twenty year crediting period.

If abatement from a project has already been credited or otherwise accounted for under another carbon offsets scheme that existed before 13 December 2014, the number is further reduced by that amount³³.

See further information about the [ACCU Scheme](#).

Property rights in ACCUs

An ACCU is personal property³⁴. The registered holder of an ACCU — the person in whose Registry account there is an entry for the ACCU — is its legal owner and may, subject to the CFI Act 2011 and the [Australian National Registry of Emissions Units Act 2011](#) (ANREU Act 2011), pass good title to the ACCU to another person³⁵.

The Regulator may correct the Registry in certain circumstances, including in order to comply with a rectification order made by a court³⁶. However, if the ACCU is transferred to another person's account before the defect is detected, that other person will nevertheless have good title to the ACCU provided they purchased the unit in good faith for value from the registered holder and without notice of the defect³⁷. A person who acquired the ACCU without purchasing it in good faith from the registered holder for value (for example, if they received it as a gift), or who was aware of the defect, will not have good title to the ACCU.

The CFI Act 2011 does not prevent the creation or enforcement of, or any dealings with, equitable interests in ACCUs³⁸. It may be possible for the holder of an ACCU to grant security over (for example, to mortgage) the ACCU or to hold the ACCU on behalf of others under a trust or other beneficial ownership arrangement³⁹. More detailed information on taking security over ACCUs is available on the Australian Government's [Personal Property Securities Register website](#).

²⁹ Section 16(2), CFI Act 2011 and section 9B(3), CFI Rule 2015.

³⁰ A sequestration offsets project is declared as either a 100-year or 25-year permanence period project in accordance with section 27 of the CFI Act 2011 and Item 390 of the Carbon Farming Initiative Amendment Act 2014, which applies to ERF transitional applications.

³¹ Section 16(2), CFI Act 2011 and sections 9A and 9B(2) of the CFI Rule 2015.

³² Item 387 of the *Carbon Farming Initiative Amendment Act 2014* applies to native forest protection projects (within the meaning of the CFI Act 2011 prior to 13 December 2014) that existed before 13 December 2014 and for which the applicable methodology determination includes a provision for the calculation of a carbon dioxide equivalent net sequestration amount or became eligible offsets projects as a result of an ERF transitional application, is covered by the Carbon Credits (Carbon Farming Initiative) (Avoided Deforestation) Methodology Determination 2013, and that determination includes a provision for the calculation of a carbon dioxide equivalent net sequestration amount.

³³ Items 386 and 387, *Carbon Farming Initiative Amendment Act 2014*.

³⁴ Section 150, CFI Act 2011.

³⁵ Section 150A, CFI Act 2011.

³⁶ Sections 19 and 22, ANREU Act 2011.

³⁷ Sections 19 and 22, ANREU Act 2011 and section 150A, CFI Act 2011.

³⁸ Section 158, CFI Act 2011.

³⁹ This is subject to the operation of sections 50 and 51 of the CFI Act 2011, which deal with special native title accounts, and section 142 of the CFI Act 2011, which deals with nominee accounts.



Selling ACCUs to the Commonwealth

Kyoto ACCUs issued to a project proponent in relation to an eligible offsets project can be sold to the Commonwealth under a carbon abatement contract⁴⁰. A project proponent enters into a carbon abatement contract with the Regulator, on behalf of the Commonwealth, as a result of participation in a carbon abatement purchasing process conducted by the Regulator⁴¹. It is immaterial whether the ACCUs are in existence when the contract is entered into⁴².

From 6 May 2023, the Regulator cannot enter into carbon abatement contracts (otherwise than by way of novation of existing contracts) to purchase Kyoto ACCUs that are or may be issued for avoidance of emissions covered by the safeguard mechanism (discussed further below).⁴³

ACCUs purchased by the Regulator on behalf of the Commonwealth under a carbon abatement contract are transferred to the Commonwealth Emissions Reduction Fund Delivery Account⁴⁴.

Purchasing ACCUs from the Commonwealth

Kyoto ACCUs held in a Commonwealth Emissions Reduction Fund Delivery Account can be sold by the Regulator to the responsible emitter for a facility covered by the safeguard mechanism under a contract which requires the purchaser to surrender the units to reduce the net emissions number of the facility, provided that the Regulator is satisfied that the surrender will enable the responsible emitter to avoid a liability under the safeguard mechanism whilst maintaining compliance with the conditions in sections 22XN(1)(a)-(c) of the [National Greenhouse and Energy Reporting Act 2007](#) (NGER Act 2007)⁴⁵. The sale price will be a fixed price of \$75, which will be indexed at the start of each financial year starting after 30 June 2024⁴⁶.

Use of ACCUs in the safeguard mechanism

The NGER Act 2007 provides for the safeguard mechanism which ensures the net covered emissions⁴⁷ of certain designated large facilities do not exceed their applicable baseline emissions number for a period⁴⁸. In addition to safeguard mechanism credit units issued under the NGER Act⁴⁹ and any other unit that may be prescribed through rules made under the [National Greenhouse and Energy Reporting \(Safeguard Mechanism\) Rule 2015](#) (Safeguard Mechanism Rule 2015), both Kyoto and non-Kyoto ACCUs may be surrendered to reduce the net emissions number for a facility under the safeguard mechanism⁵⁰.

⁴⁰ Section 20B, CFI Act 2011.

⁴¹ Sections 20C and 20G, CFI Act 2011 and section 11, CFI Rule 2015.

⁴² Section 20B(2), CFI Act 2011.

⁴³ Section 20C(3), CFI Act 2011 and section 10A, CFI Rule 2015. The safeguard mechanism is enacted by the *National Greenhouse and Energy Reporting Act 2007* (NGER Act 2007).

⁴⁴ Section 20H(1)(a), CFI Act 2011 and section 11A, CFI Rule 2015.

⁴⁵ Section 20H(1)(aa), CFI Act 2011 and section 11AB, CFI Rule 2015.

⁴⁶ Section 11AB(4), CFI Rule 2015. The indexation factor is worked out in accordance with section 11AC of the CFI Rule 2015.

⁴⁷ Represented by the 'net emissions number', defined in section 22XK(1), NGER Act 2007.

⁴⁸ The legal framework for the safeguard mechanism is substantially contained in Part 3H of the NGER Act 2007 and the National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015 (the Safeguard Mechanism Rule 2015).

⁴⁹ Division 4A, Part 3H of the NGER Act 2007 and Part 3A of the Safeguard Mechanism Rule 2015.

⁵⁰ Section 22XK(2) and section 22XM, NGER Act 2007.



The NGER Act 2007 allows for rules to be made under the Safeguard Mechanism Rule 2015 providing that if units of a specified kind or satisfying specified conditions are surrendered to reduce the net emissions number of a facility, the number by which the net emissions number is reduced is a number, calculated in accordance with those rules, that is less than the number of units surrendered⁵¹.

A facility's net emissions number is increased by the issuance of ACCUs attributable to carbon abatement at a facility, except where the ACCUs are not attributable to avoidance of emissions covered by the safeguard mechanism⁵². If ACCUs attributable to carbon abatement at a facility are purchased by the Commonwealth under a carbon abatement contract, they are deemed to be surrendered to reduce the net emissions number of the facility that generated the carbon abatement⁵³, except in circumstances specified in the Safeguard Mechanism Rule 2015⁵⁴. Offsets reports given to the Regulator need to identify carbon abatement attributable to safeguard facilities to facilitate these steps⁵⁵.

Relinquishing ACCUs

Mandatory relinquishment

A specified number of ACCUs may be required to be relinquished if:

- the issue of ACCUs in relation to an eligible offsets project is attributable to the giving of false or misleading information in relation to the project⁵⁶
- ACCUs were issued in relation to a sequestration offsets project and the declaration of the project as an eligible offsets project has been revoked⁵⁷, or
- ACCUs were issued in relation to a sequestration offsets project and there has been a complete or partial reversal of sequestration⁵⁸.

A court may order a person to relinquish ACCUs where the issue of the units was attributable to the commission of one of a number of specified offences involving fraudulent conduct⁵⁹.

The number of ACCUs that a person must relinquish may be deducted from any ACCUs that are to be issued to the person. In these circumstances, the person will be deemed to have relinquished the relevant number of ACCUs⁶⁰.

⁵¹ Section 22XK(2A), NGER Act 2007.

⁵² Sections 22XK(4) and (5), NGER Act 2007 and section 72B, Safeguard Mechanism Rule 2015.

⁵³ Section 22XN(6), NGER Act 2007.

⁵⁴ Section 22XN(7), NGER Act 2007. The circumstances prescribed for the purposes of section 22XN(7), NGER Act 2007 (in other words, the circumstances in which ACCUs attributable to carbon abatement at a facility that are purchased by the Commonwealth under a carbon abatement contract will not be deemed to be surrendered to reduce the net emissions number of the facility that generated the carbon abatement) are set out in section 72E, Safeguard Mechanism Rule 2015. They are: (a) where the carbon abatement contract was entered into after 30 March 2023 (other than by way of novation); (b) where ACCUs are not attributable to avoidance of emissions covered by the safeguard mechanism; or (c) where the carbon abatement contract under which ACCUs are purchased does not refer to the eligible offsets project in respect of which the ACCUs were issued.

⁵⁵ Section 70(4), CFI Rule 2015.

⁵⁶ Section 88, CFI Act 2011.

⁵⁷ Section 89, CFI Act 2011.

⁵⁸ Sections 90 and 91, CFI Act 2011. See also sections 88 and 89 of the CFI Rule 2015 for the meaning of 'significant reversal'.

⁵⁹ Sections 171, CFI Act 2011.

⁶⁰ Section 176, CFI Act 2011.



Voluntary relinquishment

ACCUs may be voluntarily relinquished:

- in order to voluntarily terminate a sequestration offsets project⁶¹, or
- in order to terminate a carbon maintenance obligation imposed in relation to a project area⁶².

For clarity, ACCUs relinquished to satisfy a mandatory or voluntary relinquishment requirement noted above can be, but are not required to be, issued in relation to the eligible offsets project to which the relinquishment requirement relates.

Cancelling ACCUs

An ACCU will be cancelled if the Registry account in which it is held is closed by the Regulator on the basis that the account holder has contravened, or is contravening, Part 2 of the ANREU Act 2011 or the [Australian National Registry of Emissions Units Regulations 2011](#)⁶³.

Any ACCU held in a person's Registry account may be voluntarily cancelled by giving electronic notice to the Regulator. Upon receipt of the notice, the Regulator must remove the entry for the cancelled unit from the relevant Registry account⁶⁴.

ACCUs surrendered under the safeguard mechanism are also cancelled⁶⁵.

Transferring ACCUs

An ACCU is transferable within Australia between accounts in the Registry⁶⁶.

An ACCU may be transmitted by assignment (for example, on a sale or gift) or by operation of law (for example, upon the death or bankruptcy of the registered holder of the ACCU). A transmission of an ACCU, however, is of no force until the Regulator removes the entry for the unit in the transferor's Registry account and makes an entry for the unit in the transferee's account⁶⁷.

ACCUs cannot be transferred out of the Registry into an account kept within a foreign registry⁶⁸.

The Regulator may suspend the operation of the Registry, or restrict or defer transfers to or from Registry accounts to ensure the integrity of the Registry, to prevent, mitigate or minimise abuse of the Registry or to prevent, mitigate or minimise criminal activity involving the Registry⁶⁹.

⁶¹ Section 32(2), CFI Act 2011 and section 29, CFI Rule 2015. The number of non-Kyoto ACCUs relinquished for the voluntary termination of the project must not exceed the number of non-Kyoto ACCUs issued for the project: section 29(1)(b)(ii), CFI Rule 2015.

⁶² Section 99, CFI Act 2011.

⁶³ Regulation 28(4), ANREU Regulations 2011.

⁶⁴ Section 64B, ANREU Act 2011. If the cancelled ACCU is a Kyoto ACCU, the Minister must direct the Regulator to transfer a Kyoto unit from a Commonwealth holding account to a voluntary cancellation account before the end of the true-up period for the relevant commitment period, and the Regulator must comply with that direction.

⁶⁵ Section 22XN(3), NGER Act 2007.

⁶⁶ Sections 151-153, 156, CFI Act 2011.

⁶⁷ Sections 151-153, CFI Act 2011.

⁶⁸ Sections 5 and 155, CFI Act and section 93, CFI Rule 2015.

⁶⁹ Sections 28-28D, ANREU Act 2011.



Trading ACCUs

ACCUs that have not been surrendered, cancelled or relinquished can be traded. You should obtain your own professional advice about the trading of ACCUs having regard to your own situation.

An ACCU is a 'financial product' under the *Corporations Act 2001* and the [Australian Securities and Investments Commission Act 2001](#)⁷⁰. This means that people who provide financial services in relation to ACCUs and related financial products and services in Australia may require an AFS licence which authorises them to provide those services.

However, carbon abatement contracts are exempt from the definition of 'derivative' and 'financial product' for the purposes of the *Corporations Act 2001*⁷¹. This exemption means that a person is not required to hold an AFS licence to provide advice about, or enter into, a carbon abatement contract.

Buying and selling ACCUs on behalf of another person is also a 'designated service' for the purposes of the [Anti-Money Laundering and Counter-Terrorism Financing Act 2006](#)⁷². This means that the person providing the service will have to report suspicious matters or transactions above a specified limit⁷³. Except in special cases, the service provider will also have to verify their customer's identity prior to trading in ACCUs.⁷⁴

The values of Kyoto ACCUs and non-Kyoto ACCUs are determined by current and future markets and may go up or down. Their values will be influenced by a wide range of factors including, but not limited to, changes to the international climate change framework and Australian legislation. Neither the Commonwealth of Australia or the Clean Energy Regulator, nor any of their officers or related bodies, make any representation or provide any guarantee concerning the future values of Kyoto ACCUs and non-Kyoto ACCUs.

Tax treatment of ACCUs

Detailed information about the tax treatment of ACCUs is available on the ATO's website. You should obtain your own professional advice about the tax treatment of ACCUs having regard to your own situation. Generally, the following applies to ACCUs:

- the cost of acquiring an ACCU is tax deductible, with the deduction effectively being deferred through the rolling balance method until the year in which the ACCU is sold or surrendered
- however, where an ACCU is issued to you in accordance with the CFI Act 2011, the availability (if any) of a deduction for the expenses you incur in undertaking activities under the CFI is generally determined under the normal income tax provisions rather than under the more specific provisions that apply to other ACCUs. The one exception is costs incurred in preparing and lodging an application for a certificate of entitlement or an offsets report. These are deductible under the specific provisions. The market value of this type of ACCU is included under the rolling balance account method. This has the effect of temporarily offsetting the economic benefit of the deductions until the ACCU is sold or surrendered
- the proceeds of selling an ACCU are assessable income on revenue account in the income year the ACCU is sold

⁷⁰ Section 764A(1)(ka), *Corporations Act 2001*; section 12BAA(7)(l), *Australian Securities and Investments Commission Act 2001*.

⁷¹ Paragraph 7.1.04(8)(c) and regulation 7.1.071, *Corporations Regulations 2001*.

⁷² Item 33(ba) of the table in section 6(2), *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

⁷³ See sections 41 and 43 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

⁷⁴ See section 32 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.



- the change in value of the ACCU between the beginning and end of an income year must be included as assessable income (where the value increases) or is a deduction (where the value decreases) in the tax return for each financial year in which the ACCU is held (the value is taken to be nil at the start of the income year in which you first become the holder)
- supplies of Kyoto ACCUs and non-Kyoto ACCUs are GST-free⁷⁵
- sellers of ACCUs are deemed to have received market value for an ACCU in certain circumstances (for example, transactions between related entities).

⁷⁵ Section 38.590, *A New Tax System (Goods and Services Tax) Act 1999*.