Reporting Type 3 Credit Transfer in the LCFS Reporting and Credit Banking and Transfer System (LRT-CBTS)

Posted: September 2020

INTRODUCTION

The California Air Resources Board's (CARB) LCFS regulation, which appears at sections 95480 to 95503 of title 17, California Code of Regulations, is designed to reduce greenhouse gas emissions associated with the life cycle of transportation fuels used in California. CARB staff has prepared this document to address frequently asked questions (FAQ) related to reporting of Type 3 credit transfers in the LCFS LRT-CBTS. These answers may be based in part on case-specific factual circumstances and are offered here only as guidance that does not supplant or alter the requirements of the LCFS regulation. Unlike the regulation itself, this document does not have the force of law. It is not intended to and cannot establish requirements beyond those that are already in the LCFS regulation, nor can it supplant, replace or amend any of the legal requirements of the regulation. Conversely, any omission or truncation of regulatory requirements does not relieve entities of their legal obligation to fully comply with all requirements of the regulation.

BACKGROUND

The purpose of this document is to address frequently asked questions related to reporting requirements for Type 3 credit transfer pursuant to section 95487 of the LCFS regulation.

1. What is the difference between Type 1, Type 2 and Type 3 credit transfers?

The LCFS regulation section 95487(b)(1)(B) categorizes credit transfers as follows:

> ***Type 1 Transfer***: This refers to a credit transfer resulting from an over-the-counter agreement for the sale or transfer of LCFS credits for which delivery will take place no more than 10 days from the date the parties enter into the transaction agreement.

Type 2 Transfer: This refers to a credit transfer resulting from an over-the-counter agreement for the sale or transfer of LCFS credits for which delivery is to take place more than 10 days from the date the parties enter into the transaction agreement or that involve multiple transfers of LCFS credits over time.

Type 3 Transfer: This refers to a credit transfer resulting from an agreement for the sale of LCFS credits through any contract arranged by a clearing service provider (an exchange).

2. Who should report Type 3 transfer in the LRT-CBTS?

The seller must report a transfer of credits in the LRTS-CBTS as Type 3 transfer if it is a result of a contract arranged by a clearing service provider (an exchange).

3. I'm not sure what type my credit transfer is, how do I confirm?

Based on the date on which the seller and the buyer entered into an agreement to transfer credits and the expected delivery date of the LCFS credits, the seller can choose between Type 1 or Type 2 transfer for reporting in the LRT-CBTS.

Irrespective of date of agreement and date of delivery, if the credit transfer is a result of a contract arranged through a clearing service provider (an exchange) then it must be reported as Type 3 transfer.

4. I used a LCFS credit broker for entering into a LCFS credit agreement, is this same as using a clearing service provider and do I need to report a Type 3 transfer?

No. A LCFS credit broker could refer to any entity facilitating a transfer of LCFS credits between a seller and buyer. Pursuant to section 95487(b)(2) of the LCFS regulation, a broker cannot take possession of LCFS credits for the purpose of facilitating transfers. A LCFS credit transfer facilitated by a broker is not considered Type 3 transfer unless they also involve a clearing service provider (an exchange). Pursuant to section 95483.1(a)(3) of the LCFS regulation, a clearing service provider refers to a derivatives clearing organization as defined in the Commodities Exchange Act (7 U.S.C § 1a(9)) that is registered with the U.S. Commodity Futures Trading Commission pursuant to the Commodities Exchange Act (7 U.S.C. § 7a- 1(a)). A clearing service provider may take temporary possession of LCFS credits, up to 5 days, for the purpose of clearing credits transactions between two entities with registered accounts in the LRT-CBTS.

5. I'm involved in a credit agreement based on financially settled LCFS credit contract, do I need to report this in the LRT-CBTS system?

LCFS credit contracts arranged through a clearing service provider can be settled physically or financially. Physically settled contracts require the credits to be delivered (or transferred) to the other entity's account upon expiration of the contract. Whereas, financially settled contracts generally do not require delivery (or transfer) of credits but rely on a financial payment to settle the contract upon expiration. Because financially settled contracts do not require physical delivery (or transfer) of credits they are not eligible to be reported to the LRT-CBTS system.

CONTACT

If you have questions regarding the above information, please contact Kamran Adili at Kamran.Adili@arb.ca.gov.