

The Clean Free Market Act (Language)

A Plug & Play Bill Any State or Nation can Adopt, to Build a Powerful, Borderless Clean Free Market

Rough Draft Outline

We here offer non-legislative draft language that could guide legislative language for the Act, in order to lay out some specifics. This draft is written using a US illustrative context, but the basic proposal could apply to any nation, state, province with some modifications with respect to supervisory agencies:

Six Year Pilot Program for Tax Exempt Clean Asset Bonds & Clean Asset Loans

During a six year pilot program, interest on privately issued Clean Asset Bonds (CABs) and Clean Asset Loans (CALs) will not be subject to federal taxation. Proceeds from such bonds and loans must be used to finance a portion of the capital needed for projects that manufacture, purchase, deploy, or construct the following Clean Assets:¹

1. Electric generation sources that produce energy with zero direct emissions of mercury, SO_x, NO_x and greenhouse gases, including associated energy storage and control systems, and dedicated power lines needed to connect such power sources to the nearest substation; [Definitions from IRS Section 45 may be useful here.]
2. Property, plant and equipment used exclusively for the collection and recycling of plastic, metal, glass, paper and other waste materials, and the manufacture of new products from such recycled materials.²
3. A home or building or industrial plant that is designed to achieve net zero energy performance, as defined by the Secretary of Energy, by rule, and certified by a licensed architect or engineer (need to be able to show design calculations, not actual performance).
4. Factories and other property, plants and equipment used for the production and sale of: (a) zero-emission vehicles as defined by the Environmental Protection Agency by rule; (b) battery systems and motors for zero emission vehicles; and (c) hybrid powertrains for medium- and heavy-duty trucks.

¹ In the future, policy innovators may consider CABs applied to other sectors and SDGs, such as water pollution and scarcity, regenerative farming, rainforest and marine conservation, etc., after studying the results of this pilot program. Also, Clean Assets Bonds and Loans might also include Green Bank vetted and financed projects, to allow flexible high-impact innovation.

² Experts advise that such assets could include: integrated cart/truck systems; all the sorting, cleaning, grinding and processing technologies for material recovery facilities (MRFs) and processor plants; long-term recycling management contracts; plants for recombining recycled materials (plastics, metals, etc.) into new products; best available low emission waste to fuel and waste to clean energy systems; software for recycling management and recycled materials trading; manufacture and deployment of filters and catchment devices for washing machines, rivers, bays and oceans; storage facilities and quality testing equipment for recycled materials; wastewater treatment facilities for all above. Future policy innovation work may allow voluntary and legislated product stewardship programs to serve as a “best practice” certification rewarding companies with CAB/CAL financing for production and program costs for covered products.

5. Electric vehicle charging systems that can be used by the public.
6. Best Available Technology for reducing emissions from oil and gas production and distribution, as determined by the Environmental Protection Agency.
7. A combined heat and power system as defined under the Energy Improvement and Extension Act of 2008.
8. Power plants that capture at least 60% of their CO₂ emissions, or facilities that capture CO₂ from the atmosphere, and which either utilize the CO₂ in durable products or store it for a century or more in accordance with criteria to be developed by the Secretary of Energy by rule.

Such tax-exempt CABs and CALs can be used to finance the following percentage of total project costs in each year of the pilot program: Year 1: 80%; Year 2: 70%; Year 3: 60%; Year 4: 50%; Year 5: 40%; Year 6: 40%. Use of tax-exempt CABs or CALs shall not prevent the use of additional similar taxable bonds and loans, or any other financing legally allowed.

The above mentioned Clean Asset Loans, paying tax-exempt interest may be combined with other similarly tax exempt CALs and re-sold as CAB debt securities, whose interest will also be tax exempt for holders of those securities.

International and Inter-Jurisdiction Tax & Tariff Reciprocity

Interest on privately issued Clean Asset Bonds (CABs) and Clean Asset Loans (CALs), issued by the citizens or taxpayers of the United States or any Cooperating Nation, State or Province, will not be subject to US federal taxation, or taxation by any Cooperating Nation, State or Province. The Clean Assets listed above, if produced in any Cooperating Nation, State or Province will not be subject to import tariffs.³

To become a Cooperating Nation, State or Province, any nation, state or province must enact their own Local-to-Global Clean Free Market Act legislation with provisions identical to those here in this Act, except with reference to their own national tax laws and subject to oversight by their own governmental agencies. Each such Act by a Cooperating Nation, State or Province must specifically provide that interest on privately issued CABs and CALs, issued by US taxpayers and taxpayers of other Cooperating Nations, States or Provinces, will not be subject to their national, state or provincial taxation; and that the Clean Assets listed above, if produced in the United States or by US taxpayers or citizens, or produced in any Cooperating Nation, State or Province, or by their taxpayers or citizens, will not be subject to import tariffs.⁴ Categories of clean assets, listed above, should be identical in such legislation to the categories in this Act.

To maintain a level playing field among Cooperating Nations, States or Provinces, the percentage of tax-exempt CABs and CALs that can be used to finance total project costs should be harmonized with this Act (or the first such Act enacted) so that the same percentages apply on the same calendar dates, regardless of when a Cooperating Nation, State or Province enacts its own Local-to-Global Clean Free

³ A concern has been raised that, to maintain a level playing field, enterprises that are substantially state owned or financed, and/or that offer no transparency on such financing or abusive labor practices, should not participate in this program, because the advantages they enjoy, including the ability to produce at a loss, long term, with no regard for the bottom line, are enormous and fundamentally unfair to purely private free enterprise. A working group might help define this limitation better.

⁴ States might consider sales tax exemption on certain “clean products” with high federal tariffs, as a substitute for tariff relief.

Market Act legislation. Formation of companies and partnerships to deploy these clean assets and issue these CABs and CALs should be legal and at least as easily accomplished for any citizen or taxpayer of any Member Nation as it is for any citizen or taxpayer of the United States.

On enactment of such Local-to-Global Clean Free Market Act legislation, each new Cooperating Nation, State or Province should notify the US Department of State and the US Department of the Treasury. The Secretary of the Treasury shall publicly announce whether such Clean Capital Market legislation satisfies the requirements of this Act, and if so, welcome the new Cooperating Nation, State or Province to the growing barrier-free clean capital market, in partnership with the United States and other Cooperating Nations, States and Provinces.

Agency Oversight

The Secretary of the Treasury, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Energy, after providing an opportunity for public comment, shall develop any needed criteria by which each of the above categories of clean assets or technologies shall be further defined, and where deemed necessary, certified by an independent third party; and they shall also consider simple procedures and criteria for proposing to Congress new categories and technologies that may arise in the future, that may be similarly qualified as clean assets, products, services and investments which reduce pollution.

The Secretary of the Treasury shall develop procedures for reporting use of proceeds, expenditures and income from such clean assets, projects and investments to the federal government in order to help with the evaluation of this pilot program.

Two years after the tax cuts begin, and every two years thereafter, the Secretary of the Treasury, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Energy, after providing an opportunity for public comment, shall report to Congress on the costs and benefits of the tax cuts and any recommendations for refinements of these provisions.

In carrying out all these duties, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall focus on environmental and energy sector impacts and pollution costs avoided, and The Secretary of the Treasury and the Department of the Treasury shall focus on financial, fiscal, economic and market aspects of this program, drawing upon financial conclusions reached by the Administrator of the Environmental Protection Agency and the Secretary of Energy as a result of their analysis of environmental and energy sector impacts.

Issuers of CABs shall follow the Green Bond Principles, as published by the International Capital Markets Association in January, 2018, with respect to such bond issuance, at least to the extent consistent with compliance with this Act. If some CABs allowed under this act are not allowed under 2018 Green Bond Principles, the issuers of such CABs should nonetheless abide by 2018 Green Bond Principles to the extent they can, even though such CABs might not be labeled as Green Bonds.