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July 27, 2026

Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
3 Lafayette Centre
1155 21st Street NW
Washington, DC 20581

Re: Notice of proposed rulemaking; request for comments 17 CFR Chapter I RIN 3038–AF65 Prediction Markets; Public Interest Determinations

Dear Chairman Selig, Secretary Kirkpatrick and the Commission,

I write today in response to the notice of proposed rulemaking and request for comments submitted to the Federal Register by the Commodity Futures Trading Commission (CFTC) on RIN 3038-AF65 on Prediction Markets. I appreciate the opportunity to share the perspectives of the regulated gaming industry on this matter, which raises significant legal, regulatory, and consumer protection considerations.

The American Gaming Association (AGA) is the premier national trade group representing the $329 billion U.S. casino gaming industry. Our diverse membership includes commercial and tribal casino operators, U.S.-licensed sportsbook operators, gaming suppliers, and other stakeholders committed to the highest standards of integrity, responsibility, and regulatory compliance. Collectively, the legal gaming industry supports 1.8 million American jobs, generates over $104 billion in wages and salaries, and contributes more than $52 billion in tax revenue to federal, state, and local governments annually. Gaming, strictly regulated by states and tribal governments, has been authorized across 46 states and the District of Columbia, where various forms of regulated gaming are now permitted.

The gaming industry is one of the most highly regulated industries in the United States and is almost exclusively governed by states and tribes. While gaming is subject to an array of federal laws, we are regulated by the authorities in the states and Indian lands in which we are licensed. As expressed in AGA's comment for the advanced notice of proposed rulemaking, the regulated gaming industry strongly rejects the CFTC's interpretation of sports event contracts as swaps – these contracts are sports betting which cannot be offered through prediction markets.

When Congress amended the Dodd Frank Act of 2010 it sought to curb excesses of the financial markets that lead to the financial crisis of 2008 – not create a federal sports book operating out of the CFTC. By amending the Commodities Exchange Act (CEA) through Dodd Frank, Congress created the so called "special rule" or CEA Section 5c(c)(5)(C). Congress expressly authorized the CFTC to prohibit contracts that involve, "(I) activity that is unlawful under any Federal or State law; (II) terrorism; (III) assassination; (IV) war; (V) gaming; or (VI) other similar activity determined by the Commission, by rule or regulation, to be contrary to the public interest." The

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CFTC undertook a rigorous rulemaking process creating rule 40.11 (it should be noted that rule 40.11 that implements the "special rule" mirrors what Congress put into law).

Rule 40.11 has been in force since 2011 until suddenly in 2024, several designated contract market (DCM) operators registered with the CFTC decided that sports wagering on prediction markets was authorized, ushering in the largest expansion of gambling this country has ever seen. This flies in the face of decades of legal and legislative history that confers the right to legalize and regulate gambling to the states.

In 2018, the Supreme Court overturned the Professional and Amateur Sports Protection Act (PASPA), saying that Congress erred in banning sports wagering and that this power was vested in the states. This allowed states to pass legislation and set up regulatory regimes, in some cases with sovereign tribal nations, to issue licenses, tax and regulate sports wagering. Following the ruling, 41 states plus the District of Columbia authorized some form of sports betting with rules specific to their jurisdiction, with other states voting not to do so, keeping the activity illegal.

These platforms contend that sports wagering was authorized in all 50 states under Dodd Frank back in 2011. This logic doesn't hold – which is why the state- and tribal-regulated gaming industry and 41 state attorneys general continue to reaffirm that sports event contracts are illegal gambling and have asked the CFTC to enforce 40.11. Amending this rule after 15 years is tantamount to waving a green flag for activities expressly prohibited by Congress, breaks Federal and State laws, and exposes the American people to potential harm.

The following comment addresses some of the proposed regulatory changes. However, the AGA reiterates its opposition to revising 40.11 and repeats its request that the CFTC protect the public interest by enforcing 40.11 and prohibiting sports event contracts from being offered.

Definition of Gaming (Proposed § 40.11 (b))

The proposed definition of "gaming" concedes the point that sports are gaming but is also structured in such a way to allow the CFTC to approve any event contract with almost no exceptions. This is contrary to CFTC regulations and Congress's intent when stipulated that gambling should be prohibited in financial markets – if sports event contracts are gaming, as stated in this they are already prohibited by 40.11.

In the proposed rule the Commission states that under this new definition a prop bet on Travis Kelce scoring a fixed number of touchdowns is somehow not a sports wagering or gaming simply because the contract is dependent on the occurrence of the event (i.e. the football game). Of course, a game must occur for a sports wager to take pace – which is why the special rule prohibited this conduct.

The fact that a faithful definition of gaming would sweep in many event contracts, is not a defect in the statute; it is the statute doing its work. Congress identified "gaming," together with

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terrorism, assassination, war, and unlawful activity, as a category requiring special scrutiny in CEA section 5c(c)(5)(C), 7 U.S.C. § 7a-2(c)(5)(C). The Commission may not nullify that command by defining gaming so narrowly that the statutory safeguard becomes meaningless. A final rule built on that approach would be vulnerable as contrary to law and arbitrary and capricious.

Nor can the Commission plausibly deny the settled regulatory understanding that sports betting is gaming. States and tribal governments have built detailed licensing, suitability, tax, geolocation, advertising, integrity-monitoring, responsible-gaming, and enforcement systems around that premise. The proposal would permit substantially identical conduct to occur outside that framework whenever a platform elects to use a federally registered market structure.

Adoption of Multi-Factor Public Interest Test (Proposed §§ 40.11 (a)(5) and (a)(6))

Transitioning from the existing public interest test based on an application of the economic purpose test, to a more complicated three prong test moves further away from the Congressional intent of prohibiting event contracts involving the Enumerated Categories. Again, Dodd Frank's primary stated purpose was to reign in financial markets which is why they required that event contracts demonstrate a hedging or pricing function. Expanding this test merely to allow for more event contracts to be offered is contrary to the public interest and Congressional intent.

However, even if just the economic purpose test was applied to many sports event contracts, they would be found to be deficient. There can be no sound reasoning behind the economic purpose of a sports event contract offered to retail customers that includes how many points an individual NBA player scores, the outcome of an international soccer match played in Barcelona, and the under on a SEC softball game.

In addition to the price discovery test, the proposed rule includes potential threats to market integrity and compliance and self-regulatory challenges. This raises two significant issues that the AGA, state gaming regulators and other stakeholders have raised numerous times with the Commission. Sports integrity is a central tenant of regulated sports betting and not something that the CFTC has expertise in regulating. Without comparable integrity monitoring, information sharing, Know Your Customer and geolocation requirements prediction markets cannot ensure that matches aren't being fixed, that prohibited individuals are placing wagers or that insider information is being used.

Similarly, the CFTC is not equipped to monitor or enforce compliance for sports event contracts in all 50 states. The legal gaming industry is overseen by more than 8,400 dedicated state and tribal regulators with decades of experience overseeing wagering markets. The CFTC, with roughly 500 employees nationwide and a depleted enforcement workforce, including an empty Chicago Division of Enforcement, is neither staffed nor structured to serve as the nation's primary gaming regulator.

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Gaming Specific Public Interest Factors (Proposed §§ 40.11 (a)(6)(iii))

The proposed rule seeks to include additional gaming specific public interest factors even though the existing statutory and regulatory regime prohibits gaming event contracts. This seems to acknowledge what the legal gaming industry and state gaming regulators already know - that over the last 18 months sports event contracts have been self-certified and offered that would never have been approved by states or tribes that offer sports betting because they are more susceptible to manipulation. These additional factors do prohibit these wagers per say unlike state and tribal regulations but add it as an additional factor to be considered if said contract is ever reviewed by the Commission. These additional factors don't take into consideration categories of wagers that have been deemed illegal by state or tribal laws or regulations, nor do they cover other types of problematic wagers considered by DCMs like bets on the transfer portal. Congress created the prohibition on gaming event contracts to avoid these vulnerabilities – gaming regulation must be left to experienced state and tribal regulators.

Moving Away from Prohibited to Permissive Structure (Proposed §§ 40.11 (a)(1)/(e)(1))

Breaking with Congressional intent and 15 years of regulatory precedent the proposed rule would move away from the core of 40.11 that states event contracts shall not be listed if they involve an enumerated category. Instead, the rule suggests a permissive structure where the CFTC may determine, "That event contracts involving Enumerated Activities are contrary to the public interest, but that such contracts shall not be prohibited *until* the Commission renders its public interest determination." Consequently, event contracts involving gaming may be listed unless and until the Commission affirmatively determines that they are contrary to the public interest. Given the volume of sports event contracts being offered, the self-certification process, and the lack of staffing and resources at the CFTC it is irresponsible to move from a blanket prohibition to a regime where only contracts what have been reviewed and received a public interest determination cannot be listed.

Rejecting Indian Tribal Consultation

Despite offering sports betting on tribal lands without authorization under the Indian Gaming Regulatory Act (IGRA), robbing tribes of critical economic support for their communities, and violating their sovereignty, the proposed rule contends that the CFTC is not subject to consultation under Executive Order 13175. The AGA strongly rejects this assertion and asks that the CFTC not only acknowledge the tribal implications of sports event contracts but that they further defer to IGRA and cease allowing these wagers to be offered on tribal lands.

Conclusion

The AGA will continue to defend the state and tribal-regulated gaming framework that has governed gambling in the United States for decades. To be clear, the AGA does not oppose prediction markets, we oppose federally regulated platforms offering nationwide sports betting under the guise of "event contracts." The proposed rule concedes that sports event contracts

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involve gaming, yet creates a permissive framework designed to allow them. That approach conflicts with congressional intent, 15 years of regulatory precedent, state and federal law, and the CFTC's own regulations. It would also displace state and tribal authority while exposing consumers and sports competitions to wagering activity without comparable licensing, geolocation, responsible gaming, integrity monitoring, or enforcement safeguards.

The CFTC is a financial markets regulator, not a national gaming commission. It lacks both the expertise and resources to replace the more than 8,400 state and tribal regulators who oversee legal gaming today. The Commission should withdraw the proposed revisions to Rule 40.11, enforce the existing prohibition on gaming event contracts, respect tribal sovereignty and states' rights, and put an end to the unlawful nationwide expansion of sports wagering through prediction markets.

Sincerely,

William C. Miller Jr.
President & CEO
American Gaming Association

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Attachment

April 30, 2026

Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
3 Lafayette Centre
1155 21st Street NW
Washington, DC 20581

Re: Advance notice of proposed rulemaking; request for comments 17 CFR Chapter I RIN 3038–AF65 Prediction Markets

Dear Chairman Selig, Secretary Kirkpatrick and the Commission,

I write today in response to the advance notice of proposed rulemaking and request for comments submitted to the Federal Register by the Commodity Futures Trading Commission (CFTC) on March 16, 2026, RIN 3038-AF65 on Prediction Markets. I appreciate the opportunity to share the perspectives of the regulated gaming industry on this matter, which raises significant legal, regulatory, and consumer protection considerations.

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The gaming industry is one of the most highly regulated industries in the United States, almost exclusively by states and tribes. While gaming is subject to an array of federal laws, we are regulated by the authorities in the states or Indian lands in which we are licensed.

As a result, the gaming industry has historically had limited interaction with the CFTC. In 2021, the AGA submitted comments on a proposed futures contract by ErisX (see Appendix A-1). In that instance, the proposed contracts were characterized as tools for commercial entities to hedge and mitigate economic risk associated with National Football League (NFL) games. ErisX filed self-certification for these contracts, and the CFTC appropriately issued a stay to review the contract pursuant to their own rule 40.11, which subjects any event contract which may involve gaming to a special disapproval process. While

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we appreciated the novel approach to address a legitimate commercial need from some regulated sportsbook operators, the AGA and others urged a cautious approach to the review and recommended that the CFTC engage state and tribal gaming regulators to ensure that these contracts would not conflict with state gaming laws and regulation. This experience reinforced the importance of careful coordination with state and tribal gaming regulators when evaluating novel financial products tied to sporting events.

We appreciated that the Commission solicited input from stakeholders and sought to ensure that these contracts did not violate the Commodities Exchange Act (CEA) or its implementing regulation 40.11. In its review, Commission staff found that these contracts did involve gaming, which made them prohibited by regulation and that they were contrary to public interest. However, before that opinion was formally voted on, ErisX withdrew its certification. As a result, the gaming industry was reassured that the CFTC would take a thoughtful approach to any such future activity.

Unfortunately, subsequent developments have raised serious concerns regarding whether longstanding state and tribal gaming authority are adequately respected. In contrast to the ErisX proposal, in late December 2024, Crypto.com filed a self-certification letter with the CFTC on listing contracts on the outcome of sports "title events" on its exchange. Unlike the ErisX contracts, these would be available to all retail customers, not just eligible contract participants. The CFTC quickly notified Crypto.com it was initiating a review of the contracts because they determined they may involve an activity enumerated in 40.11 and asked that they suspend any listed or trading of sports contracts during the pendency of the review. This all seemed appropriate and in keeping with the CEA and the CFTC's regulations.

However, Crypto.com rejected the request to suspend trading, the CFTC took no further action, and what followed has been 16 months of unchecked sports event contracts offered in all 50 states. The gaming industry hopes that through this advanced notice of proposed rulemaking and the subsequent comments, the CFTC and the public will come to understand how critical it is that gaming remain a state regulated industry, as decades of jurisprudence, legislation and regulation has maintained.

Legal Sports Betting: A Responsible, State-Led Framework

Since the Supreme Court's 2018 decision in Murphy v. NCAA[1] overturned the Professional and Amateur Sports Protection Act (PASPA), 39 states and the District of Columbia have legalized sports betting through comprehensive, state-specific regulatory regimes. The court ruled that states are vested with the police powers to regulate gambling and that federal legislation curbing those rights was unconstitutional. That is why, in her public dissent in May of 2024, former Acting Chair of the CFTC Caroline Pham, made it clear that gaming is better left to the states and not in the purview of the CFTC. Former Acting Chair Pham forcefully wrote, "State regulation of gaming, ranging from betting to lotteries, is long-established in the U.S., and is clearly a power reserved to the States. No one understands their local cultures, economies, and values better than the States, which leads to State laws that have been crafted to reflect the needs of their residents. This approach has allowed some States to embrace gaming and leverage it as a source of revenue and tourism, while others take a more conservative approach. When it comes to event contracts related to gaming, I have been clear that the CFTC should exercise caution, primarily because I believe the Commission fundamentally misunderstands the law in this area and Congressional intent…and uniquely ignores the fact that the limits Congress placed on the Commission's regulation of event contracts *save* the Commission from becoming a gaming regulator."[2]

As former Acting Chair Pham points out, the existing state and tribal gaming framework reflects deliberate state choice – not all states have chosen to authorize sports betting, underscoring that decisions about gaming are made at the state and tribal level based on public interest and local considerations. Congress has codified this tribal-state framework in federal laws such as the Indian Gaming Regulatory Act.

Furthermore, Congress has passed several laws to protect against illegal gambling occurring outside these state and tribal systems. The Wire Act of 1961, referenced later in this comment, makes accepting a wager over state lines a criminal offense. The Department of Justice (DOJ) in 2018 took the position that this applies to all interstate wagering activities[3] and subsequent federal court rulings have applied this to sports wagering. The Illegal Gambling Business Act[4], signed into law in 1970 makes it a federal crime to operate, finance, or manage large-scale illegal gambling businesses that violate state or local laws. It targets operations involving five or more people, running for over 30 days, or grossing $2,000 in a single day.

As the CFTC solicits feedback on sports event contracts it should engage the DOJ on whether these contracts violate the Wire Act or the Illegal Gambling Business Act and if platforms would be subject to Title 18 enforcement.

In states that have legalized sports betting, these robust state rules are tailored to reflect local values, public interests, and consumer protections.

This state-led system has generated substantial economic benefits:

- Americans legally wagered $167 billion on sports in 2025 alone

- Commercial legal sports betting produced $17 billion in operator revenue and more than $3.7 billion in tax revenue for federal, state, and local governments in 2025—excluding revenue and state revenue produced by tribal sports betting, further increasing the industry's impact

States have designed these frameworks to ensure strong protections:

- Minimum betting ages (21+ in most jurisdictions)

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- Licensing and suitability requirements for operators
- Anti-money laundering (AML) and Know Your Customer (KYC) protocols
- Mandatory responsible gaming resources, including self-exclusion programs where individuals can self-bar from wagering and gaming platforms, as well as wager limits
- Independent integrity monitoring and compliance audits

The state and tribally run regulatory system ensures that operators utilize the best technology for ID verification, geolocation services, and determining the source of a patron's funds. The licensing process is intentionally intrusive, with extensive background investigations for company personnel to ensure the integrity of those working in the gaming industry. Gaming operators also rely on extensive academic research and proven programs to provide resources to their customers on responsible gaming.

Importantly, they are all required to participate in state-run self-exclusion programs that allow individuals who have a problem with gambling to essentially ban themselves from both in person and online gaming across the state. Legal sports book operators also work with integrity monitors, sports leagues and law enforcement to track suspicious wagering patterns and potential manipulation during games to root out match fixing and corruption. The appendix has the regulatory and licensing requirements for operators in every state that has legal gaming (see Appendix A-2).

In short, legal sports betting is a tightly regulated activity designed to protect consumers, preserve game integrity, and ensure tax compliance. It is a far cry from the opaque and unregulated illegal market that existed under PASPA and from what the prediction markets are offering today.

Congress and the CFTC Move to Keep Gambling Out of Financial Markets

In 2010 Congress amended the CEA giving the CFTC authorization to prohibit certain types of events from being offered as derivatives. The so-called "enumerated categories" were event contracts regarding terrorism, assassination, war, gaming, or an activity that is unlawful under any State or Federal law. In 2011, the CFTC subsequently drafted, posted for public comment, revised, and unanimously adopted rule 17 CFR § 40.11(a)(1), commonly referred to as rule 40.11, to implement the statue. When publishing the final rule in the Federal Register, the CFTC wrote, "its prohibition of certain 'gaming' contracts is consistent with Congress's intent to 'prevent gambling through the futures markets' and to 'protect the public interest from gaming…'"[5]

This clear congressional intent and subsequent rulemaking by the CFTC governed the rules of

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the road and made it clear that gambling is not allowed in these markets. Fourteen years later, absent any amendment to the CEA or its regulations, prediction market platforms decided to self-certify contracts on sports.

Extended Period of Regulatory Inaction

As noted above, platforms began self-certifying sports event contracts in December of 2024. On February 5, 2025, the CFTC announced it would hold a public roundtable on sports-related event contracts. The Commission solicited comments from stakeholders and even acknowledged in their press release that the platforms themselves have stated in court that these contracts are gaming and therefore prohibited. The release states, "The CFTC has identified several key obstacles to balanced regulation of prediction markets:...CFTC-registered entities' legal arguments in court that event contracts based on games or sports contests or sporting events constitute "gaming" and are therefore prohibited under the Commodity Exchange Act.[6]"

A deadline of February 21, 2025 was set for feedback, suggestions and requests to participate with an anticipated date for the roundtable in mid-March. The AGA submitted comments and requested to participate in the roundtable (see Appendix A-3). Over 40 stakeholders including state gaming regulators, tribes, sports leagues and others submitted comments to the CFTC, the vast majority raising serious questions as to the validity and legality of sports event contracts. The roundtable was finally scheduled for April 30, 2025, and the AGA, state gaming regulators from Pennsylvania, Colorado and Arizona, along with multiple tribal representatives were invited to participate and were preparing to share their thoughts with the Commission. However, less than a week before, the roundtable was canceled and has not been rescheduled to date.

The CFTC was absent from the growing discussion about these contracts as the number of platforms offering them, the type of contracts and the volume of wagering increased. It wasn't until September 30, 2025, that the CFTC issued a Staff Advisory[7] to platforms. Notably it advised the platforms that the CFTC had not reviewed or approved any of the contracts based on sports, despite allowing them to self-certify tens of thousands of contracts at that point. They also warned that because of ongoing state litigation, markets should have contingency plans in place to make their customers whole and stop offering these contracts.

By November 19, 2025, when Michael Selig, then the nominee to be Chairman of the CFTC, came before the Senate Committee on Agriculture, Nutrition, and Forestry, for his confirmation hearing, the Commission had still not reviewed or approved a sports event contract. At that hearing in sworn testimony, Mr. Selig, when asked about sports event contracts, said multiple times that he would, "look to the courts" and "to Congress"[8] on these matters. Mr. Selig was confirmed by the Senate and sworn in as the 16th Chairman of the CFTC on December 22, 2025.

Shift in CFTC Regulatory Posture Regarding Sports Event Contracts

Less than six weeks into his tenure, on January 29, 2026 Chairman Selig contradicted his Senate testimony – instead of deferring to the courts or Congress, the CFTC rescinded the Staff Advisory from September of 2025, announced that they would be undertaking rulemaking, and that that CFTC intended to intervene in ongoing legal proceedings with the states[9].

After a year of inaction, with only one commissioner in place, the CFTC became a full-throated advocate for sports event contracts. Twenty-three Senators wrote to the Chairman on February 13, 2026, reminding him of the current statutory and regulatory prohibitions against these contracts, asking him to adhere to his testimony, his promise to respect the judicial process, not engage the CFTC in ongoing litigation, and if any rulemaking was to happen that it support the longstanding prohibitions of these contracts (see Appendix A-4). However, Chairman Selig filed an amicus brief on behalf of prediction market platforms in a Nevada case on February 17, 2026, and argued on their behalf on April 16, 2026, in front of the 9th Circuit taking the position, for the first time at oral argument, that Rule 40.11's ban on "gaming" contracts does not apply to sports events contracts.

On April 2, 2026, the CFTC filed lawsuits against the states of Arizona, Connecticut and Illinois. The Commission then sued the states of New York and Wisconsin on April 24, 2026. These states, that have determined that sports event contracts are illegal under their state gambling laws, now must defend their own sovereignty.

Ongoing Litigation and Proposed Legislation

While the AGA contends that the law and regulation are clear that sports event contracts are prohibited, if there is any uncertainty by the Commission, they should follow what Chairman Selig testified to under oath and let the courts or Congress resolve this issue. There are 18 current cases on this issue being argued in state and federal courts across the country. In response to platforms offering these contracts in states, 10 state gaming regulators issued cease-and-desist orders to platforms attempting to operate outside of their legal gaming frameworks, asserting that these activities constitute illegal gambling under state law.

The platforms have subsequently sued several of these states, and as previously mentioned, the CFTC themselves have now sued states directly. Actions have been brought by a wide variety of states, and 40 state attorneys general have joined together in legal briefs in several of these cases affirming that gaming is left to the states to legalize and regulate (see Appendix A-5). AGA has also filed briefs in the ongoing cases as have other vested stakeholders such as tribes (see Appendix A-6, A-7). Changing the regulation on event contracts while these cases are being litigated is getting ahead of the judicial process.

Seeing the spread of sports event contracts and their states being sued, members of Congress have also spoken up, in a bipartisan and bicameral way.

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- On April 1, 2025, U.S. Representative Dina Titus (D-NV) formally petitioned the CFTC to modify event contract terms to prohibit trading in jurisdictions where such activity violates state law, including Nevada. The petition urged the Commission to issue a nationwide stay on these contracts while courts and regulators determine their legality (see Appendix A-8).

- On June 10, 2025, the Senate Agriculture Committee held a confirmation hearing for then-nominee Brian Quintenz. Senators raised concerns about event contracts resembling sports betting, violating tribal sovereignty, and expanding the CFTC's role beyond its mandate rather than serving as a nationwide gaming regulator. Mr. Quintenz's nomination was ultimately withdrawn.

- On September 30, 2025, U.S. Senators John Curtis (R-UT) and Catherine Cortez Masto (D-NV) led a letter with four additional Senators to the CFTC, reminding the Commission that sports betting is regulated by states and tribes, not the CFTC. The Senators underscored that by implicitly allowing some companies to offer sports betting activities as "event contracts," the CFTC is preventing enforcement of state and tribal gaming laws which inappropriately permits sports betting nationwide (see Appendix A-9).

- On November 19, 2025, the Senate Agriculture Committee held a confirmation hearing for then-nominee Michael Selig; eight Senators asked or submitted questions related to the CFTC's role in regulating event contracts as they relate to products that resemble sports betting, and concerns with friction with state and tribal gaming laws.

- On December 11, 2025, the House Agriculture Committee held a hearing as part of the process to reauthorize the CFTC, examining the state of the agency and its responsibilities amid the growth of crypto and prediction markets, alongside its traditional agriculture duties. Seven Representatives asked questions of the witnesses, expressing concerns about the expansion of prediction markets. The AGA submitted testimony for the hearing (see Appendix A-10).

- On February 13, 2026, U.S. Senators Adam Schiff (D-CA) and Catherine Cortez Masto (D-NV) led a letter with 21 additional Senate Democrats to urge the CFTC to follow the law and maintain its prohibition on listing prediction contracts involving gaming and sports (see Appendix A-4).

- On March 6, 2026, U.S. Representatives Blake Moore (R-UT) and Salud Carbajal (D-CA) introduced the Event Contract Enforcement Act, bipartisan legislation that would further empower the CFTC to prohibit the listing of contracts for sale related to terrorism, assassination, war, gaming (sports or athletic competitions), or illegal activity citing these as contracts that present clear risks to public safety, national security, election integrity, insider trading, or U.S. service members' safety.

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- On March 30, 2026, U.S. Senators John Curtis (R-UT) and Adam Schiff (D-CA) introduced the Prediction Markets are Gambling Act, bipartisan legislation that would reinforce Congress' original intent that the Commodity Exchange Act does not permit sports gambling, citing wariness of prediction markets and their ability to identify suspicious activity that could subject their games to manipulation and insider information.

- On April 16, 2026, the House Agriculture Committee held a hearing to received testimony from Chairman Michael Selig of the CFTC. A bi-partisan group of 16 members of the committee questioned the Chairman on sports event contracts, prediction markets and the CFTC's involvement in these issues.

Potential Expansion of Event Contracts into Core Gambling Activities

While this ANPRM is focused on the permissibility of sports event contracts, the AGA asks that the CFTC consider the broader implications of allowing contracts that violate 40.11 to offered. If event contracts on sports are retroactively deemed permissible, it raises a fundamental question as to where principled boundaries would be drawn.
The purported rationale for sports-based event contracts could be readily extended to other outcome-based activities, including those that are already subject to comprehensive state level gambling regulation.

For example, there is a foreseeable risk that market participants may seek to offer event contracts on the outcome of discrete gambling events, such as individual slot machine spins, table game hands, or other casino game results. From a structural perspective, these are also binary or probabilistic outcomes capable of being framed as "events" for the purposes of a contract market.

Casino game outcomes are high frequency, operator controlled and embedded within tightly regulated gaming environments. Extending CFTC oversight into these activities would violate 40.11, state, tribal and federal law. Moreover, the operational realities of monitoring, surveilling, and enforcing compliance in markets tied to rapid, high volume gaming outcomes would be materially different and even more difficult than for sports related contracts. This creates a risk of regulatory fragmentation, gaps in oversight, or duplicative and potentially inconsistent regulatory regimes.

The CTFC should carefully consider not only the immediate implications of permitting sports event contracts, but also the precedent it would establish and the practical limits of its regulatory remit.

Questions and Request for Comment

A. Core Principles and Commission Regulations

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2. With respect to the following DCM Core Principles, what factors are relevant to prediction markets?

a. Impartial Access: Prediction markets offering sports-related event contracts raise significant concerns under the impartial access principle because, in practice, these products function as sports wagering. Platforms have argued that Commission rules require listed contracts to be available uniformly across jurisdictions, but when applied to sports-related contracts, this interpretation creates a direct conflict with longstanding state and tribal authority over gaming and federal law. State and tribal governments have established detailed regulatory systems governing whether sports wagering is permitted, where it may occur, and what specific types of wagers may be offered.

Some jurisdictions authorize sports wagering broadly, and others limit it to specific operators or locations. Even among jurisdictions that permit sports wagering, regulators frequently restrict certain wager types based on localized policy decisions. Requiring nationwide availability of sports-related contracts would effectively bypass these jurisdiction-specific determinations and undermine the regulatory frameworks that states and tribes have carefully developed.

Additionally, the federal Wire Act of 1961[10], prohibits the interstate transmission of bets, wagers, or related information via wire communication. That is why regulated sportsbooks can only accept intrastate wagers where they are licensed and are required to have all digital servers located and processing of wagers occur within each respective state. Regulated sportsbooks use geofencing technology to ensure that all online wagers are occurring in the state where the bettor is located, not where their account originated like prediction market platforms. By operating in one location and taking sports bets across all 50 states, these platforms are violating federal law, in contravention of 40.11.

The Commission should consider both state, tribal, and federal law as a barrier to impartial access when applied to sports event contracts. They should also consider that this Core Principle was established to prohibit abusive trade practices and discrimination of market participants, not provide a rationale for unfettered access to these products.

b. Resolution Criteria: In regulated gaming markets, consumers have clear avenues for dispute resolution through state and tribal gaming regulators, which routinely oversee event grading, investigate complaints, and coordinate with sports leagues and integrity bodies. By contrast, consumers participating in prediction markets regulated by the Commission may have limited practical options for resolving disputes related to contract outcomes, particularly where those disputes involve scoring corrections, statistical revisions, or rule interpretations.

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Capacity and expertise differences are central to this concern. Commercial and tribal gaming is overseen by approximately 8,400 regulators with roughly $1.1 billion in combined budgets, compared to the Commission's approximately 600 staff and $365 million budget. This disparity is further exasperated by the reductions in enforcement staffing at the Commission's Chicago enforcement division which has historically served as a central hub for major investigations. It was reported there was a reduction of approximately twenty enforcement attorneys to zero, raising additional questions about the agency's ability to investigate disputes and provide timely resolution.

c. Manipulation: Sports-related event contracts are readily susceptible to manipulation as they fail to consider the unique characteristics of sports competitions. Unlike traditional commodities or financial benchmarks, sporting events are influenced by individual athletes, team decisions, and operational dynamics that may be subject to manipulation or insider influence. Contracts tied to individual player performance, single-game outcomes, or short-duration events present particularly elevated risks.

Participants with access to insider knowledge such as injury status, roster changes, coaching decisions, or disciplinary actions may gain unfair advantages over the broader market. Short-duration contracts introduce additional manipulation risk because they resolve quickly and may be sensitive to isolated events or individual decisions. These characteristics increase the likelihood that a single participant or small group could materially influence outcomes. In traditional sports betting markets, these risks are mitigated through integrity monitoring programs, mandatory reporting requirements, and partnerships between regulators, leagues, and operators. These systems enable early detection of suspicious activity and allow for coordinated enforcement actions. Recent enforcement actions underscore this point: the suspension of NBA player Jontay Porter and related investigations to other players are signs of a system working as intended: detect, investigate, and stop misconduct. This level of transparency and accountability only exists in state- and tribal-regulated markets.

d. Suspicious Activity: Detection of suspicious activity in markets involving sports-related event contracts presents significant anti-money laundering (AML) and illicit finance risks. As previously motioned, commercial and tribal gaming operators dedicate significant time, resources, and staffing to maintain effective risk-based AML compliance programs to comply with the applicable BSA requirements and to prevent money laundering and other criminal activities through gaming. This includes: establishing a system of AML internal controls, policies, and procedures; ensuring independent testing of AML compliance; training casino personnel on their responsibilities under the programs, especially in the identification of unusual financial transactions or suspicious activities; and designating an individual or individuals responsible for assuring day-to-day AML compliance at all venues and online channels.

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In addition to maintaining robust AML programs, our members work hand-in-hand with federal, state, and local law enforcement on a regular basis. These relationships provide real-time intelligence, foster open channels of communication, and encourage proactive compliance. Each year, our members file tens of thousands of Suspicious Activity Reports ("SARs") and Currency Transaction Reports ("CTRs").

The AGA also has published a guide on Best Practices for Anti-Money Laundering Compliance since 2014. We update it periodically to ensure the most up to date information is included; the most recent update was in 2025. This guide provides critical guidance on Know Your Customer (KYC) procedures, risk assessments, training, recordkeeping, and other key facets of a successful AML program.

These requirements are supported by regular examinations conducted by state and tribal regulators and reflect decades of refinement in response to the risks associated with wagering environments. By contrast, prediction market platforms offering sports-related contracts may not operate within comparable AML oversight structures, particularly in environments that rely heavily on digital payments or remote participation. The absence of similarly mature monitoring, reporting, and examination frameworks raises concerns that these platforms could present vulnerabilities for money laundering or other illicit financial activity.

f. Margin: The availability of margin trading in retail-accessible sports event contracts creates consumer protection and financial stability risks. Margin allows participants to wager using funds beyond their available capital, accelerating losses and increasing the likelihood of severe financial harm. When applied to short-duration sports-related contracts, leverage can cause losses to accumulate rapidly, particularly among retail participants who may not fully understand the risks. These dynamics create a heightened vulnerability that individuals will exhaust funds quickly or incur losses that exceed their ability to recover.

Several states and multiple regulated sports betting operators have banned the use of credit for sports wagering because of the well-established risks associated with allowing consumers to wager with borrowed funds, reflecting decades of regulatory experience demonstrating that such practices can increase the likelihood of harmful financial outcomes and problematic gambling behavior.

h. Blockchain: Blockchain-based prediction markets present significant challenges to identity verification, transaction transparency, and enforcement of geographic restrictions, increasing the risk of illicit activity and unauthorized participation in jurisdictions where sports wagering is prohibited. These challenges are especially concerning in the context of sports-related event contracts, where anonymity increases the risk of insider participation and illicit financial activity. Additionally, there is jurisdictional ambiguity as blockchain systems often operate across national boundaries, creating uncertainty regarding applicable regulatory authority. Without robust identity

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and location verification procedures, platforms may struggle to prevent prohibited participants from accessing markets or engaging in manipulative conduct.

C. Activities Listed in CEA Section 5c(c)(5)(C)

19. Gaming

c. Aspects of Gaming Contracts: Sports-related event contracts function in practice as sports wagering. Participants place money on the outcome of sporting events, with payouts determined by whether those outcomes occur, making these products indistinguishable from traditional sports bets from a consumer perspective. The rapid expansion of contracts tied to individual games, player performance, and other short-duration outcomes further reinforces their gaming-like characteristics, as these products are entertainment-driven and dependent on unpredictable human performance rather than measurable commercial risk. This structure mirrors regulated sports wagering markets and reflects activity historically treated as gaming under state, tribal, and federal law.

d. Market Participants: Sports-related event contracts raise significant public interest concerns because they function as gambling products offered outside established regulatory safeguards including age requirements and verification. State and tribal governments have built comprehensive licensing, compliance, and enforcement programs designed to reduce youth exposure to gambling activity. The vast majority of states require that an individual be 21 to engage in wagering, whereas prediction markets age of access is 18. Additionally given the less robust KYC protocols, the lack of geolocation, and the use of digital assets that can be anonymized, prediction markets cannot assure the public that those under 18 are using their products. The availability of sports-related event contracts outside established systems weakens jurisdiction-specific safeguards and increases the likelihood of underage or vulnerable participation.

e. Responsible Gaming Standards: Decades of academic research and regulatory experience go into building state and tribal responsible gaming programs, something that the CFTC and prediction market platforms cannot match. Nearly every dollar states earmark for problem gambling services — more than $122 million annually — comes from casino gaming taxes. The gaming industry is a strong supporter of independent academic research on responsible gambling and problem gambling treatment, including contributing $10 million in the last five years. The regulated industry is also the top marketers of problem gambling helplines like 1-800-GAMBLER, vital sources of support and counseling for those for whom gambling is no longer fun. We train our employees to monitor and assist customers who require help. Our strong culture of compliance ensures we uphold the highest standards of responsibility in our retail and online operations. The industry consistently works to combine research on responsible play and problem gambling with data from customers, machine learning, and customer service to identify potentially risky patterns and support positive player experiences or provide help if needed.

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The AGA has compiled a centralized guide of the statues and regulations concerning responsible gaming[11]. This over 450-page guide shows the tailored and specific responsible gaming rules of the road for the gaming industry and what enforcement looks like. Importantly, the gaming industry's full efforts to promote responsible gaming and address problem gambling go far beyond the legal requirements prescribed in this resource. Industry responsible gaming programs operate in compliance with and parallel to state laws, regulations and best practices on responsible gaming.

The majority of gaming operators and suppliers voluntarily implement responsible gaming programs with measures that go above and beyond upon the minimum requirements formally mandated by law, regulation or code. The gaming industry commits nearly a half a billion dollars each year to responsible gaming initiatives that include support for independent academic research, development of best practices and new technological innovations and solutions, distribution of educational campaigns and materials for patrons, extensive and continuing employee training, and funding for problem gambling services. In addition to formal statutory and regulatory requirements, operators and suppliers are also expected to comply with self-regulatory standards and best practices.

As an example, AGA members commit to compliance with the AGA Code of Conduct for Responsible Gaming, regardless of whether provisions of the code are mandated by regulations in the jurisdictions where they are licensed. The code, most recently updated in September 2025, directly establishes guidelines for the advertising and promotion of sports betting and goes beyond the advertising regulations applicable to sports betting within legal states.
This includes self-imposed restrictions on target audiences, outlets, and materials' branding.

Without regulatory oversight by trained responsible gaming experts, prediction market operators are increasingly more visible to those underage, vulnerable or with a gambling problem.

Lastly, a key tenet of the regulated industry's responsible gaming ethos is that sports betting is entertainment and not a means for financial gain. Casting sports contracts as an investable financial product significantly undermines that message and threatens to create marketplace confusion around this important priority. Found in the appendix is *Betting Without a Safety Net: Consumer Protection Gaps for Sports Bettors on Prediction Platforms* prepared by Brandon Mastromartino, PhD (see Appendix A-11). This report addresses the array of consumer harms that can come from sports event contracts being offered on prediction markets, but critically for this public interest consideration on responsible gaming are the sections on "Investment Framing and the Misinterpretation of Risk" and "Responsible Gaming Tools and the Structural Safeguard Gap."

Conclusion

The AGA will continue to advocate for the state and tribal regulated system of gaming that has governed gambling in the United States for decades. To be clear – the AGA does not oppose prediction markets. Our concern is that these platforms are offering nationwide sports

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betting under the guise of "event contracts." Over the last 16 months, the United States experienced the largest expansion of gambling in our Nation's history. This did not happen because of state legislative action, new tribal compacts, a vote of Congress, Executive order, or even a change to federal agency rules. Instead, this was made possible by the CFTC's decision not to enforce longstanding regulations that prohibit gambling through financial markets. We urge the CFTC to listen to stakeholders during this advanced notice of proposed rulemaking – states, tribes, judges, members of Congress and the public are asking the Commission to respect state, tribal, and federal law and the CFTC's own regulations by putting a stop to sports event contracts.

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APPENDIX

A-1. **American Gaming Association, *Comment Letter to the Commodity Futures Trading Commission Regarding Proposed ErisX NFL Futures Contracts* (Jan. 28, 2021).**

A-2. **American Gaming Association, *Gaming Regulations and Statutory Requirements by State***

(2026).

A-3. **American Gaming Association, *Letter to the Commodity Futures Trading Commission Requesting Participation in Prediction Markets Roundtable* (Feb. 20, 2025).**

A-4. **Letter from United States Senators to Chairman Michael Selig Regarding Prediction Markets Rulemaking and Litigation (Feb. 13, 2026).**

A-5. **Brief of Amici Curiae of New Jersey, Ohio, 37 Other States, and the District of Columbia Supporting Appellees, KalshiEX LLC v. Hendrick, No. 25-7516 (9th Cir. Jan. 30, 2026).**

A-6. **American Gaming Association, *Amicus Curiae Brief in Support of Appellants*, *KalshiEX LLC v. Flaherty*, No. 25-1922 (3d Cir. June 17, 2025).**

A-7. **Brief of Indian Gaming Association, National Congress of American Indians, California Nations Indian Gaming Association, Arizona Indian Gaming Association, Washington Indian Gaming Association, Oklahoma Indian Gaming Association, Native American Finance Officers Association, United South and Eastern Tribes Sovereignty Protection Fund, Tribal Alliance of Sovereign Indian Nations, and 60 Federally Recognized Tribes as Amici Curiae Supporting Defendants-Appellants, *KalshiEX LLC v. Flaherty*, No. 25-1922 (3d Cir. June 17, 2025).**

A-8. **Petition from Representative Dina Titus to the Commodity Futures Trading Commission Regarding Event Contracts (Apr. 1, 2025).**

A-9. **Letter from Senator Catherine Cortez Masto and Senator John Curtis to the Commodity Futures Trading Commission Regarding Sports Event Contracts (Sept. 30, 2025).**

A-10. **American Gaming Association, *Written Testimony Submitted to the U.S. House Committee on Agriculture Hearing on Reauthorization of the Commodity Futures Trading Commission* (Dec. 11, 2025).**

A-11. **Mastromartino, Brandon, Ph.D., *Betting Without a Safety Net: Consumer Protection Gaps for Sports Bettors on Prediction Platforms* (Feb. 2026).**