

**HEARING FOR THE PURPOSE OF RECEIVING
TESTIMONY FROM THE HONORABLE
MICHAEL S. SELIG, CHAIRMAN, U.S.
COMMODITY FUTURES TRADING COMMISSION**

HEARING
BEFORE THE
COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES
ONE HUNDRED NINETEENTH CONGRESS
SECOND SESSION

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THURSDAY, APRIL 16, 2026

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The Committee met, pursuant to call, at 10:01 a.m., in Room 1300, Longworth House Office Building, Hon. Glenn Thompson, [Chairman of the Committee] presiding.

Members present: Representatives Thompson, Lucas, Austin Scott of Georgia, Rouzer, Bacon, Johnson, Baird, Mann, Moore, Rose, Nunn, Messmer, Harris, Taylor, Valadao, Craig, David Scott of Georgia, Costa, McGovern, Adams, Hayes, Salinas, Davis of North Carolina, Budzinski, Sorensen, Vasquez, Jackson of Illinois, Vindman, McClain Delaney, and Carbajal.

Staff present: Paul Balzano, Wick Dudley, Allie Herring, Sofia Jones, Hannah Otte, Kyle Upton, John Konya, Joshua Lobert, Clark Ogilvie, Emma Simon, Olivia Olson, and Jackson Blodgett.

**OPENING STATEMENT OF HON. GLENN THOMPSON, A
REPRESENTATIVE IN CONGRESS FROM PENNSYLVANIA**

The CHAIRMAN. The Committee will come to order.

Welcome, and thank you for joining today's hearing where we will hear from Chairman Selig from the Commodity Futures Trading Commission. And after brief opening remarks, Members will receive testimony from our witness today, and then the hearing will be open to questions.

So once again, good morning, everybody, and welcome to our first hearing with Mike Selig, the Chairman of the Commodity Futures Trading Commission. Congratulations on your confirmation, Mr. Chairman. We are looking forward to a robust conversation today about your agenda for CFTC.

As we discussed at our reauthorization hearing in December, it is a transformative time for the Commission and for financial markets broadly. The Commission has many new questions to grapple with, including the integration of digital assets and blockchains, increasing participation of retail customers, the growing prevalence of integrated business models, and harmonization of rules between financial regulators, just to name a few.

As it does so, Congress gave CFTC an explicit statutory purpose to promote, "responsible innovation." It is the only financial regu-

lator with such a mandate. At the same time, the core mandate of the Commission remains unchanged to protect commodity markets and their participants with a system of effective self-regulation overseen by the Commission. That is what we know today as principle-based regulation.

I look forward to the Chairman providing us with his views on these many policy issues, as well as his plans for agency operations, enforcement priorities, and reauthorization legislation.

While the rise in prediction markets has created an innovative new class of financial derivatives, it also has spawned significant confusion and debate about the role and the authority of the Commission. On the one hand, the Commodity Exchange Act (Pub. L. 74-675) is clear. The Commission's authority is broad and deep. The definitions of *commodity* and *swap* are sweeping, and the Commission's authority over transactions on registered exchanges is complete and exclusive.

As we learned from Dr. Sandor at our 50th anniversary hearing last year, the original framers of CFTC were intentional in providing the Commission with broad definitions and exclusive jurisdiction. But understanding the Commission's jurisdiction is not the end of the public policy questions that we must consider. Many Members have raised important questions about the rules for trading event contracts and the appropriateness of certain contracts to be listed for public trading.

Importantly, the Commission has significant tools currently at its disposal to address many of these concerns. The Chairman has already issued guidance and is committed to issuing a rulemaking using those tools, and I look forward to discussing those actions further today.

Where the Commission's authority is found to be insufficient to meet its mandate to support responsible innovation and protect market participants, we will consider legislation as may be appropriate. But first, the Committee must understand if such gaps exist. Today's hearing is another step in that process. The Chairman's testimony will help our Members to further understand the law and the Commission's authorities.

Prediction markets are important and newsworthy, however, they are not the only issue before the Commission. Chairman Selig's announced agenda for the year is a busy one, touching on a broad cross-section of issues important to the derivatives industry and the American public, and I look forward to exploring it in detail today.

I want to thank the Chairman again for coming today, and we look forward to your testimony.

[The prepared statement of Mr. Thompson follows:]

PREPARED STATEMENT OF HON. GLENN THOMPSON, A REPRESENTATIVE IN CONGRESS
FROM PENNSYLVANIA

Good morning and welcome to our first hearing with Mike Selig, the Chairman of the Commodity Futures Trading Commission (CFTC).

Congratulations on your confirmation, Chairman Selig. We are looking forward to a robust conversation today about your agenda for the CFTC.

As we discussed at our reauthorization hearing in December, it is a transformative time for the Commission and for financial markets broadly.

The Commission has many new questions to grapple with, including: the integration of digital assets and blockchains, the increasing participation of retail customers, the growing prevalence of integrated business models, and the harmonization of rules between financial regulators, to name a few.

As it does so, Congress gave the CFTC an explicit statutory purpose to promote “responsible innovation.” It is the only financial regulator with such a mandate.

At the same time, the core mandate of the Commission remains unchanging: to protect commodity markets and their participants with a system of effective self-regulation overseen by the Commission. This is what we know today as “principles-based regulation.”

I look forward to the Chairman providing us with his views on these many policy issues, as well as his plans for agency operations, enforcement priorities, and reauthorization legislation.

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As we learned from Dr. Sandor at our 50th Anniversary hearing last year, the original framers of the CFTC were intentional in providing the Commission with broad definitions and exclusive jurisdiction.

But understanding the Commission’s jurisdiction is not the end of the public policy questions which we must consider.

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Chairman Selig’s announced agenda for the year is a busy one, touching on a broad cross-section of issues important to the derivatives industry and the American public. I look forward to exploring it in detail today.

I want to thank the Chairman again for coming today. We look forward to your testimony.

With that, I will yield to Ranking Member Craig for her opening statement.

The CHAIRMAN. With that, I will yield to the Ranking Member, the distinguished Congresswoman from Minnesota, Ms. Craig, for her opening statement.

OPENING STATEMENT OF HON. ANGIE CRAIG, A REPRESENTATIVE IN CONGRESS FROM MINNESOTA

Ms. CRAIG. Thank you so much, Mr. Chairman, and thank you, Chairman Selig, for being here today. We appreciate it.

I am grateful for the chance to discuss the work of the Commodity Futures Trading Commission in the critical areas of consumer protection, market integrity, and the stability of our financial system. For 50 years, the CFTC has been the cop on the beat for America’s derivatives markets, markets that touch everything from the price of groceries and gas to how our farmers manage risk out in the field. But today, CFTC’s responsibilities and markets have expanded and become more complex than ever, and that is just in the last few years.

Digital assets and prediction markets have opened new horizons and created new risks, and we cannot expect the agency to keep up if Congress doesn't set the appropriate rules and regulations, as well as give the CFTC the staffing, the funding, and the tools it needs to do its job well.

Let me start with something that should be uncontroversial. The CFTC needs to be fully staffed. We are asking a relatively small agency to oversee enormous, technologically sophisticated markets that operate at the speed of light and, in some quarters, 24 hours a day. The agency's workforce is stretched too thin to meet the demands currently placed upon it, and without a sufficient staff, the CFTC simply cannot provide the rigorous oversight that consumers and market participants need. That includes having a full five Commissioners in place, as Congress intended, to ensure that consumers come first and nonpartisan norms are maintained without being tainted by unnecessary politics.

That brings me to my second point. The CFTC needs full, stable funding. Just last year, we heard from industry leaders and commercial end-users of traditional commodities markets—farmers, ranchers, cooperatives—that stagnant or insufficient funding at the CFTC undermines market certainty and raises risks across the system. And that was before digital assets and event contract markets exploded in use.

Today, the CFTC is effectively the nation's primary regulator of two of the fastest growing and most volatile markets in the country, digital commodity trading and event-based prediction markets. These markets are global, complex, and technologically advanced and can be accessed by bad actors using nothing more than a smartphone. The CFTC needs the tools, staff, and capacity to respond quickly in this new environment and to hold bad actors accountable.

We have all watched the growth of event prediction platforms, markets where people can wager on outcomes ranging from March Madness to geopolitical crises. In recent months, we have even seen alleged insider trading on platforms like Polymarket and other offshore entities where individuals reportedly made enormous profits betting on political events, including a coup in Venezuela and the war in Iran. When people can gamble on war or political instability and potentially use nonpublic or sensitive information to do it, that crosses a red line.

We also need a full review of whether these platforms violate local and state gaming laws and keep in mind the unique role that Tribal governments play in this space as well. This is exactly why we need strong rules, regulations, clear guardrails, and consumer protections and why we need the CFTC fully equipped to enforce these protections.

Consumers operate in fast-moving digital assets markets or prediction platforms. They deserve transparency, fairness, and safety. They deserve a referee who is on the field, not one sitting on the sidelines because Congress didn't fund the agency adequately. At the end of the day, protecting consumers and maintaining market integrity is not a partisan issue. It is not an industry issue either. It is a stability issue, a fairness issue, and frankly, a basic responsibility of this Committee.

So my message today is straightforward. If we want safe markets, if we want innovation without exploitation, if we want risk management tools that serve main street as well as Wall Street, then we must give the CFTC the staff, the funding, and the clear statutory authority it needs to do its job, and we need a CFTC committed to protecting consumers first.

Again, I want to thank Chairman Selig for being here today. I look forward to the discussion.

And with that, Mr. Chairman, I yield back.

[The prepared statement of Ms. Craig follows:]

PREPARED STATEMENT OF HON. ANGIE CRAIG, A REPRESENTATIVE IN CONGRESS FROM MINNESOTA

Thank you, Mr. Chairman. And thank you, Chairman Selig, for being here today. I'm grateful for the chance to discuss the work of the Commodity Futures Trading Commission in the critical areas of consumer protection, market integrity and the stability of our financial system.

For fifty years, the CFTC has been the cop on the beat for America's derivatives markets—markets that touch everything from the price of groceries and gas to how our farmers manage risk out in the field.

But today, CFTC's responsibilities and markets have expanded and become more complex than ever in just the last few years. Digital assets and prediction markets have opened new horizons—and created new risks—and we cannot expect the agency to keep up if Congress doesn't set the appropriate rules and regulations as well as give it the staffing, the funding and the tools it needs to do its job well.

Let me start with something that should be uncontroversial: The CFTC needs to be fully staffed. We are asking a relatively small agency to oversee enormous, technologically sophisticated markets that operate at the speed of light, and in some quarters, 24 hours a day.

The agency's workforce is stretched too thin to meet the demands placed upon it. And without a sufficient staff, the CFTC simply cannot provide the rigorous oversight that consumers and market participants need.

That includes having a full five Commissioners in place, as Congress intended, to ensure that consumers come first, and nonpartisan norms are maintained without being tainted by unnecessary politics.

That brings me to the second point: The CFTC needs full, stable funding. Just last year, we heard from industry leaders and commercial end-users of traditional commodities markets—farmers, ranchers, cooperatives—that stagnant or insufficient funding at the CFTC undermines market certainty and raises risks across the system. And that was before digital assets and events contract markets exploded in use.

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When people can gamble on war or political instability—and potentially use non-public or sensitive information to do it—that crosses a line. We also need a full review of whether these platforms violate local and state gaming laws, and keep in mind the unique role that Tribal governments play in this space as well.

This is exactly why we need strong rules, regulations, clear guardrails and consumer protections, and why we need the CFTC fully equipped to enforce those protections. Consumers operating in fast moving digital assets markets or prediction platforms deserve transparency, fairness and safety. They deserve a referee who's on the field—not one sitting on the sidelines because Congress didn't fund the agency adequately.

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I want to thank Chairman Selig again for being here today. I look forward to the discussion, and with that, Mr. Chairman, I yield back.

The CHAIRMAN. I thank the gentlelady.

The chair would request that other Members submit their opening statements for the record so our witness may begin his testimony and ensure that there is ample time for questions.

I am pleased to welcome to the Committee our witness for today, CFTC Chairman Michael Selig.

Chairman Selig, thank you for joining us. We will now proceed to your testimony. You will have 5 minutes. The timer in front of you will count down to zero, at which point your time has expired.

Chairman Selig, please begin whenever you are ready.

**STATEMENT OF HON. MICHAEL SELIG, CHAIRMAN,
COMMODITY FUTURES TRADING COMMISSION,
WASHINGTON, D.C.**

Mr. SELIG. Chairman Thompson, Ranking Member Craig, and Members of the Committee, thank you for the opportunity to testify here today.

Just over 100 days ago, I was sworn in as the 16th Chairman of the Commodity Futures Trading Commission. During my November confirmation hearing, I pledged to work tirelessly as Chairman to maintain the agency's stature as a world-class financial markets regulator. I committed to protect and provide regulatory relief to our farmers, ranchers, and producers, roll back outdated rules and regulations, and modernize the agency to keep pace with the rapid speed of innovation.

I am pleased to report I have made significant progress on these goals since rejoining the agency last December. One of my first priorities upon taking charge of the agency was identifying regulations to prevent farmers, ranchers, and producers from accessing our derivatives markets. My staff have been working diligently to right-size cumbersome rules so that even our smallest producers can properly manage risk.

I have also revived the agency's annual agriculture convention, known as AgCon, to bring together leaders from government, business, and academia to discuss the most pressing issues in our agricultural markets. Most importantly, I will continue to visit with farmers, ranchers, and producers across the country to hear from them directly. The agriculture community is the backbone of this country, and it will always have a seat at the table in this Administration.

Another key priority is to lower the compliance burdens and energy costs for small businesses. Many of our rules and regulations discourage firms from servicing and trading with the businesses that are most in need of our markets. The agency is finalizing regulatory relief for firms that transact with energy, agriculture, and

critical minerals producers to provide access to more market intermediaries and contribute to lower commodity prices.

The agency has also taken a leading role in delivering on President Trump's mandate to make America the crypto capital of the world. Importantly, the CFTC joined an SEC interpretation to provide guidance that resolves significant ambiguities in the marketplace as to which types of crypto assets are securities and which are commodities.

We have also worked quickly to provide clarity concerning tokenized collateral, the capital treatment of payment stable coins, and the obligations of software developers building in the United States. I applaud the important work of this Committee to deliver bipartisan market structure legislation that will cement clear rules of the road for the millions of Americans who use crypto assets each day. I am optimistic that Congress will soon send this landmark legislation to the President's desk.

The agency is also working to provide explicit guidelines and further strengthen investor protections for prediction markets, which offer trading and event contract derivatives that are regulated under the exclusive authority of the CFTC. Commission staff recently issued a prediction markets advisory and published a notice soliciting public input before considering new regulations for these markets.

Now, I am sure I will be getting questions about our enforcement efforts related to crypto prediction markets and the commodity derivatives markets more broadly. So I want to be crystal clear. To anyone who engages in fraud, manipulation, or insider trading in any of our markets, we will find you, and the full force of the law will come to bear. Nothing is more important than protecting market integrity, and that is why I have been diligently working to reinvigorate our enforcement division, upgrade our surveillance tools to meet the challenges of our growing markets.

None of these accomplishments would have been possible within such a short period of time without the agency's talented and experienced career civil servants. I have also brought on new senior leadership who bring a wealth of experience to the agency. As Chairman, I believe it is vital to break from the restrictive regulatory practices of the past and create derivatives markets that work for everyone.

Under my leadership, the CFTC will administer fit-for-purpose regulation appropriately tailored to material risks no more and no less to ensure that the future of finance is made here in America. If the past is prologue, the next 100 days and the years beyond will build on this transformative foundation as the CFTC remains the gold standard for smart, effective oversight of our financial markets. Our work here is just getting started.

Thank you again, and I look forward to answering your questions.

[The prepared statement of Mr. Selig follows:]

PREPARED STATEMENT OF HON. MICHAEL SELIG, CHAIRMAN, COMMODITY FUTURES TRADING COMMISSION, WASHINGTON, D.C.

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Thank you again, and I look forward to answering your questions.

APPENDIX A

CFTC Enforcement Priorities, Insider Trading in Prediction Markets, and Cooperation with the CFTC*Remarks by Director of Enforcement David I. Miller*

Remarks Delivered at NYU Law

March 31, 2026

Introduction

Good evening. As a proud NYU law alum, it gives me great pleasure to be here and to be speaking from this side of the lectern. Thank you to NYU Law School and the Program on Corporate Compliance and Enforcement for having me speak this evening. And a special thanks to Joe Facciponti and Jennifer Arlen for arranging this event.

I am honored to be here in my capacity as the new Director of Enforcement for the Commodity Futures Trading Commission (“CFTC”). I am incredibly fortunate to have the opportunity to return to public service. Since 2014, I have been in private practice as a litigation partner at two global law firms, Morgan Lewis and Greenberg Traurig. But before returning to private practice, I spent a decade in public service. In particular, I had the good fortune to be a Federal prosecutor in multiple offices of the Department of Justice. I was most recently an Assistant U.S. Attorney in the Southern District of New York, where I spent over half my time as a member of the Securities and Commodities Fraud Task Force. I also served as a terrorism prosecutor with the Department of Justice in Washington, D.C., as a Special Assistant U.S. Attorney in the Eastern District of Virginia, and as an Assistant General Counsel for the Central Intelligence Agency. My approach to enforcement will draw heavily upon my experiences as a prosecutor and as a defense lawyer: focusing on the most serious cases and moving decisively, but also acting fairly, justly, and transparently.

This is a very exciting time for the CFTC. From our roots as an agricultural futures regulator, we now oversee derivatives markets in a wide variety of areas: agriculture, metals, energy products, financial products, and the over \$400 trillion notional-value swaps markets. And we are at the forefront of regulating prediction markets and crypto assets—perhaps the two most dynamic markets in finance.

Our mission in the Division of Enforcement is to safeguard all these markets. But let me start off by saying this clear as can be: The era of regulation by enforcement is *over*. Under Chairman Selig’s leadership, we will focus on the Division’s core purpose of policing fraud, abuse, and manipulation rather than setting policy. And tonight, I am going to describe some of the key ways that we as a Division will be doing our job.

First, I am going to outline our enforcement priorities going forward. We will have five priority areas: (i) insider trading (including in the prediction markets); (ii) market manipulation (particularly in the energy markets); (iii) market abuse/disruptive trading; (iv) retail fraud (including Ponzi schemes); and (v) willful violations of Anti-Money Laundering (“AML”) and Know-Your-Customer (“KYC”) laws and rules.

Second, I’m going to discuss insider trading in the prediction markets. Unfortunately, there is a myth in the mainstream media and social media that insider trading law doesn’t apply in the prediction markets. That is wrong. As I will discuss, insider trading violates the Commodity Exchange Act (the “CEA”) and our regulations’ anti-fraud provisions. I have done a lot of work in insider trading matters both as a prosecutor and as a defense attorney, and I take insider trading extremely seriously. Insider trading in the prediction markets—where there is misappropriated information—is precisely the kind of serious violation that we are going after vigorously. We will aggressively detect, investigate, and, where appropriate, prosecute insider trading in the prediction markets.

Third, I am announcing that we will be issuing a new cooperation policy advisory soon. Tonight, I will detail key elements of that policy, including significant changes to our declination policy.

The CFTC’s Enforcement Priorities: Fraud; Market Manipulation; and Other Serious Violations

Let me begin with our enforcement priorities. Under Chairman Selig’s leadership, our enforcement program will relentlessly focus on serious violations, especially fraud and market manipulation. As I just previewed, we have five areas of focus.

First, we will focus closely on *insider trading*. Insider trading is illegal under the CEA and our regulations in all our markets—including the prediction markets. It has serious consequences for market integrity and trust. It is not a victimless of-

fense. As I will discuss later, our insider trading authority is about the misappropriation of material non-public information—and thus involves the use of information in violation of a duty owed to the source of that information.

Now, we are fully aware that our markets are price-discovery markets, not disclosure-based markets. Market participants are entitled to use their own knowledge and information to make trading decisions. For example, we want the farm cooperative that sees issues with a harvest to be able to hedge its position. To be clear, we will only be prosecuting cases against those who tip or trade with misappropriated information. I will discuss more about this in a minute.

Our second priority is **market manipulation**. Fighting market manipulation is fundamental to a market regulator's mission. Properly functioning markets are efficient, create appropriate prices for essential goods, and provide accurate price signals. But market manipulation can drive up costs, distort price signals, erode trust, and impose costs on consumers. We will investigate market manipulation aggressively where we have good reason. And we will prosecute aggressively where we find such manipulation.

Market manipulation in the energy markets is particularly—and perhaps uniquely—harmful. Energy markets have, as an economist might say, inelastic demand and limited substitutability. Basically, people still have to buy gas when the price goes up—you can't drive a car on air. Thus, the cost of market manipulation can be felt by many consumers. Price increases in energy markets can also have broad inflationary effects because energy costs ripple through the economy, affecting many goods in both production and shipping. And energy is more difficult than many other commodities to store—it is far easier to store copper than jet fuel. In sum, it is very challenging for energy markets to adapt to changing cost levels and we will not allow them to be manipulated.

Energy prices are, of course, influenced by geopolitical events, including recent ones. Futures markets are critical for managing price volatility and risk. But when volatility and high prices occur, they are tempting to would-be manipulators. Be advised: we continue to scrutinize these markets and remain focused here. We will prosecute wrongdoing in this area.

Importantly, we are not alone in this fight. The exchanges are a critical line of defense. As we emphasized in our recent staff advisories and our notice of proposed rulemaking on prediction markets, exchanges have important obligations under our core principles relevant to insider trading and market manipulation. These include obligations to have appropriate surveillance, compliance practices and procedures, promote fair and equitable trading, protect markets from abusive practices, and, importantly, to only list contracts that are not susceptible to manipulation.¹ The exchanges doing their job are an essential part of the fight against market manipulation and insider trading. And we expect the exchanges to do their part.

Exchanges are important partners. But they are not our only partners. We work closely with the SEC, self-regulatory organizations, and state regulators. We also work closely with Federal criminal authorities at the Department of Justice and make criminal referrals as appropriate. As a former prosecutor, I know exactly how significant criminal authority engagement can be in our investigations.

The third priority area is fighting **market abuse**, which can be a form of manipulation. This includes spoofing, disruptive trading during a closing period, and wash trading.² We fight these illegal practices for the same reason that we fight other market manipulation. Functioning markets provide price transparency and the fairest prices, and there are rules to make sure markets function. Breaking those rules reduces efficiency, distorts price signals, and can raise prices. We are watching and will take action when necessary.

Fourth, we will continue to fight **retail fraud** in its various forms, from Ponzi schemes to commodity pool frauds, pig-butcherings, impersonation frauds, and “phishing” attacks directed at individuals. This area is especially important because retail fraud often targets at-risk populations—the elderly, those with limited financial literacy, and, frequently, the individuals who can least afford to lose their savings. We thus have a large task force dedicated to this priority. Now, I know that retail fraud is a persistent problem. Sadly, there are always fraudsters committing the same old frauds using new techniques and new tools. We have seen AI-created

¹ See CEA § 5(d)(3), 7 U.S.C. § 7(d)(3) (designated contract markets’ (“DCM”) obligation to list for trading only derivative contracts that are not readily susceptible to manipulation); CEA § 5(d)(4), 7 U.S.C. § 7(d)(4) (prevention of manipulation, price distortion, and disruptions); CEA § 5(d)(12), 7 U.S.C. § 7(d)(12) (protection of markets from abusive practices).

² CEA § 4c(a)(2), 7 U.S.C. § 6c(a)(2) (prohibiting wash trading); CEA § 4c(a)(5)(B), 7 U.S.C. § 6c(a)(5)(B) (prohibiting disruptive trading during the closing period); CEA § 4c(a)(5)(C), 7 U.S.C. § 6c(a)(5)(C) (prohibiting spoofing).

images and videos, targeted communications on social media platforms, and fake websites and phone applications that duplicate the websites and apps of major banks and crypto asset firms. We will continue to aggressively use technology and our specialized know-how to fight these evolving techniques. And we will litigate these cases hard, as we are currently doing in *Traders Domain*, which, according to our complaint, involves sixteen defendants in a \$283 million Ponzi scheme run through bogus online platforms.³

The fifth priority is prosecuting ***willful failures to follow anti-money laundering and know-your-customer laws and rules***. These are crucial rules—key tools in fighting crime and protecting our markets. We are not prioritizing technical violations, but rather those who willfully decide to break these essential laws. AML and KYC laws are essential in combating terrorism, narcotrafficking, fraud, and other serious illegal activity. And we will not tolerate any entity we regulate willfully violating those laws. As you might expect, we will also initiate criminal referrals here as appropriate.

There is one thing I would like to mention about other areas of enforcement I have not discussed today. Even within those areas, including compliance, if we have someone who repeatedly violates the CEA and our rules, and/or does so willfully, we are not going to sit idly by—we are going to do something about it. But as for our priorities that I have laid out, each of the five areas reflects our core mission: protecting market integrity by targeting fraud, abuse, and manipulation. We are committed to addressing these priority areas and we will be hiring additional staff in the Division of Enforcement to help address them.

Insider Trading in the Prediction Markets

Now, I would like to expand on insider trading, particularly as it applies to the prediction markets.

For those new to the prediction markets, a prediction market is an exchange in which participants buy or sell contracts based on the outcome of future events. For example, a contract pays out \$1 if an event happens—say, one candidate wins the election—so a \$0.60 cost means the market thinks there is roughly a sixty percent probability of the event happening. The CFTC has said that prediction markets “function as information aggregation vehicles” because the contract prices will reflect the market participants’ aggregate beliefs regarding whether the events will occur.⁴

Unfortunately, a myth has spread that insider trading is permissible—even encouraged—in the prediction markets. Prominent individuals in finance, the media, and on social media have contended that insider trading law does not apply in these markets. Some have suggested that insider trading is inevitable or beneficial because it gives people with confidential information a financial incentive to trade on it, thus releasing the information to the public. These comments all suggest that insider trading is an important and acceptable part of the prediction markets ecosystem.

Not so. Insider trading in the commodity futures and swap markets is prohibited by the CEA and relevant CFTC regulations. And this is not some abstract theory; the prohibition on insider trading in commodity markets involves a straightforward application of the law.

To walk through the analysis, Section 6(c)(1) and Rule 180.1 were created as part of the Dodd-Frank reforms as part of a deliberate effort to expand the CFTC’s authority. They are explicitly modeled after Section 10(b) of the Securities Exchange Act of 1934 and SEC Rule 10b-5.⁵ Now, insider trading law is largely based on judi-

³ CFTC, Press Release No. 8997-24, *CFTC Charges Several Persons and Companies in a \$280 Million Ponzi Scheme* (Oct. 15, 2024), <https://www.cftc.gov/PressRoom/PressReleases/8997-24>.

⁴ *Concept Release on Appropriate Regulatory Treatment of Event Contracts*, 73 FED. REG. 25669, 25670 (May 7, 2008).

⁵ Section 753 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 amended CEA § 6(c), 7 U.S.C. § 9(1), to prohibit the use of “any manipulative or deceptive device or contrivance” in connection with any swap or commodity transaction-language patterned directly on Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78j(b). See Commodity Futures Trading Comm’n, Anti-Manipulation and Anti-Fraud Fact Sheet, https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/antimanipulation_fact_sheet.pdf (“The text of this new section prohibiting fraud based manipulation is patterned after section 10b of the Securities Exchange Act of 1934.”). Pursuant to this authority, the CFTC promulgated Rule 180.1, 17 CFR § 180.1, a “broad, catch-all provision” intentionally modeled on SEC Rule 10b-5, 17 CFR § 240.10b-5, which the CFTC interprets to prohibit, among other things, trading on the basis of material non-public information in breach of a pre-existing duty of trust and confidence. See *Prohibition on the Employment, or Attempted Employment, of Ma-*

cial interpretations of the anti-fraud provisions of Section 10(b) and Rule 10b-5. Specifically, courts have long held that insider trading is a type of fraud prohibited by those provisions. Section 6(c)(1) and Rule 180.1 thus incorporate the antifraud provisions, and insider trading, into the commodity, futures, and swap markets.

To delve deeper, insider trading is defined by two judicially created theories: the classical theory and the misappropriation theory. The classical theory prohibits corporate insiders from breaching a duty they owe to the company's shareholders by trading on material non-public information ("MNPI") opposite those shareholders. This is unlikely to apply under the CEA. But the misappropriation theory does apply. Under the misappropriation theory, liability attaches when an individual: (1) possesses material non-public information; (2) misappropriates that information by trading on or tipping in breach of a duty of trust and confidence ***owed to the source of the information***; and (3) does so with scienter.⁶ In the CEA context, such trading must be in connection with a contract for sale or purchase of a commodity, future, or swap in interstate commerce.

We have applied insider trading law to our jurisdictional products consistent with what Congress intended us to do. This is not new. For example, in the recently concluded *Clark* matter, we prosecuted a futures trader at a Texas energy company who turned his employer's order book into a private tip sheet, feeding confidential trading information to an outside trader who traded against Clark's own employer and kicked profits back. DOJ charged Clark criminally for the same conduct.⁷ Likewise, the *Ruggles* matter involved an individual who ran a major airline's fuel-hedging program. At the same time the individual was executing crude oil, heating oil, and gasoline trades for his employer, he was secretly running the same trades through personal accounts in his wife's name, pocketing \$3.5 million.⁸ And *Motazedi*, the first CFTC insider trading case, involved a gasoline trader at a large public company in Chicago who knew every trade his employer planned to make—and used that knowledge to front-run those trades and place opposite-side orders against his own employer.⁹ Each of these cases resulted in substantial monetary penalties, disgorgement, and permanent trading bans.

Now, moving to prediction markets, the only question is whether certain recent event contracts are derivatives subject to our anti-fraud provisions. And while there is ongoing litigation with regard to these event contracts, the clear statutory reading and the Agency's view, as recently stated publicly in a proposed rulemaking and a staff advisory on prediction markets, is that these and other event contracts ***are swaps*** under the broad statutory definition of a swap.¹⁰ The CEA's anti-fraud provisions apply with full force to swaps. Thus, Section 6(c)(1) and Rule 180.1 prohibit insider trading in the prediction markets.¹¹

Insider trading is potentially happening in prediction markets. Consider a recent example from Kalshi, a regulated Designated Contract Market or DCM. Last summer, an individual traded a contract related to a YouTube channel while having an employment relationship with the subject of the contract. The trader appeared to

nipulative and Deceptive Devices and Prohibition on Price Manipulation, 76 FED. REG. 41398, 41399, 41403 (July 14, 2011).

⁶*United States v. O'Hagan*, 521 U.S. 642, 652–55 (1997); see also *Salman v. United States*, 580 U.S. 39, 41–42 (2016) (reaffirming the *O'Hagan* framework and confirming that in a tipping case a gift of confidential information to a trading relative satisfies the personal-benefit requirement); *United States v. Chow*, 993 F.3d 125, 134–39 (2d Cir. 2021) (holding that a non-disclosure agreement created a duty of trust and confidence sufficient to support insider trading liability under the misappropriation theory).

⁷*CFTC v. Clark*, No. 4:22-cv-00365 (S.D. Tex. filed Feb. 3, 2022; consent order Jan. 29, 2026), <https://www.cftc.gov/media/13171/ENFClarkConsentOrder012926/download>; see also indictment, *United States v. Clark*, No. 4:22-cr-00055 (S.D. Tex. filed Feb. 3, 2022). On March 15, 2024, Matthew Clark pleaded guilty to conspiracy to commit honest services wire fraud, in violation of 18 U.S.C. §§ 1343 and 1346, prohibited commodities transactions, in violation of 7 U.S.C. §§ 6c(a)(2), 13(a)(2), and insider trading, in violation of 7 U.S.C. §§ 9(a)(1), 13(a)(5), and 17 CFR § 180.1[i]. See Plea Agreement, *United States v. Clark*, No. 4:22-cr-00055 (S.D. Tex. filed Mar. 15, 2024).

⁸*In re Jon P. Ruggles*, CFTC Docket No. 16–34 (Sept. 29, 2016) (violations of CEA §§ 4b(a), 4c(a), 6(c)(1) and 17 CFR §§ 1.38(a), 33.10(a) and (c), and 180.1).

⁹*In re Arya Motazedi*, CFTC Docket No. 16–02 (Dec. 2, 2015) (violations of CEA §§ 4b(a), 4c(a), 6(c)(1) and 17 CFR §§ 1.38(a), 180.1).

¹⁰*Prediction Markets*, 91 FED. REG. 12516, 12517 (Mar. 16, 2026) (advance notice of proposed rulemaking, noting that “event contracts can fall within multiple subsections of the CEA’s definition of ‘swap.’”); CFTC, Div. of Mkt. Oversight, Staff Letter No. 26–08, *Prediction Markets Advisory*, at 2 (Mar. 12, 2026), <https://www.cftc.gov/csl/26-08/download>.

¹¹CEA § 6(c)(1), 7 U.S.C. § 9(1).

have access to material non-public information related to his trades—in violation of exchange rules.¹²

And there are other areas of potential concern. One such area concerns contracts based on the actions or status of a person or small group of people.¹³ Injury contracts, for example, present both manipulation and insider trading risk. On the manipulation side, a player could injure another player to collect on a contract. On the insider trading side, those with advance, nonpublic knowledge of an injury—say a trainer—could use that information to trade. That trading could be in violation of a duty of confidentiality.

This is a perfect area to highlight the role of exchanges—our first lines of defense—in stopping insider trading and manipulation. Our recent advisory on prediction markets suggests some of the steps prediction markets can take regarding these contracts. For example, the advisory asks exchanges to consider whether such contracts have a heightened risk of manipulation or price distortion before listing. And it encourages exchanges to look at steps relevant to fighting manipulation and insider trading such as reviewing league-maintained lists of individuals who should be barred from trading sports-related event contracts, establishing information-sharing arrangements with the leagues and integrity monitoring organizations, and cooperating with league-run investigations into manipulation or insider trading.¹⁴ At the CFTC we are taking similar steps to protect the integrity of event contracts. For example, we recently announced a Memorandum of Understanding with Major League Baseball (“MLB”), providing a mechanism for the CFTC and MLB to exchange information and protect event contracts relating to professional baseball from fraud, manipulation, and other abuses.¹⁵ So we will be active in this area, but the exchanges, who certify the contracts and have other statutory and regulatory obligations, need to do their jobs as well.

The concerns are not limited to injury contracts; there are many other contracts that can be subject to abuse. We are aware of the speculation about insider trading that you see in the media, in chatrooms, and elsewhere. We are watching.

I would mention another potential area of prosecution: the illegal use of government information to trade. This has been an area pursued over the years by other regulators and prosecutors, like the U.S. Attorney’s Office for the Southern District of New York. As a general matter, many government employees, including Members of Congress and a great many Executive Branch employees, are subject to the STOCK Act and forbidden from using and trading on MNPI gained through their position. We will be policing the illegal use of government information in the prediction markets, in violation of the anti-fraud provisions I referenced earlier.

But in addition to those anti-fraud provisions, when it comes to government information, the CFTC can also prosecute under Section 4c(a)(4) of the CEA—the so-called “Eddie Murphy Rule.”¹⁶ The rule is named for Murphy’s role in *Trading Places* where his character, Billy Ray Valentine, made a fortune with a stolen government crop report. The rule prohibits government employees from trading based on MNPI relating to government action while having inside information.

These provisions and others like them subject a broad range of government employees to duties regarding MNPI—duties they might breach if they traded on that information. Again, it is the breach of duty that is key under insider trading laws.

And as I have noted, it is not just government information that is often protected by a legal duty. Information learned on the job and used in violation of the duty owed to an employer under a confidentiality agreement, NDA, or employment contract could be misappropriated if used for trading.¹⁷ So, if an NBA team employee subject to a confidentiality agreement had non-public knowledge of a player’s injury, the employee’s trades on an event contract concerning that player’s performance in the upcoming game could violate insider trading laws. So could trading based on the expected date of a highly anticipated product release.

Now, I have investigated, prosecuted, defended, and tried insider trading cases over my career. In my experience, those who hold MNPI are often subject to a web of legal and confidentiality obligations. With sports leagues or major corporations,

¹² CFTC, Press Release No. 9158–26, *CFTC Enforcement Division Issues Prediction Markets Advisory* (Feb. 25, 2026), <https://www.cftc.gov/PressRoom/PressReleases/9158-26> (advisory issued following two enforcement cases on KalshiEX, a Designated Contract Market, involving misuse of non-public information in event contract trading).

¹³ See CFTC Staff Letter No. 26–08, *supra* note 10, at 4.

¹⁴ *Id.* at 5–6.

¹⁵ CFTC, Press Release No. 9199–26, *CFTC and MLB Sign Groundbreaking MOU* (Mar. 19, 2026), <https://www.cftc.gov/PressRoom/PressReleases/9199-26>.

¹⁶ CEA § 4c(a)(4), 7 U.S.C. § 6c(a)(4).

¹⁷ *Chow*, 993 F.3d at 134–39.

chances are that trading on information you learn from work is going to breach duties of trust and confidence and subject you to insider trading liability.

I would also like to emphasize a couple of other points here.

The first is that this is only about *misappropriated* information. As I said before, in our markets, you are absolutely entitled to trade on MNPI that you rightfully own. You are not breaching a duty to the source of the information. Derivatives markets are primarily designed for risk management. We want market participants to be able to use their own information to protect themselves from financial harm and hedge their risk as they deem appropriate.

Second, we will exercise our prosecutorial discretion and not dedicate our resources to trivial cases or cases where there is no clear breach of duty.

Third, I have not provided an exhaustive list of our insider trading authorities. For example, I referenced the “Eddie Murphy Rule,” which prohibits anyone from knowingly trading on stolen government information.¹⁸ But the CFTC also has long-standing authority—sections 9(d) and 9(e) of the CEA—prohibiting insider trading for the misuse of information by the CFTC’s own employees or those of the exchanges and self-regulatory organizations we oversee.¹⁹ This provision applies broadly to exchange personnel.

A last point on prediction markets. This has only been a discussion of insider trading. We also have authority to bring cases under other provisions of the CEA—including for market manipulation, market abuse, and other fraudulent trading practices.

Staff Advisory on Cooperation

Let me now turn to Cooperation. The Division will soon be issuing a new Staff Advisory on Cooperation and will be rescinding the current policy, issued in February 2025. We are changing our policies to further incentivize cooperation, to simplify our approach, and, hopefully, to be fairer to the parties with which we interact.

There are three areas where I would like to highlight differences from our past policies, all of which are designed to ensure the rapid disposition of matters while appropriately crediting parties for their cooperation.

First, we are changing our declination policy for those who cooperate. We are committed to being transparent about the benefits of coming in voluntarily. We want to reward parties who make the right choice. Under our new policy, if an eligible party (i) self-reports (as will be defined in a moment), (ii) cooperates fully, and (iii) remediates fully, including committing to ongoing reporting of violative conduct, and follows our guidelines on remediation and disgorgement, then ***absent aggravating circumstances***, we will give that party a clear path to a declination. We will issue declinations upon completion of a party’s cooperation.

There will be some aggravating circumstances under which we will not offer such declinations. For example, pervasive intentional or reckless conduct by ownership or senior-most management may preclude eligibility (but not necessarily so). Recidivist activity involving intentional or reckless conduct may also preclude eligibility.

Second, we are clarifying how we assess self-reporting. Parties will be eligible for the declination program if they self-report in a prompt, timely, and good-faith fashion—even where the party needs more time to investigate—regardless of whether the CFTC already knew about the issue confidentially. This is based on our view of fundamental fairness. If you do the right thing every step of the way, why should your penalty depend on whether the Division had independently learned about an issue or not? But self-reports will not be eligible where the information is public or the party knows or suspects that there is an imminent disclosure from another source. This includes situations where the party knows or suspects that there is a whistleblower, a government investigation by another agency, a Self-Regulatory Organization investigation, or a press report. We will, however, continue to recognize self-reports for information that parties may also have to include in the mandatory annual chief compliance officer reports required of many of our registrants.²⁰

Third, we will simplify how we evaluate cooperation. Cooperation will be binary. Like jumping into a lake; you’re either in a hundred percent or you’re out. You can choose to cooperate—in which case we expect full cooperation. That cooperation will

¹⁸CEA § 4c(a)(4), 7 U.S.C. § 6c(a)(4).

¹⁹CEA § 9(d), 7 U.S.C. § 13(d) (prohibiting use of nonpublic information obtained at work for trading by “any Commissioner of the Commission or any employee or agent thereof”); CEA § 9(e), 7 U.S.C. § 13(e) (prohibiting the same for “an employee . . . of a board of trade, registered entity, swap data repository, or registered futures association”).

²⁰See 17 CFR § 3.3(e), (f) (2026) (CCO annual report requirements for futures commission merchants, swap dealers, and major swap participants); 17 CFR § 37.1501(d), (e) (2026) (CCO annual report requirements for swap execution facilities); 17 CFR § 49.22(e), (f) (2026) (CCO annual report requirements for swap data repositories).

include disclosing all relevant non-privileged information, sharing internal investigation findings without breaching privilege or work-product protections, making personnel available for interviews, preserving all records including ephemeral messages, undertaking good-faith efforts to secure documents located overseas, and, under our policy, continuing to report. Or you can choose not to cooperate fully, in which case we will always treat parties fairly, but you will lose the path to a declination.

Fourth, a party must remediate fully and take steps to both compensate victims and address corporate deficiencies. A party will have to demonstrate that they have analyzed the conduct, identified root causes, and remediated root causes where appropriate. The party will also have to implement appropriate changes to their compliance program. Remediation also includes, where appropriate, disciplining relevant employees, including both those responsible for the conduct and those with supervisory authority. To receive declinations, parties will also have to provide full restitution to injured parties. And parties will have to disgorge their ill-gotten gains.

We expect to issue our Staff Advisory on these and other topics in the near term, and update our Enforcement Manual accordingly, with the final text of that Advisory and the Manual taking precedence over anything I include in this speech. I also note that these statements do not intend to, do not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter, civil or criminal.

Concluding Thoughts

To conclude, I believe that all the policies and priorities we have discussed come from three fundamental principles, principles that I learned from well over 2 decades as a prosecutor and defense lawyer. First, the power of government should be used to fight serious violations—and for us that means focusing on the priorities I laid out, which at bottom are about fraud, abuse, and manipulation. The things the CFTC's Division of Enforcement should be focusing on. Not regulation by enforcement. Second, because government investigations by their nature impose hardships on parties, the government should move quickly, and we will do so. We will move efficiently, with a laser focus on serious violations and a willingness to reach declination decisions rapidly where eligible parties are willing to timely self-report and fully cooperate and remediate. And third, government needs to be fair. We will be fair and as transparent as we can be, making sure we treat every party before us the right way.

Under Chairman Selig's and my leadership, the Division of Enforcement will target the conduct that truly causes harm, pursue those cases with speed and toughness, and we will always, always do so with integrity.

Thank you and good night.

APPENDIX B

CFTC Reaffirms Exclusive Jurisdiction over Prediction Markets in U.S. Circuit Court Filing

No. 25–7187

In The United States Court of Appeals for the Ninth Circuit

*North American Derivatives Exchange, Inc., D/B/A Crypto.com (Derivatives North America, **Plaintiff-Appellant,***

v.

*The State of Nevada, Et Al., **Defendants-Appellees,** Nevada Resort Association, **Intervenor-Defendant-Appellee.***

On Appeal from the United States District Court for the District of Nevada, Case No. 2:25-cv-00978-APG-BNW

Amicus Brief of Commodity Futures Trading Commission, a Federal Government Agency, in Support of Appellant and in Support of Reversal

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 7 U.S.C. § 1a(47)(A), CEA § 1a(47)(A)
 7 U.S.C. § 1a(47)(A)(i), CEA § 1a(47)(A)(i)
 7 U.S.C. § 1a(47)(A)(ii), CEA § 1a(47)(A)(ii)
 7 U.S.C. § 1a(47)(A)(iv), CEA § 1a(47)(A)(iv)
 7 U.S.C. § 1a(47)(A)(vi), CEA § 1a(47)(A)(vi)
 7 U.S.C. § 1a(47)(B), CEA § 1a(47)(B)
 7 U.S.C. § 2(a)(1), CEA § 2(a)(1)
 7 U.S.C. § 2(a)(1)(A), CEA § 2(a)(1)(A)
 7 U.S.C. § 2(d), CEA § 2(d)
 7 U.S.C. § 5, CEA § 3
 7 U.S.C. § 6(a), CEA § 4(a)
 7 U.S.C. § 13a–2, CEA § 6d
 31 U.S.C. § 5362(1)(E)(ii)
 Commodity Exchange Act, Pub. L. No. 74–675, 49 Stat. 1491 (1936)
 Commodity Futures Trading Commission Act of 1974, Pub. L. No. 93–463, 88 Stat. 1389 (1974)
 Commodity Futures Modernization Act of 2000, Pub. L. No. 106–554, 114 Stat. 2763A–365 (2000)
 Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111–203, 124 Stat. 1376 (2010)
 Future Trading Act of 1921, Pub. L. No. 67–66, 42 Stat. 187 (1921)
 Futures Trading Act of 1978, Pub. L. No. 95–405, 92 Stat. 865 (1978)
 Futures Trading Act of 1982, Pub. L. No. 97–444, 96 Stat. 2294 (1982)
 Futures Trading Practices Act of 1992, Pub. L. No. 102–546, 106 Stat. 3590 (1992)
 Grain Futures Act of 1922, Pub. L. No. 67–331, 42 Stat. 998 (1922)

Regulations

17 CFR § 1.3
 17 CFR § 32.2(a)
 17 CFR § 38.151(b)
 17 CFR § 40.2
CFTC Commodity Options, 77 FED. REG. 25320, 25321 n. 6 (Apr. 27, 2012)

CFTC Further Definition of “Swap”, “Security Based-Swap”, and “Security-Based Swap Agreement”; *Mixed Swaps*; *Security Based-Swap Agreement Recordkeeping*, 77 FED. REG. 48208, 48209 (Aug. 13, 2012)

CFTC Concept Release on the Appropriate Regulatory Treatment of Event Contracts, 73 FED. REG. 25669, 25671 (May 7, 2008)

Legislative Materials

H. Rep. No. 67–1095 (1922) (Conf. Rep.)
 H.R. Rep. No. 93–975 (1974)
 H.R. Rep. No. 93–1383 (1974) (Conf. Rep.), as reprinted in 1974 U.S.C.C.A.N. 5894
 H.R. Rep. No. 97–565 (1982), pt. 1, as reprinted in 1982 U.S.C.C.A.N. 3871
 H.R. Rep. No. 102–978 (1992) (Conf. Rep.), as reprinted in 1992 U.S.C.C.A.N. 3179
 S. Rep. No. 67–871 (1922)
 S. Rep. No. 93–1131 (1974), as reprinted in 1974 U.S.C.C.A.N. 5843
 S. Rep. No. 95–850 (1978), as reprinted in 1978 U.S.C.C.A.N. 2087
 120 *Cong. Rec.* S30458, 30464 (daily ed. Sept. 9, 1974) (statement of Sen. Curtis)
 156 *Cong. Rec.* S5923 (daily ed. July 15, 2010) (statement of Sen. Lincoln)
 Review of Commodity Exchange Act and Discussion of Possible Changes: Hearings Before the H. Comm. on Agric., 93d Cong., 1st Sess. 121 (1973)
 Commodity Futures Trading Act of 1974: Hearings Before the S. Comm. on Agric. & Forestry on S. 2485, S. 2578, S. 2837, H.R. 13113, 93d Cong., 2d Sess. 685 (1974) (statement of Sen. Clark)

Other Authorities

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 Ryan Grandeau, *Securing the Best Odds: Why Congress Should Regulate Sports Gambling Based on Securities Style Mandatory Disclosure*, 41 CARDOZO L. REV. 1229, 1247 (2000)
 William W. Mansfield, *A Digest of the Statutes of Arkansas* § 1848 (U.M. Rose ed., 1884)

Interest of Amicus Curiae

The Commodity Futures Trading Commission (“CFTC” or “Commission”) is the Federal agency charged with administering and enforcing the Commodity Exchange Act (“CEA” or “Act”), 7 U.S.C. §§ 1–26. Congress created the CFTC in 1974 to establish a uniform national system for regulating futures trading after concluding that the existing patchwork of state-by-state regulation had critically impaired the development and functioning of national commodities markets. See H.R. Rep. No. 93–975, at 51 (1974); S. Rep. No. 93–1131, at 36 (1974), reprinted in 1974 U.S.C.C.A.N. 5843, 5885. “[T]ransactions subject to [the CEA] are entered into regularly in interstate and international commerce and are affected with a national public interest,” including in “liquid, fair, and financially secure trading facilities.” 7 U.S.C. § 5.

Congress vested the CFTC with “exclusive jurisdiction” to protect that national interest by overseeing the regulation of futures, options, and swaps traded on federally regulated exchanges. 7 U.S.C. § 2(a)(1)(A). The CFTC’s jurisdiction “supersedes State as well as Federal agencies” because commodity derivatives markets require nationally uniform rules governing the listing, trading, clearing, settlement, surveillance, and enforcement of financial instruments traded in these markets to prevent the type of fragmented oversight at risk in this case. See S. Rep. No. 93–1131 (1974), reprinted in 1974 U.S.C.C.A.N. at 5848.

Appellees’ views and the district court’s decision, if accepted, present a fundamental threat to Congress’s statutory design. As Justice Holmes presciently noted in 1905:

People will endeavor to forecast the future, and to make agreements according to their prophecy. Speculation of this kind by competent men is the self-

adjustment of society to the probable. Its value is well known as a means of avoiding or mitigating catastrophes, equalizing prices, and providing for periods of want. It is true that the success of the strong induces imitation by the weak, and that incompetent persons bring themselves to ruin by undertaking to speculate in their turn. But legislatures and courts generally have recognized that the natural evolutions of a complex society are to be touched only with a very cautious hand, and that such coarse attempts at a remedy for the waste incident to every social function as a simple prohibition and laws to stop its being are harmful and vain.

Bd. of Trade of Chi. v. Christie Grain & Stock Co., 198 U.S. 236, 247–48 (1905).

States cannot invade the CFTC’s exclusive jurisdiction over CFTC-regulated designated contract markets (“DCMs”) by re-characterizing swaps trading on DCMs as illegal gambling. The decision below is inconsistent with the text, structure, and history of the CEA and, if affirmed, would reintroduce precisely the regulatory fragmentation Congress deliberately displaced.

It is Appellees’ theory of the case that presents a seismic shift in the longstanding *status quo* between CFTC and state authority. This court need only look at many of these same parties’ temporary restraining order against Coinbase, where they requested, and received, an injunction barring the offering of “event-based contracts relating to sporting and other events.” *Ex Parte* Temporary Restraining Order at 2, 7 *Nevada, et al. v. Coinbase Financial Markets, Inc.*, No. 26–OC–0030–1B (Nev. 1st Judic. Dist. Feb. 5, 2026) (emphasis added) (prohibiting Coinbase “from offering or facilitating the offering of event contract[s] in Nevada”). Unable to articulate any limiting principle to their theory, they have upended decades of well-settled and Congressionally-mandated exclusive jurisdiction across the full spectrum of event contracts.

While subsequent litigation may require resolution of complicated follow-on questions, this case presents two narrow, yet exceptionally important, questions: (1) are Appellant’s CFTC exchange-traded event contracts swaps, and (2) may such swaps also be regulated, or prohibited, under state law, thereby displacing the CEA’s express preemption of state and other Federal laws or rules? The CFTC submits this brief to assist the Court in resolving these fundamental issues.

Background

I. The Commodity Exchange Act Provides the Regulatory Framework for Commodity Derivatives Markets in the United States

The CEA is a Federal statute that provides the comprehensive Federal framework governing transactions in United States commodity derivatives markets. A derivative is a financial instrument, the value of which depends on (*i.e.*, is derived from) the value of some underlying asset, index, or other measure. In general, market participants use derivatives to hedge risks or speculate on commodity price movements. The most common derivatives are “futures contracts” and “swaps.” While derivatives markets are distinct from “cash” or “physical” markets in which the assets themselves are bought and sold, the prices of those assets and derivatives are typically closely linked. If a price disparity arises, arbitrageurs will take advantage of the difference, and the gap disappears. In the ordinary course, these price movements contribute to “price discovery,” the mechanism by which supply and demand set the price of a commodity.

A futures contract is a standardized agreement to purchase or sell a “commodity” at a future date for a price determined at the contract’s inception. Although the CEA uses the term of art “contract[] of sale of a commodity for future delivery,” most contracts are structured for financial settlement and are discharged by executing a contract that reverses the obligation to purchase or sell. *See, e.g.*, 7 U.S.C. § 2(a)(1)(A). Under the CEA, a futures contract must be traded on a DCM, the statutory term for a registered derivatives exchange. 7 U.S.C. § 6(a). A swap includes a broad array of financial instruments, such as “event contracts.” Swap transactions are also traded on CFTC-registered DCMs.

Futures markets originated in the United States at transportation hubs for agricultural products like grain, butter, and eggs. Over time, exchanges began to offer contracts for other physical commodities like metals, oil, and gas, and later introduced cash-settled futures linked to less tangible measures like interest rates and price indices. While the range of underlying commodities has expanded (and continues to do so) over time, the fundamental regulatory structure governing futures

markets has remained consistent. Today there are 24 exchanges (DCMs) in the United States, including North American Derivatives Exchange d/b/a Crypto.com.¹

II. The Development of Federal Regulation of U.S. Futures and Swaps Markets

A. The Origins of Federal Oversight of Derivatives Regulation

By the mid-nineteenth century, exchanges in major commodity trading hubs like New York and Chicago had organized trading to facilitate price discovery (information exchange), risk management (hedging), and speculation.² But there was tension between state regulation of gambling and the growth of futures markets. States and courts often failed to distinguish between futures trading and “gambling” or “wagering,” with many states even prohibiting futures trading as a form of gambling. *See, e.g., Irwin v. Williar*, 110 U.S. 499, 508–09 (1884) (describing futures contracts as “nothing more than a wager”); *see also Cothran v. Ellis*, 16 N.E. 646, 647 (Ill. 1888) (describing futures as “gambling in grain”); *see also Rumsey v. Berry*, 65 Me. 570, 574 (Me. 1876) (finding futures contracts to be void as contrary to public policy). For example, an Arkansas law declared that “[t]he buying or selling or otherwise dealing in what is known as futures . . . with a view to profit, is hereby declared to be gambling” and made dealing in futures illegal. *See William W. Mansfield, A Digest of the Statutes of Arkansas* § 1848 (U.M. Rose ed., 1884).

Nevertheless, the Supreme Court and Congress acknowledged that futures markets served a valuable economic function and should be given room to develop. A futures contract’s “value [is] well known as a means of avoiding or mitigating catastrophes, equalizing prices and providing for periods of want.” *Bd. of Trade of Chi.*, 198 U.S. 236 at 247–48.³ And Congress ultimately centralized the oversight and regulation of futures trading on federally regulated contract markets. The first Federal legislation designed to create a comprehensive Federal regulatory framework for futures markets was the Future Trading Act of 1921, Pub. L. No. 67–66, 42 Stat. 187 (1921) (“21 Act”), followed by the Grain Futures Act of 1922, Pub. L. No. 67–331, 42 Stat. 998 (1922) (“22 Act”). In passing these laws, Congress recognized the importance of uniform Federal regulation of futures markets, despite concerns by some Members of Congress who objected to the proposed law because it would interfere with state police powers. H.R. Rep. No. 67–1095, at 5 (1922) (Conf. Rep.).

But the Supreme Court found that this preemptive design was not sufficiently explicit in the statute, which resulted in states continuing to regulate or even prohibit futures trading. *Dickson v. Uhlmann Grain Co.*, 288 U.S. 188, 198–99 (1933) (rejecting “the contention that Congress occupied the field in respect to contracts for future delivery; and that necessarily all state legislation in any way dealing with that subject is superseded.”) And when Congress expanded Federal oversight of futures markets in 1936 with the Commodity Exchange Act, Pub. L. No. 74–675, 49 Stat. 1491 (1936), the boundary between Federal and state authority remained unsettled as futures markets expanded beyond their agricultural origins. Market participants continued to face the persistent threat of state prosecution through a patchwork of state laws and regulations.

In 1973, futures exchanges recommended that “Federal policy . . . be uniform throughout the United States” and not “subject to the vagaries” of different obligations in “different jurisdictions.” Review of Commodity Exch. Act and Discussion of Possible Change: Hearings Before the H. Comm. on Agric., 93d Cong., 1st Sess. 121 (1973). And the very next year, Congress explicitly spoke on the question in the Commodity Futures Trading Commission Act of 1974, Pub. L. 93–463, 88 Stat. 1389 (1974) (“74 Act”).

B. Congress Gave the CFTC “Exclusive” Jurisdiction over Futures Trading in 1974

The 74 Act amendments to the CEA worked a sea change in the regulation of U.S. derivatives markets in three critical ways. First, Congress established the CFTC,

¹See CFTC, Designated Contracts Markets (DCMs), https://www.cftc.gov/IndustryOversight/IndustryFilings/TradingOrganizations?Status=Designated&Date_From=&Date_To=&Show_All=1 (last visited February 8, 2026).

²See CFTC, History of the CFTC, <https://www.cftc.gov/About/HistoryoftheCFTC/historyprecftc.html> (last visited February 8, 2026); *see also Regulating Transactions on Grain-Future Exchanges*, S. Rep. No. 67–871, at 3 (1922): “Transactions in grain futures are utilized by the public for speculation and by the grain trade for the purpose of eliminating or reducing, as far as practicable, the hazards in the merchandising of grain and its products and byproducts due to price fluctuations. Public speculation helps to carry the risk for the producers, dealers, and millers who wish to hedge their cash grain transactions.”

³Even after the Supreme Court recognized the legitimacy of futures trading on organized exchanges, states continued to characterize commodity futures markets as illegal gambling. *See John V. Rainbolt II, Regulating the Grain Gambler and His Successors*, 6 HOFSTRA L. REV. 1, 6 (1977).

vesting in it the authority to administer the CEA. Second, Congress expanded the scope of the CEA to cover “all commodities.” Third, Congress expressly gave the CFTC “exclusive jurisdiction” over U.S. commodity futures and options markets. The 74 Act amended Section 2 of the CEA to provide that “the Commission shall have exclusive jurisdiction with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an ‘option’ . . . , and transactions involving contracts of sale of a commodity for future delivery, traded or executed on a contract market designated pursuant to section 5 of this Act or any other board of trade, exchange, or market.” 74 Act, Section 201(b), 88 Stat. at 1395 (codified at 7 U.S.C. § 2(a)(1)).

Preemption was an express goal of the 74 Act. Congress recognized the need for uniform nationwide regulation of futures and options markets because concurrent regulation by the states or other Federal regulators such as the Securities and Exchange Commission could lead to “total chaos.”⁴ Potential limiting language was stricken from the statute “to assure that Federal preemption is complete.” 120 *Cong. Rec.* S 30458, 30464 (daily ed. Sept. 9, 1974) (Statement of Sen. Curtis). All commodity futures markets were to be under the CFTC’s exclusive jurisdiction. The 74 Act “preempt[ed] the field insofar as futures regulation is concerned” such that “if any substantive State law regulating futures trading was contrary to or inconsistent with Federal law, the Federal law would govern.” H.R. Rep. No. 93-1383 (1974) (Conf. Rep.), *reprinted in* 1978 U.S.C.C.A.N. 2087, 2110-11.

C. Congress Reinforced and Clarified the CFTC’s Exclusive Jurisdiction After 1974

Amendments to the CEA between 1978 and 2010 repeatedly reinforced and clarified the CFTC’s exclusive jurisdiction over futures and options. In the Futures Trading Act of 1978 (“78 Act”), Congress preserved the CFTC’s exclusive authority over futures transactions on CFTC-registered DCMs while clarifying the states’ ability to pursue certain violations of the CEA against actors other than federally regulated exchanges. The 78 Act added a section to the CEA authorizing states to bring actions for injunctive or monetary relief for specified violations of the CEA and to enforce their “general civil or criminal antifraud” statutes. *See* 78 Act, Pub. L. 95-405, § 15(7), 92 Stat. 865, 873 (1978).⁵ Other than this explicit authorization of state authority, the CEA retained the broad preemption of state laws put in place in 1974. Proposals to carve off pieces of the CFTC’s “exclusive” jurisdiction were rejected, because “[t]he nature of the underlying commodity is not an adequate basis to divide regulatory authority.” S. Rep. No. 95-850, at 111-12 (1978), *reprinted in* 1978 U.S.C.C.A.N. 2087, 2110-11. Just because “a futures contract market does not fit into the traditional mold where there are both hedging and price-discovery functions should not be the determining factor in whether the contract is to be regulated by the CFTC.” *Id.* Congress also further added to the list of justifications supporting exclusive jurisdiction citing concerns over “costly duplication and possible conflict of regulation or over-regulation.” *Id.*

The Futures Trading Act of 1982 (the “82 Act”) further clarified the scope of the CEA’s preemption of other Federal and state laws and the role of the states in pursuing illegal or fraudulent off-exchange transactions, while still recognizing “the CFTC[s] exclusive jurisdiction to regulate futures trading and enforce the provisions of the Act, thereby preempting any State regulatory laws.” H.R. Rep. No. 97-565, at 44-45 & 102-03 (1982), *reprinted in* 1982 U.S.C.C.A.N. 3871, 3893-94 & 3951-52. First, the 82 Act clarified the procedures for states to pursue violations of the CEA’s anti-fraud provisions in state court. Second, the 82 Act clarified the role of states with respect to off-exchange futures transactions. Language was added to permit “criminal prosecution under any Federal criminal statute” or the application of Federal or state laws to *off-exchange* transactions or *unregistered* market participants. 82 Act, Pub. L. 97-444, § 229, 96 Stat. 2294, 2318 (1982). The broad preemption of other potentially applicable state or Federal laws remained as to transactions on DCMs and as to market participants registered with the CFTC. *See* H.R. Rep. No. 97-565, at 44-45 & 102-103, 1982 U.S.C.C.A.N. at 3893-94, 3951-52. Adding again to the reasons for exclusive jurisdiction, the Committee report noted it “was done in recognition of the somewhat esoteric nature of the commodity futures markets and the desire to have knowledgeable and uniform enforcement of the Act” before ultimately concluding that “[t]he Committee . . . continues to support the idea

⁴See Commodity Futures Trading Act of 1974: Hearings Before the S. Comm. on Agric. & Forestry on S. 2485, S. 2578, S. 2837, H.R. 13113, 93d Cong., 2d Sess. 685 (1974) (statement of Sen. Clark).

⁵This “Jurisdiction of the States” provision is now found in CEA Section 6d, 7 U.S.C. § 13a-2. The language of subsection (7) remains the same in the current version of the CEA.

of a single unified program of regulation and exclusive CFTC jurisdiction over exchange-traded futures.”⁵

In 1992, Congress began grappling with the advent of a new type of derivative financial product, swaps. In the Futures Trading Practices Act of 1992 (“92 Act”), Pub. L. 102-546, 106 Stat. 3590 (1992), Congress gave the CFTC authority to “exempt” certain off-exchange (“over-the-counter” or “OTC”) swap transactions from the CEA’s mandatory exchange trading regime for futures and options. The 92 Act added language to CEA Section 12(e) to preempt the application of state gambling and bucket shop laws as applied to OTC derivatives (swaps) transactions that the CFTC exempted pursuant to its new authority in CEA Section 4(c). While the 82 Act allowed the states authority to apply state and local laws to off-exchange transactions, the 92 Act limited this authority at least as to off-exchange swaps that received an exemption from the CFTC. The goal was to provide “legal certainty under both the Act and state gaming and bucket shop laws for transactions covered by the terms of an exemption.” H.R. Rep. No. 102-978, at 80 (1992) (Conf. Rep.), *reprinted in* 1992 U.S.C.C.A.N. 3179, 3212.

The next evolution of the scope of the CEA occurred in 2000 with the passage of the Commodity Futures Modernization Act of 2000 (“CFMA”), Pub. L. No. 106-554, Appendix E & § 103, 114 Stat. 2763A-365, 2763A-377 (2000). The CFMA exempted or excluded swap transactions from the CEA’s exchange trading requirements. However, in so doing, the CFMA also preempted the application of state and local laws to those “excluded” swap transactions. The preemption of state and local laws as to on-exchange transactions remained as is, and the preemption of state and local laws as to off-exchange transactions (exempt or excluded swaps) was expanded.

D. Congress Embraced Preemption as to Swaps Transactions in the Dodd Frank Act

In the wake of the 2008 financial crisis, Congress created a framework within the CEA for the on-exchange execution, clearing and reporting of vast portions of the previously “OTC” swaps markets. In the 2010 Dodd-Frank Act, Congress expressly extended the CFTC’s “exclusive jurisdiction” to encompass “transactions involving swaps.”⁶ The Dodd-Frank Act also added a new subsection, 2(d), which specifies that certain CEA provisions do not apply to swaps. Section 2(d) eliminated the concurrent jurisdiction of states as to off-exchange swap transactions. The authority for state regulation of swaps (whether on- or off-exchange) is now based on Section 12(e)(2), which applies to any swap that the CFTC may exempt pursuant to Section 4(c). This new preemption model is consistent with the one originally created in 1974 for commodity futures, except this model was even broader. Congress did not carve out a role for states to regulate off-exchange swaps through a grant of concurrent jurisdiction, despite having done so for off-exchange commodity futures in 1982.

* * * * *

Argument

I. Event Contracts Trading on CFTC-Regulated Markets Is Subject to the CFTC’s Exclusive Jurisdiction

A. Under the Plain Language of CEA Section 1(a)(47), Event Contracts Are “Swaps”

After Dodd-Frank, the statutory definition of “swap” is deliberately broad. As such, it encompasses event contracts within multiple sub-definitions of CEA § 1a(47)(A). CEA § 1a(47)(A)(i) defines the term “swap,” in relevant part, to include “any agreement, contract, or transaction . . . that is a[n] . . . option of any kind that is for the purchase or sale, or based on the value, of 1 or more . . . quantitative measures, or other financial or economic interests or property of any kind,” and CEA § 1a(47)(A)(ii) defines swap to include “any agreement, contract, or transaction . . . that provides for any purchase, sale, payment, or delivery . . . that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence.”⁷

Congress’s use of the word “any” in multiple sub-definitions of § 1a(47) confirms the statute’s breadth. *Ali v. Fed. Bureau of Prisons*, 552 U.S. 214, 218–19 (2008) (observing that the word “any,” read naturally carries an expansive meaning). The word “any” in the swap definition reflects a conscious decision to avoid a narrow construction that could limit the purpose of derivatives markets. Thus, as an example, an event contract that is settled based on the outcome of a sporting event is

⁶ See Pub. L. No. 111-203, 124 Stat. 1376 (2010); 7 U.S.C. § 2(a)(1)(A).

⁷ See also §§ 1a(47)(A)(iv) (including transactions “commonly known to the trade as swaps”) and (vi) (“any combination or permutation of, or option on, any agreement, contract, or transaction described in any of clauses (i) through (v)”).

therefore an agreement providing for a payment dependent on a future occurrence, and nothing in the statutory text excludes such instruments.

The plain meaning of the statute includes event contracts even though the terms “event” and “contingency” are undefined. Where a statute does not define a term, courts interpret it according to its ordinary meaning. *Bostock v. Clayton County, Ga.*, 590 U.S. 644, 654–55 (2020). Dictionary definitions confirm the breadth of the relevant terms “event” and “contingency.” An event is “something that happens: occurrence,”⁸ and a “contingency” is an “event that may but is not certain to occur.”⁹ The final score of a sporting event is a future occurrence whose outcome is uncertain until the game concludes and falls easily within the broad language of the swap definition as well as the broad definitions of “event” or “contingency.” Moreover, Congress did not limit covered swaps to binary outcomes; instead, it expressly encompassed contracts measured by the *extent* of the occurrence of an event. This broad language encompasses contracts based on the margin of victory or any other quantifiable result of a sports event.

An event contract is also a binary option. See 17 CFR 1.3 (defining commodity option). A binary option is a “type of option whose payoff is either a fixed amount or zero. For example, there could be a binary option that pays \$100 if a hurricane makes landfall in Florida before a specified date and zero otherwise.” CFTC Futures Glossary, <https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/CFTCGlossary/index.htm#B> (last visited Feb. 17, 2026). Commodity option transactions must be conducted in compliance with the CEA and the Commission’s regulations related to swaps. 17 CFR 32.2(a); *see also Commodity Options*, 77 FED. REG. 25320, 25321 n. 6 (Apr. 27, 2012) (“the swap definition . . . includes options . . . (whether or not traded on a DCM)”).

Importantly, when Congress has limited the Commission’s jurisdiction over derivatives it has only done so by expressly embedding narrow exclusions in the statutory commodity definition itself (*i.e.*, onions and movie box office receipts).¹⁰ Here, Congress wrote specific, enumerated exclusions into the definition of swap in § 1a(47)(B), confirming that when it intended to limit the Commission’s jurisdiction, it did so expressly, not by inviting courts or states to create additional, atextual carve-outs.¹¹

The CEA’s text is designed to account for financial innovation. Futures were novel at one point. But even as financial derivatives markets have developed and grown, Congress has chosen to vest the CFTC with broad jurisdiction. That a derivative is novel or different cannot be an excuse for a Court to re-write existing law. The law should be faithfully applied. And if it needs to be amended, that is the job of Congress, not the Courts.

Excluding event contracts from the definition of swap would leave no principled boundary preventing any other event-based derivatives, including currently listed contracts tied to weather, energy, economic indices, and political outcome contracts, from falling outside the CEA. The consequences of such a ruling would be immediate and substantial. States could characterize any derivative as prohibited gambling, thereby subjecting nationally (and internationally) traded swaps to a patchwork of state restrictions. This concern is not hypothetical. Nevada’s cease and desist letter to KalshiEX LLC at issue in a related case orders it to “immediately cease and desist from offering any event-based contracts in Nevada,” without limitation to sports. If Nevada’s approach were permitted to stand, event contracts referencing agricultural, metal, energy, and financial outcomes could likewise all become subject to state-by-state bans across the country. The resulting market fragmentation would erode the nationally uniform framework Congress established to reduce risk, promote transparency, and safeguard market integrity within the financial system. *See Further Definition of “Swap”, “Security-Based Swap”, and “Security-Based Swap Agreement”; Mixed Swaps; Security Based-Swap Agreement Recordkeeping*, 77 FED. REG. 48208, 48209 (Aug. 13, 2012).

The CFTC has treated event contracts as measuring the level of the outcome of an event for nearly 2 decades.¹² Moreover, Congress deliberately adopted an expansive definition of “swap” following the 2008 financial crisis to ensure a comprehensive regulatory oversight of derivatives markets. *See* 156 *Cong. Rec.* S5923 (daily ed. July 15, 2010) (Statement of Sen. Lincoln) (“Section 721 includes a broad and expan-

⁸<https://www.merriam-webster.com/dictionary/event>.

⁹<https://www.merriam-webster.com/dictionary/contingency>.

¹⁰*See* 7 U.S.C. § 1a(9).

¹¹ 7 U.S.C. § 1a(47)(B) (excluding, *inter alia*, physically settled forward transactions, certain insurance and consumer arrangements, and other ordinary course commercial agreements).

¹² *See Concept Release on the Appropriate Regulatory Treatment of Event Contracts*, 73 FED. REG. 25669, 25671 (May 7, 2008).

sive definition of the term ‘swap’ that is subject to the new regulatory regime established in Title VII.”). Nothing in the statutory text or legislative history suggests that the occurrence of an event, or extent of its occurrence, excludes an event’s outcome. The swap definition is written broadly to capture contracts that shift risk based on uncertain future developments. Event contracts do exactly that.

B. Sports Event Contracts Are Associated with Potential Financial, Economic, and Commercial Consequences

As the statutory definition makes clear, the relevant inquiry is intentionally broad. The statute is framed in expansive terms, requiring only that the contract be “associated with *potential* financial, economic, or commercial consequence.” That definitional framework reflects Congress’s recognition that derivatives markets serve a wide spectrum of market participants whose economic exposures are not limited to any specific market participant. *See Alabama Power Co. v. Costle*, 636 F.2d 323, 353 (D.C. Cir. 1979) (recognizing that “potential . . . will always and inherently exceed actual”). Because the statute does not demand certainty, sports event contracts fall comfortably within the statute’s reach.

Broadly speaking, sporting events are economic enterprises that generate billions of dollars in economic activity and materially affect both regional and national markets. *See* Ryan Grandeau, *Securing the Best Odds: Why Congress Should Regulate Sports Gambling Based on Securities-Style Mandatory Disclosure*, 41 CARDOZO L. REV. 1229, 1247 (2020). Stadiums function as regional economic anchors around a network of businesses, including hotels, restaurants, transportation providers, retailers, and event management firms. *See, e.g., Los Angeles Mem’l Coliseum Comm’n v. NFL*, 726 F.2d 1381, 1397 (9th Cir.1984) (discussing claim that a professional sporting team’s presence generates local business activity) and *Pennsylvania v. Nat’l Collegiate Athletic Ass’n*, 948 F. Supp. 2d 416, 433 (M.D. Pa. 2013) (summarizing the Commonwealth’s allegations that the sanctions would cause a loss of football-related hospitality revenue for surrounding businesses). For these reasons, hotels likely adjust pricing models, restaurants expand staffing to accommodate increased demand, vendors increase supply orders, and cities allocate resources to accommodate projected crowds. All of these decisions pose economic risk, which is precisely the type of economic exposure that derivatives markets are designed to mitigate.¹³

The issues presented on appeal do not require this Court to resolve the outer limits of the definition of a swap or engage in line drawing between a swap and a wager. That line drawing exercise presents complicated fact questions concerning the exact structure and mechanics of the instruments, who is the price maker, the difference between an open exchange and a bilateral arrangement, and unrelated legal questions, including the applicability of the CEA to purely intrastate transactions, among others. It is sufficient to resolve this case that the transactions conducted on a CFTC-registered DCM qualify as swaps under the CEA.

II. The CEA Preempts Other Federal and State Actors from Exercising Regulatory Authority Over Swaps, Including Event Contracts, on CFTC-Regulated Markets

CEA § 2(a)(1)(A)’s “exclusive jurisdiction” includes “transactions involving swaps” trading on a CFTC-registered DCM. The “exclusive jurisdiction” provision of 7 U.S.C. § 2(a)(1) preempts application of state gambling laws to event contracts trading on DCMs governed by the CEA, whether the question is evaluated as a matter of field preemption or conflict preemption. Congress intended the CFTC to have exclusive jurisdiction over federally registered DCMs and transactions conducted on those exchanges, displacing state gambling laws that would otherwise apply.

A. The CEA Was Intended to, and Does, Occupy the Field of Regulating Commodity Derivatives Exchanges

Where Congress has declared Federal authority to be exclusive, state laws attempting to regulate the same subject matter must give way. *See Arizona v. United States*, 567 U.S. 387, 399 (2012); *Hughes v. Talen Energy Mktg., LLC*, 578 U.S. 150, 163 (2016); *Duke Energy Trading & Mktg., L.L.C. v. Davis*, 267 F.3d 1042, 1057 (9th Cir. 2001); *see also Transcon. Gas Pipe Line Co. v. Pa. Env’t Hearing Bd.*, 108 F.4th 144, 151–52 (3d Cir. 2024) (an “explicit statutory conferral of exclusive jurisdiction . . . withdraws any concurrent jurisdiction”), *Richardson v. Kruckko & Fries*, 966 F.2d 153, 158 (4th Cir. 1992) (state-law claims preempted where they fell within Federal agency’s “exclusive jurisdiction”).

¹³ *See, e.g.,* KalshiEx’s “February 2026 Sportsbook Hedging Rebate Program” filing with the CFTC, available on the CFTC’s website at: <https://www.cftc.gov/IndustryOversight/IndustryFilings/TradingOrganizationRules/59640> (last visited 2/17/2026).

The inquiry does not turn on whether Congress anticipated every possible form of state interference; it turns on whether state law intrudes into a field Congress has reserved to Federal regulation. While not needed given the explicit statutory language, preemptive intent may be inferred “if the scope of the statute indicates that Congress intended Federal law to occupy the legislative field.” *Altria Grp., Inc. v. Good*, 555 U.S. 70, 76 (2008). Such is the case here. CEA § 2(a)(1)(A) makes plain that Congress intended the CEA to occupy the field of “accounts, agreements . . . and transactions involving swaps or contracts of sale of a commodity for future delivery . . . traded or executed on a contract market . . . or any other board of trade, exchange, or market.” When an instrument is trading on a CFTC-regulated market as a “swap” or “future,” state gambling laws do not apply.

CEA § 2(a)(1)(A)’s “exclusive jurisdiction” over futures and swaps traded on a DCM “preempts the application of state law.” *Leist v. Simplot*, 638 F.2d 283, 322 (2d Cir. 1980). “Precisely, preemption is appropriate [w]hen application of state law would directly affect trading on or the operation of a futures market.” *Effex Cap., LLC v. Nat’l Futures Ass’n*, 933 F.3d 882, 894 (7th Cir. 2019) (quoting *Am. Agric. Movement, Inc. v. Bd. of Trade of Chicago*, 977 F.2d 1147, 1156 (7th Cir. 1992), *abrogated on other grounds by Time Warner Cable v. Doyle*, 66 F.3d 867 (7th Cir. 1995)). Offering event contracts on a DCM cannot, in and of itself, be an activity that is unlawful under any state law. “Congress’s intent was to provide the CFTC with exclusive jurisdiction to regulate commodities” and “[s]uch exclusive jurisdiction precludes states from exercising supplementary regulatory authority over commodity transactions.” *Stuber v. Hill*, 170 F. Supp. 2d 1146, 1151 (D. Kan. 2001).

This is not a new or novel concept. For decades courts have recognized that the CEA preempts application of other Federal or state laws to instruments trading on CFTC-regulated markets.¹⁴ Again, this is part and parcel of Congress’s intent for the CEA to occupy the field of commodity derivatives, as the very purpose of the 74 Act was to “assure that Federal preemption is complete.” 120 *Cong. Rec. S.* 30458, 30464 (daily ed. Sept. 9, 1974) (statement of Sen. Curtis). That the instruments at issue here involve swaps on sports events does not change the preemption framework.¹⁵

B. The “Savings Clause” in CEA § 2(a)(1)(A) Does Not Nullify its Field Preemptive Effect; It Preserves Traditional State Powers Over State-Regulated Gambling

The grant of “exclusive jurisdiction” in § 2(a)(1)(A) does not permit a state to define federally regulated derivatives transactions as illegal under state law. The “savings clause” in § 2(a)(1)(A) does not nullify this conclusion. Specifically, that subsection provides, “[e]xcept as hereinabove provided, nothing contained in this section shall (I) supersede or limit the jurisdiction at any time conferred . . . on . . . other regulatory authorities under the laws of the United States or of any State,” or “(II) restrict . . . such other authorities from carrying out their duties and responsibilities in accordance with such laws,” or “supersede or limit the jurisdiction conferred on courts of the United States or any State.”

As a matter of plain language interpretation, this “savings clause” only applies “[e]xcept as hereinabove provided” in CEA § 2(a)(1)(A). That means other laws that would ordinarily apply outside the field of “accounts, agreements . . . and transactions . . . traded or executed on a contract market” still apply, just not to transactions that are trading on CEA-governed markets. *FTC v. Ken Roberts Co.*, 276

¹⁴ See *Chi. Mercantile Exch. v. SEC*, 883 F.2d 537, 544, 548 (7th Cir. 1989) (recognizing that the CFTC is “the sole lawful regulator” where “its jurisdiction is exclusive”—i.e., if the at-issue derivative falls within Section 2(a)(1)(A)’s reach); *Point Landing, Inc. v. Omni Cap. Int’l, Ltd.*, 795 F.2d 415, 422 (5th Cir. 1986), *aff’d sub nom. Omni Cap. Int’l, Ltd. v. Rudolf Wolff & Co.*, 484 U.S. 97 (1987) (finding the CEA preempted private rights of action under securities laws because “[a]ny other result would frustrate the intent of Congress to preempt the field insofar as futures regulation is concerned.”); *Curran v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 622 F.2d 216, 232 (6th Cir. 1980), *aff’d*, 456 U.S. 353 (1982) (“[T]he thrust of the [CEA’s exclusive-jurisdiction] provision was to ensure that regulatory bodies other than the CFTC would not interfere with the orderly development and enforcement of commodities regulation.”); *Paine, Webber, Jackson & Curtis, Inc. v. Conaway*, 515 F. Supp. 202, 205–06 (N.D. Ala. 1981) (holding that the CEA preempted private plaintiff’s counterclaim under Alabama gambling statute purporting to void all futures transactions in which delivery of the commodity is not intended); *Int’l Trading, Ltd. v. Bell*, 556 S.W.2d 420, 424 (1977) (finding the “vesting of exclusive jurisdiction is a clear indication that Congress intended no regulation in this field except under the authority of the [A]ct”); *Texas v. Monex Int’l, Ltd.*, 527 S.W.2d 804, 806 (Tex. Civ. App. 1975), *writ refused* (Dec. 17, 1975) (holding the CEA preempted Texas securities laws over margined commodity transactions).

¹⁵ Notably, the Unlawful Internet Gambling Enforcement Act of 2006 specifically excludes transactions “conducted on or subject to the rules of a registered entity” under the CEA, reinforcing the field-preemptive effect of the CFTC’s exclusive jurisdiction. 31 U.S.C. § 5362(1)(E)(ii).

F.3d 583, 591 (D.C. Cir. 2001) (observing that other agencies like the FTC “retain their jurisdiction over all matters beyond the confines” of “accounts, agreements, and transactions involving contracts of sale of a commodity for future delivery”) (quoting CEA §2(a)(1)(A)). The “savings clause” preserves traditional, non-conflicting state powers, but does not empower states to use state powers against transactions on CEA-governed markets. *Hunter v. FERC*, 711 F.3d 155, 159 (D.C. Cir. 2013) (“To be clear, there are limits to what comes within CEA section 2(a)(1)(A)’s orbit, but once a scheme crosses the statute’s event horizon, the CFTC has exclusive jurisdiction.”). Thus the “savings clause” does not allow states to prohibit the very types of contracts that the CFTC is exclusively empowered to regulate.

Properly interpreted, the “savings clause” means that the CEA does not displace traditional state authority to enforce state criminal or civil antifraud laws, nor does it displace state authority to regulate purely intrastate conduct or transactions. But the CEA explicitly displaces state attempts to regulate swaps that are conducted on a CFTC-registered contract market. To the specific question in this case, the CEA expressly bars state laws from regulating or prohibiting these transactions that are conducted on CFTC-regulated DCM.

C. State Gambling Laws Are Conflict Preempted

Application of gambling laws is also preempted under the concept of conflict preemption. State law is pre-empted “to the extent of any conflict with a Federal statute.” *Hillman v. Maretta*, 569 U.S. 483, 490 (2013) (quoting *Crosby v. Nat’l Foreign Trade Council*, 530 U.S. 363, 372 (2000)). Conflict preemption occurs when compliance with both Federal and state law is impossible, *Florida Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132, 142–43 (1963), or when state law “stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress,” *Hines v. Davidowitz*, 312 U.S. 52, 66–67 (1941). Field preemption can be understood as a type of conflict preemption, because a state law falling within a pre-empted field conflicts with Congress’s intent to exclude state regulation, making the categories not “rigidly distinct.” *English v. Gen. Elec. Co.*, 496 U.S. 72, 79 n. 5 (1990).

Here, gambling laws are preempted under both impossibility and obstacle conflict preemption. As for impossibility, a DCM is required by Federal law to provide “impartial access” to all eligible participants nationwide. 17 CFR §38.151(b). If a state bans the contract, the DCM cannot fulfill its Federal mandate to provide impartial national access. As for obstacle preemption, gambling laws often require local licensing, fees, and specific hardware (like localized servers). Applying state-by-state local requirements to national commodity exchanges would create the very “patchwork” that Congress set out to prevent.

Nor does the presumption against preemption alter this conclusion. Even accepting arguendo that regulation of gambling is a historic police power of the states, the Court should not apply a presumption against preemption. The entire purpose of the exclusive jurisdictional provision in CEA §2(a)(1)(A) is to provide national uniformity for derivatives trading and to prevent 50 different states from undermining this national regulatory structure by claiming derivatives markets are subject to state gambling laws. Congress’s “clear and manifest purpose” was indeed to preempt these historic police powers. *Altria Grp., Inc.*, 555 U.S. at 77 (noting “the assumption that the historic police powers of the States [are] not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress”) (quoting *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947)).

The plain language of the text, underscored by the consistent legislative history to preempt states from applying 50 state requirements on national markets, indicates this “clear and manifest purpose” to preempt state police powers.

III. Subjecting Derivatives Listed on a CFTC-Registered DCM to State Regulation Would Have Destabilizing Economic Effects

If this Court holds that sports event contracts listed on CFTC-registered DCMs do not qualify as swaps or are outside the CFTC’s exclusive jurisdiction within the meaning of the statute, the consequences would not be confined to a single category of event contracts. The interpretation would redraw the statutory boundary Congress established to ensure a comprehensive Federal oversight of derivatives markets, inviting the public to characterize an expanding universe of event contracts as beyond the CEA’s reach. At least eight DCMs have collectively self-certified with the CFTC more than 3,000 event based contracts with the CFTC pursuant to CFTC

Rule 17 CFR § 40.2, with a notable increase in such filings during the last 2 years.¹⁶ Importantly, the vast majority of these contracts are tied to non-sport outcomes involving measurable commodity indicators, including cryptocurrency price levels and related indices, GDP releases, benchmark interest-rate decisions, election outcomes, temperature forecasts, electricity usage, and the price movements of precious metals. *Id.* These event contracts rest on objectively measurable outcomes no less than sports event contracts. A finding excluding such contracts from the definition of swap would therefore risk destabilizing the settled expectations upon which these markets depend, fostering uncertainty in an area where Congress sought uniformity and regulatory clarity. It could introduce the “chaos” Congress sought to prevent by providing the CFTC with exclusive jurisdiction over futures trading in 1974. Because even modest ambiguity in the scope of the CEA can move rapidly through interconnected financial markets, the CFTC respectfully requests that the Court not adopt a construction that could generate systemic consequences for CEA preemption far removed from the case at hand.

Conclusion

For the foregoing reasons, the CFTC respectfully submits that this Court should reverse and remand the judgment of the district court.

Dated: February 17, 2026
Respectfully Submitted,

/s/ ANNE STUKES
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Certificate of Compliance

I certify that, pursuant to Fed. R. App. 29(a)(5), the foregoing brief complies with the type-volume limitations, in that it has 6,652 words, excluding the parts of the brief, exempted by Fed. R. App. P. 32(f).

This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and type style requirements of Fed. R. App. P. 32(a)(6) because this brief was prepared in proportionally spaced typeface using Microsoft Word 365 and is set in 14 point sized Times New Roman type style.

/s/ ANNE STUKES

Certificate of Service

I certify that on February 17, 2026, I electronically filed this Brief with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the ACMS system. I certify that all participants in the case are registered ACMS users and that service will be accomplished by the ACMS system.

/s/ ANNE STUKES

APPENDIX C—ADVANCED NOTICE OF PROPOSED RULEMAKING RELATING TO PREDICTION MARKETS

Federal Register, Vol. 91, No. 50
Monday, March 16, 2026
Proposed Rules
12516–12524

¹⁶See CFTC Designated Contract Market Products, available at <https://www.cftc.gov/IndustryOversight/IndustryFilings/TradingOrganizationProducts?Organization=CM> (last visited February 13, 2026).

Commodity Futures Trading Commission

17 CFR Chapter I

RIN 3038–AF65

Prediction Markets

Agency: Commodity Futures Trading Commission.

Action: Advance notice of proposed rulemaking; request for comments.

Summary: The Commodity Futures Trading Commission (Commission or CFTC) is issuing this Advance Notice of Proposed Rulemaking and seeking public comment regarding event contract derivatives traded on markets commonly referred to as “prediction markets.” In particular, the Commission is seeking information and public comment on statutory core principles and Commission regulations that apply to prediction markets, the types of event contracts that may be prohibited as contrary to the public interest, cost-benefit considerations related to prediction markets, and other topics. The Commission may use the information and comments received from this Notice to inform potential future agency action, such as rulemaking, with respect to prediction markets.

Dates: Comments must be in writing and received by April 30, 2026.

Addresses: You may submit comments, identified by “Prediction Markets” and RIN 3038–AF65, by any of the following methods:

- CFTC Comments Portal: <https://comments.cftc.gov>. Select the “Submit Comments” link for this release and follow the instructions on the Public Comment Form.
- Mail: Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- Hand Delivery/Courier: Follow the same instructions as for Mail, above.

Please submit your comments using only one of these methods. Submissions through the CFTC Comments Portal are encouraged.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <https://comments.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (FOIA), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission’s regulations.¹

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <https://comments.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under FOIA.

For Further Information Contact: Mark Fajfar, Senior Assistant General Counsel, 202–418–6636, mfajfar@cftc.gov, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1151 21st Street NW, Washington, DC 20581.

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¹ 17 CFR 145.9. (<https://www.ecfr.gov/current/title-17/section-145.9>).

I. Background

A. Prediction Markets

On prediction markets, participants buy and sell contracts based on whether events stated in the contracts occur. Prediction markets “function as information aggregation vehicles” because the contract prices will reflect the market participants’ aggregate beliefs regarding whether the events will occur.²

As discussed further below, the contracts traded on prediction markets may fall within the definition in the Commodity Exchange Act (CEA) of the term “swap.”³ The contracts may also be contracts for the future delivery of a commodity (futures contracts) that are covered by the CEA.⁴ A prediction market which offers swaps or futures contracts for trading by the general public must register with the CFTC as a designated contract market (DCM), which the Commission is charged with overseeing.⁵ Since the early 1990s, parties have sought Commission staff guidance regarding prediction markets, and the Commission first designated a prediction market as a DCM in February 2004.⁶

While the term “event contract” is not a defined term in the CEA or the CFTC’s regulations thereunder, the CFTC has used this term to describe derivative contracts, typically with a binary payoff structure, based on the outcome of an underlying occurrence or event since at least 2008.⁷ In this document, the term “prediction market” refers to a CFTC-registered DCM or swap execution facility (SEF) that offers event contracts for trading.⁸

Since 2021, the Commission has observed a significant increase in the number of event contracts listed for trading on prediction markets, as well as in the diversity of occurrences and events underlying such contracts.⁹ The Commission has also received recent applications for DCM registration, and expressions of interest regarding DCM registration, from entities that have indicated that they are interested primarily, or exclusively, in operating prediction markets.¹⁰

²See *Concept Release on Appropriate Regulatory Treatment of Event Contracts*, 73 FR 25669, 25669 (May 7, 2008) (2008 Concept Release).

³See CEA section 1a(47), 7 U.S.C. 1a(47).

⁴See CEA section 2a(1)(A), 7 U.S.C. 2(a)(1)(A).

⁵See *Id.*, which expressly extends the CFTC’s “exclusive jurisdiction” to encompass “transactions involving swaps or contracts of sale of a commodity for future delivery . . . traded or executed on a contract market designated pursuant to [CEA section 5, 7 U.S.C. 7]” The CFTC shares jurisdiction over mixed swaps and security futures with the Securities and Exchange Commission (SEC), and the SEC has sole jurisdiction over security-based swaps. See section 1a(44) of the CEA, 7 U.S.C. 1a(44) and sections 3(a)(55) and 3(a)(68) of the Securities Exchange Act of 1934 (Exchange Act), 15 U.S.C. 78c(a)(55) and 78c(a)(68). See also section 712(d)(1) of Title VII of the Wall Street Transparency and Accountability Act of 2010 (Dodd-Frank Act) (directing the CFTC and SEC to undertake joint rulemaking on covered topics).

⁶See *CFTC Order of Designation for HedgeStreet, Inc.* (Feb. 20, 2004), available at <https://www.cftc.gov/sites/default/files/opa/press04/opa4894-04.htm>. The Commission’s Division of Market Oversight issued staff no-action positions to two academic institutions. The no-action positions provide that, subject to specified terms, staff will not recommend enforcement action for operating prediction markets, without registration as a DCM, swap execution facility, or foreign board of trade, that offer trading in political and economic indicator event contracts for academic purposes. See CFTC Staff Letter No. 93–66 issued to the University of Iowa (June 18, 1993), available at <https://www.cftc.gov/sites/default/files/idc/groups/public/@lrllettergeneral/documents/letter/93-66.pdf>. This no-action position superseded a more limited no-action position issued in 1992. See also CFTC Staff Letter No. 14–130 issued to Victoria University of Wellington, New Zealand (Oct. 29, 2014), available at <https://www.cftc.gov/csl/14-130/download>.

⁷See 2008 Concept Release. See also *Contracts & Products: Event Contracts*, available at <https://www.cftc.gov/IndustryOversight/ContractsProducts/index.htm>.

⁸In addition to DCMs, a SEF may make any swap, including an event contract, available for trading. See CEA section 5h, 7 U.S.C. 7b–3 (<https://www.govinfo.gov/link/uscode/7/7b-3>). However, swap trading on a SEF is not available to the general public, but rather only to institutional investors within the definition of “eligible contract participant” in CEA section 1a(18), 7 U.S.C. 1a(18) (<https://www.govinfo.gov/link/uscode/7/1a>).

⁹From 2006–2020, DCMs listed for trading an average of approximately five event contracts per year. In 2021, this number increased to 131, and the number of newly-listed event contracts per year remained at a similar level until 2025, when DCMs certified approximately 1,600 event contracts for listing for trading. These event contracts are based on a wide variety of financial indices, economic indicators, weather events, political events, international events, scientific and cultural events, current events, and sporting events. A list of event contracts certified for listing is available on the CFTC’s website. See <https://www.cftc.gov/IndustryOversight/IndustryFilings/TradingOrganizationProducts?Status=Certified&Category=Event>.

¹⁰As of March 2026, Commission staff are reviewing several pending applications for DCM designation from entities with a stated interest in operating prediction markets. Commission staff have received multiple additional inquiries from other entities indicating an interest in applying for DCM registration in order to operate prediction markets.

As noted above, event contracts can fall within multiple subsections of the CEA's definition of "swap." CEA section 1a(47)(A)(ii) defines "swap" to include "any agreement, contract, or transaction . . . that provides for any purchase, sale, payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence."¹¹ Also, CEA section 1a(47)(A)(i) defines the term "swap" to include "any agreement, contract, or transaction . . . that is a put, call, cap, floor, collar, or similar option of any kind that is for the purchase or sale, or based on the value, of 1 or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind."¹² Event contracts traded as swaps under CEA section 1a(47)(A)(i) are sometimes referred to as binary options, a type of swap which is an "option whose payoff is either a fixed amount or zero."¹³

Prediction markets can also list event contracts for trading as futures contracts.¹⁴ Since futures contracts are specifically excluded from the statutory definition of "swap," these event contracts are not swaps.¹⁵

Although the event contracts listed on CFTC-registered DCMs and SEFs are swaps or futures contracts subject to the jurisdiction of the CFTC,¹⁶ other event contracts referencing events associated with potential financial, economic or commercial consequences may be security-based swaps or other instruments subject to the jurisdiction of the SEC.¹⁷

B. Statutory and Regulatory Requirements

A prediction market that seeks to list event contracts for trading, or make event contracts available for clearing, must comply with the substantive and procedural requirements that apply, more generally, to the listing for trading, or making available for clearing, of derivative contracts.¹⁸ Further, a prediction market is subject to statutory requirements to only list or permit trading in derivative contracts that are not readily susceptible to manipulation;¹⁹ to enforce compliance with contract terms and conditions;²⁰ and to monitor trading on the exchange in order to prevent manipulation, price distortion, and disruption of the settlement process through market surveillance, compliance, and enforcement practices and procedures.²¹

In addition to the more generally applicable requirements to which registered entities are subject when listing derivative contracts for trading or making such contracts available for clearing, CEA section 5c(c)(5)(C) grants the Commission the authority to prohibit prediction markets from listing for trading or making available for clearing particular types of event contracts, if the Commission determines that such contracts are contrary to the public interest.²²

¹¹ 7 U.S.C. 1a(47)(A)(ii) (<https://www.govinfo.gov/link/uscode/7/1a>).

¹² 7 U.S.C. 1a(47)(A)(i) (<https://www.govinfo.gov/link/uscode/7/1a>).

¹³ See CFTC Futures Glossary, available at <https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/CFTCGlossary/index.htm#B>.

¹⁴ See CEA section 2a(1)(A), 7 U.S.C. 2(a)(1)(A) (<https://www.govinfo.gov/link/uscode/7/2>). A list of event contracts certified for listing as futures contracts is available on the CFTC's website. See <https://www.cftc.gov/IndustryOversight/IndustryFilings/TradingOrganizationProducts?Type=Future&Category=Event>.

¹⁵ CEA section 1a(47)(B), 7 U.S.C. 1a(47)(B) (<https://www.govinfo.gov/link/uscode/7/1a>), provides that "[t]he term 'swap' does not include—(i) any contract of sale of a commodity for future delivery (or option on such contract)."

¹⁶ See *supra*, note 5.

¹⁷ See 7 U.S.C. 1a(47)(B) (<https://www.govinfo.gov/link/uscode/7/1a>) (providing "exclusions" from the definition of "swap" under the CEA, including for securities such as security based-swaps, certain options, and debt securities); see also, e.g., 15 U.S.C. 78c(a)(68)(A) (<https://www.govinfo.gov/link/uscode/15/78c>) (defining "security-based swap" under the Exchange Act).

¹⁸ For example, Regulation 40.2, 17 CFR 40.2 (<https://www.ecfr.gov/current/title-17/section-40.2>), sets forth the general process by which a DCM or SEF may list a new derivative contract for trading by providing the Commission with a written certification. See also *infra*, note 27.

¹⁹ See Core Principle 3 for DCMs, CEA section 5(d)(3), 7 U.S.C. 7(d)(3) (<https://www.govinfo.gov/link/uscode/7/7>), and Core Principle 3 for SEFs, CEA section 5h(f)(3), 7 U.S.C. 7b-3(f)(3) (<https://www.govinfo.gov/link/uscode/7/7b-3>).

²⁰ See Core Principle 2 for DCMs, CEA section 5(d)(2), 7 U.S.C. 7(d)(2) (<https://www.govinfo.gov/link/uscode/7/7>), and Core Principle 2 for SEFs, CEA section 5h(f)(2), 7 U.S.C. 7b-3(f)(2) (<https://www.govinfo.gov/link/uscode/7/7b-3>).

²¹ See Core Principle 4 for DCMs, CEA section 5(d)(4), 7 U.S.C. 7(d)(4) (<https://www.govinfo.gov/link/uscode/7/7>), and Core Principle 4 for SEFs, CEA section 5h(f)(4), 7 U.S.C. 7b-3(f)(4) (<https://www.govinfo.gov/link/uscode/7/7b-3>).

²² 7 U.S.C. 7a-2(c)(5)(C) (<https://www.govinfo.gov/link/uscode/7/7a-2>).

Specifically, CEA section 5c(c)(5)(C)(i) provides that, “[i]n connection with the listing of agreements, contracts, transactions, or swaps in excluded commodities²³ that are based upon the occurrence, extent of an occurrence, or contingency (other than a change in the price, rate, value, or levels of a commodity described in [CEA] section 1a(2)(i)),²⁴ by a [DCM] or [SEF], the Commission may determine that such agreements, contracts, or transactions are contrary to the public interest if the agreements, contracts, or transactions 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.”²⁵

In 2011, the Commission adopted final rules under part 40 of the Commission’s regulations, including new Regulation 40.11.²⁶ The Commission adopted Regulation 40.11 to implement CEA section 5c(c)(5)(C) as part of broader changes to the Commission’s part 40 regulations.²⁷

C. Past Commission Notices Regarding Prediction Markets

In 2008, the Commission published the 2008 Concept Release, requesting input from the public on the appropriate regulatory treatment of prediction markets.²⁸ The 2008 Concept Release was prompted by the Commission’s receipt of requests for guidance related to the application of the CEA to prediction markets.²⁹ The Commission ultimately did not take further action at that time.

In 2024, the Commission proposed rules to further specify the types of event contracts that fall within the scope of CEA section 5c(c)(5)(C) and are contrary to the public interest.³⁰ In 2026, the Commission withdrew the proposed rules to reconsider them “in light of various forms of state regulatory actions and litigation concerning the Commission’s exclusive jurisdiction over event contract derivatives listed

²³ The term “excluded commodity” is defined in CEA section 1a(19), 7 U.S.C. 1a(19), as: “(i) an interest rate, exchange rate, currency, security, security index, credit risk or measure, debt or equity instrument, index or measure of inflation, or other macroeconomic index or measure; (ii) any other rate, differential, index, or measure of economic or commercial risk return, or value that is—(I) not based in substantial part on the value of a narrow group of commodities not described in clause (i); or (II) based solely on one or more commodities that have no cash market; (iii) any economic or commercial index based on prices, rates, values, or levels that are not within the control of any party to the relevant contract, agreement, or transaction; or (iv) an occurrence, extent of an occurrence, or contingency (other than a change in the price, rate, value, or level of a commodity not described in clause (i)) that is—(I) beyond the control of the parties to the relevant contract, agreement, or transaction; and (II) associated with a financial, commercial, or economic consequence.”

²⁴ There is no “section 1a(2)(i)” in the CEA. The Commission believes that the reference in CEA section 5c(c)(5)(C)(i) to “section 1a(2)(i)” is a typographical or drafting error.

²⁵ 7 U.S.C. 7a–2(c)(5)(C)(i) (<https://www.govinfo.gov/link/uscode/7/7a-2>). CEA section 5c(c)(5)(C)(ii), 7 U.S.C. 7a–2(c)(5)(C)(ii) (<https://www.govinfo.gov/link/uscode/7/7a-2>), further provides that “[n]o agreement, contract or transaction determined by the Commission to be contrary to the public interest under clause (i) may be listed or made available for clearing or trading on or through a registered entity.”

²⁶ Provisions Common to Registered Entities, 76 FR 44776 (<https://www.federalregister.gov/citation/76-FR-44776>) (July 27, 2011).

²⁷ Part 40 of the Commission’s regulations, more generally, implements the contract and rule submission requirements for registered entities set forth in CEA section 5c(c). For example, Regulation 40.2 sets forth the general process by which a DCM or SEF may list a new derivative contract for trading by providing the Commission with a written certification—a “self-certification”—that the contract complies with the CEA, including the CFTC’s regulations thereunder. 17 CFR 40.2 (<https://www.ecfr.gov/current/title-17/section-40.2>); see also CEA section 5c(c)(1), 7 U.S.C. 7a–2(c)(1) (<https://www.govinfo.gov/link/uscode/7/7a-2>). The Commission must receive the DCM’s or SEF’s self-certified submission at least 1 business day before the contract’s listing. 17 CFR 40.2(a)(2) ([https://www.ecfr.gov/current/title-17/section-40.2#p-40.2\(a\)\(2\)](https://www.ecfr.gov/current/title-17/section-40.2#p-40.2(a)(2))). Regulation 40.3 sets forth the general process by which a DCM or SEF may elect voluntarily to seek prior Commission approval of a derivative contract that the DCM or SEF seeks to list for trading. 17 CFR 40.3 (<https://www.ecfr.gov/current/title-17/section-40.3>); see also CEA sections 5c(c)(4)–(5), 7 U.S.C. 7a–2(c)(4)–(5) (<https://www.govinfo.gov/link/uscode/7/7a-2>). Amendments to an existing derivative contract also must be submitted to the Commission either by way of self-certification or for prior Commission approval. 17 CFR 40.5 (<https://www.ecfr.gov/current/title-17/section-40.5>), 40.6 (<https://www.ecfr.gov/current/title-17/section-40.6>).

²⁸ See *supra*, note 2.

²⁹ Between 1992 and 2008, CFTC-registered exchanges listed for trading event contracts involving interests such as regional insured property losses, the count of bankruptcies, temperature volatilities, corporate mergers, and corporate credit events. 2008 Concept Release, 73 FR at 25671.

³⁰ Event Contracts; Proposed Rule, 89 FR 48968 (<https://www.federalregister.gov/citation/89-FR-48968>) (June 10, 2024).

on [DCMs] and the proper application of the swap and excluded commodity definitions under the [CEA].”³¹

Given that the number of applications for DCM registration has more than doubled over the past year, largely from entities that are interested primarily, or exclusively, in operating prediction markets, the Commission is issuing this Advance Notice of Proposed Rulemaking to seek information about significant issues that have come to light since the 2024 proposal. The comments provided will assist the Commission in the formulation of a potential future agency action, including rulemaking, with respect to prediction markets.

II. Questions and Request for Comment

In responding to each of the following questions, please provide a detailed response, including the rationale for such response, cost and benefit considerations, and relevant supporting information, such as data, or studies when available. The Commission encourages commenters to include the assigned topic number of the specific request for comment in their submitted responses to facilitate the review of public comments by Commission staff.

A. Core Principles and Commission Regulations

1. What factors should the Commission consider in determining whether to provide guidance or amend its regulations regarding how the DCM Core Principles in CEA section 5(d) apply to prediction markets?³² Are there specific points on which the Commission should provide guidance or adopt rule amendments? Why or why not?

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

a. Core Principle 2 states that a DCM “shall establish, monitor, and enforce compliance with the rules of the [DCM], including—(i) access requirements; . . . and (iii) rules prohibiting abusive trade practices.”³³ Regulation 38.151, adopted under this core principle, requires that a DCM provide “impartial access to its markets and services, including . . . [a]ccess criteria that are impartial, transparent, and applied in a non-discriminatory manner.”³⁴ What aspects of prediction markets affect how a DCM provides impartial access and prohibits abusive trade practices? Are there potential barriers to impartial access that the Commission should consider? Are there particular risks of abusive trading?

b. Core Principle 2 also requires a DCM to “establish, monitor, and enforce compliance with . . . the terms and conditions of” contracts traded on the DCM.³⁵ In this regard, what factors should the Commission consider regarding a DCM’s rules related to resolution criteria for event contracts? For example, if there is a dispute regarding how an event contract is resolved or how the trigger event for an event contract is determined (such as a dispute regarding whether an event underlying a contract has occurred), what factors should the Commission consider in setting expectations for DCMs to have rules to resolve the dispute? Are dispute resolution procedures for other types of swaps, such as credit default swaps, helpful precedents? Also, what considerations under Core Principle 14, which requires a DCM to have “rules regarding, and provide facilities for alternative dispute resolution as appropriate for, market participants and any market intermediaries,”³⁶ are relevant in this regard?

c. Core Principle 3 states that a DCM may list “only contracts that are not readily susceptible to manipulation.”³⁷ How should a determination of whether an event contract is “readily susceptible to manipulation” be made? What factors should be considered? Are there particular aspects of event contracts that make this determination different from the determination with respect to other listed contracts? Do any existing rules for other types of exchanges and platforms (*i.e.*, not prediction markets) limit or mitigate the potential for manipulation? If so, how and to what extent are these rules appropriate as requirements for prediction markets? See also the questions regarding inside information in part II.E. below.

³¹Event Contracts; Withdrawal of Proposed Regulatory Action, 91 FR 5386 (<https://www.federalregister.gov/citation/91-FR-5386>) (Feb. 6, 2026).

³² 7 U.S.C. 7(d) (<https://www.govinfo.gov/link/uscode/7/7>).

³³CEA section 5(d)(2), 7 U.S.C. 7(d)(2) (<https://www.govinfo.gov/link/uscode/7/7>).

³⁴17 CFR 38.151 (<https://www.ecfr.gov/current/title-17/section-38.151>).

³⁵CEA section 5(d)(2)(A)(ii), 7 U.S.C. 7(d)(2)(A)(ii) (<https://www.govinfo.gov/link/uscode/7/7>).

³⁶CEA section 5(d)(14), 7 U.S.C. 7(d)(14) (<https://www.govinfo.gov/link/uscode/7/7>).

³⁷CEA section 5(d)(3), 7 U.S.C. 7(d)(3) (<https://www.govinfo.gov/link/uscode/7/7>).

d. Core Principle 4 states that a DCM “shall have the capacity and responsibility to prevent manipulation, price distortion, and disruptions of the delivery or cash-settlement process through market surveillance, compliance, and enforcement practices and procedures.”³⁸ Do any aspects of prediction markets pose challenges to compliance with this Core Principle or, on the other hand, facilitate compliance? Are there market surveillance, compliance, or enforcement practices on which the Commission should focus? Are there existing surveillance practices for detecting suspicious activity in other types of exchanges and platforms that would be useful in prediction markets?

e. Core Principle 5 states that a DCM shall, for each contract, adopt position limitations or position accountability for speculators as is necessary and appropriate to “reduce the potential threat of market manipulation or congestion.”³⁹ What factors should the Commission expect a DCM to consider in adopting position limitations or position accountability for prediction markets? For example, what factors should the Commission consider regarding how position limits across similar event contracts should be aggregated (*e.g.*, whether there is the same underlying reference, or whether there are similar references)? Are there reasons why event contracts, as compared to other swaps and futures contracts, should, or should not, be subject to different position limitations or position accountability? Are existing position limitation or position accountability provisions helpful as precedent for determining how prediction markets should implement such measures?

f. Core Principle 11 requires that a DCM have “rules and procedures for ensuring the financial integrity of transactions entered into on or through facilities of the [DCM] (including the clearance and settlement of the transactions with a derivatives clearing organization [(DCO)]); and rules to ensure the financial integrity of any [intermediary] and the protection of customer funds.”⁴⁰ Currently, event contracts are fully collateralized. What factors should the Commission consider in determining whether prediction markets should be permitted to offer trading on margin, and should such factors be different for retail as opposed to institutional customers? If margin is provided to retail customers, what disclosure, if any, should the Commission consider to ensure that customers are fully informed of the consequences and potential losses resulting from the customer’s failure to meet margin requirements? If prediction markets are allowed to offer trading on margin, what factors should be involved in the calculation of initial margin, such as concentration, or liquidity (*i.e.*, the cost to the DCM to liquidate a defaulting member’s portfolio)? What methods should be involved, such as a flat percentage rate or a statistical analysis? Given that some event contracts resolve quickly and others may not resolve for years, what time series of data and other time period considerations should be involved when calibrating appropriate margin? What factors should be involved in considering other issues such as whether daily variation margin should be required, the time intervals for collecting margin, and the instruments permitted for posting initial margin and exchanging variation margin? What products should be eligible for cross-margin with event contracts if trading on margin is allowed? See also question 3.c. regarding the implications of margin trading for DCOs.

g. Core Principle 20 requires a DCM to “establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk, through the development of appropriate controls and procedures, and the development of automated systems, that are reliable, secure, and have adequate scalable capacity.”⁴¹ What sources of operational risk related to prediction markets should the Commission consider? What operational risk analysis and other measures do prediction markets currently employ? Are there challenges to the reliability, security or scalable capacity of the systems used by prediction markets?

h. In general under the DCM Core Principles, what factors should the Commission consider with respect to blockchain-based prediction markets? Are there challenges or advantages in applying existing regulations and guidance to blockchain-based prediction markets? Which areas, if any, would benefit from Commission guidance or rule amendments for blockchain-based prediction markets?

³⁸ CEA section 5(d)(4), 7 U.S.C. 7(d)(4) (<https://www.govinfo.gov/link/uscode/7/7>).

³⁹ CEA section 5(d)(5), 7 U.S.C. 7(d)(5) (<https://www.govinfo.gov/link/uscode/7/7>).

⁴⁰ CEA section 5(d)(11), 7 U.S.C. 7(d)(11) (<https://www.govinfo.gov/link/uscode/7/7>) (formatting modified).

⁴¹ CEA section 5(d)(20), 7 U.S.C. 7(d)(20) (<https://www.govinfo.gov/link/uscode/7/7>).

3. Are there aspects of the clearing of event contracts that the Commission should consider in applying the DCO Core Principles in CEA section 5b(c)(2)?⁴² Are there specific points on which the Commission should provide guidance or adopt rule amendments? If so, why?

a. The following DCO Core Principles may be relevant in this regard: (C) participant and product eligibility, (D) risk management, (H) rule enforcement, and (I) system safeguards.⁴³ What factors should the Commission consider in applying these Core Principles?

b. Are there relevant differences in how the Core Principles and underlying regulations for DCMs and DCOs apply to prediction markets? If so, how should the differences factor into the Commission's consideration of these issues?

c. What implications for DCOs should the Commission consider if event contracts were traded on prediction markets on margin? Are there any issues arising with respect to, for example, the requirements in DCO Core Principle D that "(iv) . . . [t]he margin required from each member and participant of a [DCO] shall be sufficient to cover potential exposures in normal market conditions" and "(v) . . . [e]ach model and parameter used in setting margin requirements under clause (iv) shall be—(I) risk-based; and (II) reviewed on a regular basis"?⁴⁴ What factors should the Commission consider regarding the clearing silo, if any, that would be appropriate for event contracts? What factors should the Commission consider regarding whether event contracts should be eligible for margin credit or cross margin, both on DCOs, and when cross-margined with securities exchanges? See also question 2.f. regarding margin considerations for DCMs.

4. Institutional traders (that is, parties that are eligible contract participants) may enter into event contracts on prediction markets registered as SEFs, which are subject to Core Principles in CEA section 5h(f).⁴⁵ Are there aspects of prediction markets that the Commission should consider in applying these Core Principles? How is trading on prediction markets by institutional traders the same, or different from, retail trading on prediction markets? How would or does prediction market trading on DCMs and SEFs impact liquidity in both types of exchanges? What factors should the Commission consider in determining whether any public disclosure requirements should apply to prediction market trading on SEFs? For example, would public disclosure help to mitigate, or exacerbate, adverse selection? Are there specific points on which the Commission should provide guidance or adopt rule amendments? If so, why?

5. What factors should the Commission consider in determining whether to provide guidance or amend any other of its regulations with respect to the listing, trading, and clearing of event contracts on prediction markets?

a. CEA section 2(a)(13) authorizes the Commission "to make swap transaction and pricing data available to the public in such form and at such times as the Commission determines appropriate to enhance price discovery."⁴⁶ CEA section 2(a)(13)(G) states that each swap "shall be reported to a registered swap data repository."⁴⁷ What factors should the Commission consider in applying these provisions to prediction markets listing event contracts as swaps? Are there aspects of event contract swaps that hinder or facilitate their reporting to a swap data repository or the public availability of the relevant transaction and pricing data? To what extent should such reporting and data availability be standardized in order, for example, to facilitate Commission analysis and to detect potential cross-market activity from a risk or manipulation perspective? Are public identifiers (*e.g.*, CUSIP/ISIN/LEI)⁴⁸ appropriate for event contracts? How does such reporting and data availability relate to enhanced price discovery?

⁴² 7 U.S.C. 7a-1(c)(2) (<https://www.govinfo.gov/link/uscode/7/7a-1>).

⁴³ CEA sections 5b(c)(2)(C), (D), (H), (I), 7 U.S.C. 7a-1(c)(2)(C) (<https://www.govinfo.gov/link/uscode/7/7a-1>), (D), (H), (I).

⁴⁴ CEA section 5b(c)(2)(D), 7 U.S.C. 7a-1(c)(2)(D) (<https://www.govinfo.gov/link/uscode/7/7a-1>).

⁴⁵ 7 U.S.C. 7b-3(f) (<https://www.govinfo.gov/link/uscode/7/7b-3>). The term "eligible contract participant" is defined in CEA section 1a(18), 7 U.S.C. 1a(18) (<https://www.govinfo.gov/link/uscode/7/1a>).

⁴⁶ 7 U.S.C. 2(a)(13)(B) (<https://www.govinfo.gov/link/uscode/7/2>); see also 17 CFR part 43 (<https://www.ecfr.gov/current/title-17/part-43>) and 17 CFR part 45 (<https://www.ecfr.gov/current/title-17/part-45>).

⁴⁷ 7 U.S.C. 2(a)(13)(G) (<https://www.govinfo.gov/link/uscode/7/2>).

⁴⁸ A CUSIP number is an identifier for financial instruments assigned by the Committee on Uniform Securities Identification Procedures. An International Securities Identification Number

b. CEA section 4c(a)(1) and (2)(A) provide that it is unlawful to enter into a transaction involving a futures contract, option thereon, or swap, if the transaction is a pre-arranged or noncompetitive trade, or a wash sale.⁴⁹ What factors should the Commission consider in applying these provisions to prediction markets? Are there aspects of prediction markets that make them more or less susceptible to pre-arranged or noncompetitive trades, or wash sales?

c. CEA section 4c(a)(5) provides that it is unlawful to engage, on any CFTC-registered entity, in disruptive trading practices.⁵⁰ What factors should the Commission consider in applying this provision to prediction markets? Are there aspects of prediction markets that make them more or less susceptible to disruptive trading practices?

6. With respect to any rule changes that the Commission may propose for the foregoing reasons, what are the relevant considerations of costs and benefits?⁵¹ What less costly alternatives should the Commission consider? Please provide any relevant specific information, data, or studies regarding the costs and benefits of such regulations that you may have.

B. Public Interest

7. As described above, CEA section 5c(c)(5)(C) provides for the Commission to make a determination that event contracts are “contrary to the public interest” if the event contracts involve any of five listed activities or “other similar activity determined by the Commission, by rule or regulation, to be contrary to the public interest.”⁵² In general, what factors should the Commission consider in making a public interest determination under this section? (Public interest factors specific to the five listed activities are discussed in part II.C., below, in connection with those activities.)

8. The public interests underlying the CEA are described in CEA section 3(a), which states that “[t]he transactions subject to [the CEA] . . . are affected with a national public interest by providing a means for managing and assuming price risks, discovering prices, or disseminating pricing information through trading in liquid, fair and financially secure trading facilities.”⁵³ Further, CEA section 3(b) provides that in order to foster the public interests described in subsection (a), the purposes of the CEA include “to deter and prevent price manipulation or any other disruptions to market integrity; to ensure the financial integrity of all transactions subject to [the CEA] and the avoidance of systemic risk; to protect all market participants from fraudulent or other abusive sales practices and misuses of customer assets; and to promote responsible innovation and fair competition among [DCMs], other markets and market participants.”⁵⁴ How should the public interests set out in CEA section 3 inform the Commission’s public interest determination under CEA section 5c(c)(5)(C)?

9. Under a past version of the CEA that was repealed in 2000, the Commission applied an “economic purpose” test as part of determining whether a DCM could list a contract for trading.⁵⁵ Are there any elements of the former “economic purpose” test that should or should not be applied in the Commission’s public interest determination under CEA section 5c(c)(5)(C)?

10. What role do event contracts play in “managing and assuming price risks, discovering prices, or disseminating pricing information” as contemplated by CEA section 3(a)? How are event contracts used in hedging, which is one aspect of managing price risks? How should the Commission incorporate considerations of hedging, price

(ISIN) is an identifier used globally. A legal entity identifier (LEI) is assigned through the Global Legal Entity Identifier Foundation.

⁴⁹ 7 U.S.C. 6c(a)(1) (<https://www.govinfo.gov/link/uscode/7/6c>) and (2)(A) (<https://www.govinfo.gov/link/uscode/7/6c>). See also Regulation 1.38(a), 17 CFR 1.38(a) ([https://www.ecfr.gov/current/title-17/section-1.38#p-1.38\(a\)](https://www.ecfr.gov/current/title-17/section-1.38#p-1.38(a))) (competitive execution requirement).

⁵⁰ 7 U.S.C. 6c(a)(5) (<https://www.govinfo.gov/link/uscode/7/6c>).

⁵¹ CEA section 15(a) requires that the Commission, before it promulgates a regulation under the CEA, consider the costs and benefits of its action. 7 U.S.C. 19(a) (<https://www.govinfo.gov/link/uscode/7/19>). Further, CEA section 15(a)(2) states that “[t]he costs and benefits of the proposed Commission action shall be evaluated in light of—(A) considerations of protection of market participants and the public; (B) considerations of the efficiency, competitiveness, and financial integrity of futures markets; (C) considerations of price discovery; (D) considerations of sound risk management practices; and (E) other public interest considerations.” 7 U.S.C. 19(a)(2) (<https://www.govinfo.gov/link/uscode/7/19>). In responding to this question, please consider these five considerations.

⁵² 7 U.S.C. 7a-2(c)(5)(C) (<https://www.govinfo.gov/link/uscode/7/7a-2>).

⁵³ 7 U.S.C. 5(a) (<https://www.govinfo.gov/link/uscode/7/5>).

⁵⁴ 7 U.S.C. 5(b) (<https://www.govinfo.gov/link/uscode/7/5>).

⁵⁵ See 2008 Concept Release, 73 FR at 25672.

risk, price discovery, and price dissemination in its public interest determination under CEA section 5c(c)(5)(C)?

11. CEA section 3(b) lists several purposes of the CEA, including to prevent price manipulation, to protect all market participants from fraudulent or other abusive sales practices, and to promote responsible innovation and fair competition.⁵⁶ What factors should the Commission consider in its effort to fulfill these purposes with respect to prediction markets? Is there any potential conflict between these purposes, and if so, how should they be balanced?

12. How do event contracts compare to, or substitute for, insurance contracts? Should the liquidity and availability of insurance with respect to a particular event be a factor in the Commission's public interest determination?

13. Why, or why not, would it be appropriate for the Commission to propose any changes to its regulations related to its public interest determination?

14. If the Commission were to propose any changes to its regulations related to its public interest determination, what considerations of costs and benefits would be relevant to those changes? What less costly alternatives should the Commission consider? Please provide any relevant specific information, data, or studies that you may have regarding the costs and benefits of such rule changes.

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

15. CEA section 5c(c)(5)(C) lists five activities, and provides that if an event contract involves any such activity, the Commission may determine that the event contract is contrary to the public interest. What factors should the Commission consider in determining the scope of these five listed activities? What aspects of these activities would be relevant to the Commission's public interest determination?

16. The first listed activity is an "activity that is unlawful under any Federal or State law." What types of event contracts could potentially involve such activity? What steps should the Commission appropriately take in order to determine which State laws may be involved in a particular event contract? What steps should the Commission appropriately take in order to determine which Federal laws, such as the Exchange Act, may be involved in a particular event contract? If an event contract involves an activity that is unlawful under some State laws, but not others, how should this conflict be resolved? What public interest factors should the Commission consider for event contracts involving unlawful activity?

17. The second and third listed activities are terrorism and assassination. Are the meanings of these terms self-evident, or are there any ambiguities that the Commission should consider? Are specific definitions in other contexts, such as insurance, helpful? Would event contracts involving cyberterrorism be covered by the terrorism provision, and if so, what factors distinguish cyberterrorism from other cyber attacks? What public interest factors should the Commission consider for event contracts involving terrorism or assassination?

18. The fourth activity is war. Does this activity encompass all military actions, or are there military actions that do not constitute war? What factors distinguish war from, for example, civil unrest? What factors distinguish war from political actions, or other actions as part of international relations? Are specific definitions in other contexts, such as insurance, helpful? What public interest factors should the Commission consider for event contracts involving war?

19. The fifth activity is gaming. What factors should the Commission consider in determining the scope and public interest implications of this activity?

a. What sources should inform the Commission's determination of the scope of the term "gaming"? For example, is gaming synonymous with, or more or less extensive than, the scope of activities covered by State and Federal gambling statutes? Are there characteristics—such as an entertainment purpose, or an element of chance—that distinguish gaming from other activities?

b. In this regard, how should the Commission distinguish between various types of contests? For example, should a sports competition be treated differently than an award competition, and if so, what factors support this distinction? What other types of contests should or should not be considered to be gaming?

c. What aspects of event contracts involving gaming should the Commission consider in a public interest determination? For these event contracts, are there any challenges to the deterrence of manipulation and protection from abusive sales practices contemplated by CEA section 3(b)? If so, how could these challenges be mitigated? How are the responsible innovation and fair competition goals in CEA section 3(b) served by event contracts involving gaming?

⁵⁶ 7 U.S.C. 5(b) (<https://www.govinfo.gov/link/uscode/7/5>).

d. How should the Commission factor into its public interest determination the characteristics of market participants that trade event contracts involving gaming? For example, do these market participants tend to be younger than those trading other financial instruments, and if so, how should this inform the Commission's consideration?

e. What aspects of responsible gaming standards, such as self-exclusion programs, monetary or time limits, or advertising limits, disclaimers, or warnings, should the Commission consider in its public interest determination?

f. How do the various types of event contract that involve gaming differ from each other? How are these differences relevant to the Commission's public interest determination?

20. CEA section 5c(c)(5)(C)(i)(VI) provides that the Commission may determine that an event contract is contrary to the public interest if it involves another "similar activity determined by the Commission, by rule or regulation, to be contrary to the public interest."⁵⁷ What factors should the Commission consider in determining whether an activity is similar to the activities listed in CEA section 5c(c)(5)(C)? Are there any examples of existing event contracts involving potentially similar activities that should be a factor in the Commission's determination on this issue? Are there any differences in how the public interest determination should be applied to such similar activities, as compared to the listed activities?

21. Why, or why not, would it be appropriate for the Commission to propose any changes to its regulations related to the activities listed in CEA section 5c(c)(5)(C)?

22. If the Commission were to propose any changes to its regulations related to the activities listed in CEA section 5c(c)(5)(C), what considerations of costs and benefits would be relevant to those changes? What less costly alternatives should the Commission consider? Please provide any relevant specific information, data, or studies that you may have regarding the costs and benefits of such regulations or rule changes.

D. Procedural Aspects of CEA Section 5c(c)(5)(C)

23. CEA section 5c(c)(5)(C)(i) provides that the Commission may make a public interest determination "[i]n connection with the listing" of event contracts by prediction markets.⁵⁸ What aspects of the prediction market listing process are relevant to deciding at what point in the listing process the public interest determination could occur? What factors should inform the Commission's interpretation of what occurs "[i]n connection with the listing" by a prediction market of an event contract? For example, why would it be appropriate, or not, for the Commission to make a public interest determination when a listing application is reasonably expected, but not yet filed?

24. What factors should inform the Commission's interpretation of whether CEA section 5c(c)(5)(C) contemplates that elements of a public interest determination could be made with respect to a category of event contracts, rather than a specific event contract? For example, what factors should the Commission consider in determining whether to provide guidance regarding how it expects to make any public interest determination? Would it be useful for the Commission to provide illustrative examples of event contracts that do, or do not, involve the listed activities? Why or why not?

25. CEA section 5c(c)(5)(C)(i) provides that the Commission may make a public interest determination for event contracts that "involve" the listed activities.⁵⁹ What elements are relevant to determining what event contracts "involve"? What factors should inform the Commission's interpretation of when event contracts are sufficiently tied to a listed activity in order to say that the event contracts "involve" that activity?

26. CEA section 5c(c)(5)(C)(iv) provides that the Commission must take final action regarding its public interest determination "not later than 90 days from the commencement of [the Commission's] review unless the party seeking to offer the contract or swap agrees to an extension."⁶⁰ How should this time limit inform the Commission's procedure for making public interest determinations? Considering this limitation, what steps would be appropriate, or not, for the Commission to take prior to making its determination?

27. Why, or why not, would it be appropriate for the Commission to propose any changes to its regulations related to procedures under CEA section 5c(c)(5)(C)?

⁵⁷ 7 U.S.C. 7a-2(c)(5)(C)(i)(VI) (<https://www.govinfo.gov/link/uscode/7/7a-2>).

⁵⁸ 7 U.S.C. 7a-2(c)(5)(C)(i) (<https://www.govinfo.gov/link/uscode/7/7a-2>).

⁵⁹ *Id.*

⁶⁰ 7 U.S.C. 7a-2(c)(5)(C)(iv) (<https://www.govinfo.gov/link/uscode/7/7a-2>).

28. If the Commission were to propose any changes to its regulations related to procedures under CEA section 5c(c)(5)(C), what considerations of costs and benefits would be relevant to those changes? What less costly alternatives should the Commission consider? Please provide any relevant specific information, data, or studies that you may have regarding the costs and benefits of such regulations or rule changes.

E. Inside Information

29. The price on a prediction market could be viewed as an indication of how likely the underlying event is to occur. The price may be a more reliable indicator of probability if the people trading on the prediction market have some insight into how likely the underlying event is to occur. On the other hand, trading by these informed participants may lead to manipulation, unfairness, and the misuse of inside information. Is there some public interest utility if people with an asymmetric information advantage on a particular event contract are able to trade on prediction markets? Does the public interest utility depend on the type of event in question? What factors should the Commission consider in evaluating and balancing the public interest in this scenario?

30. Some events underlying event contracts are under the control of a single individual or small group of individuals. What role should this aspect of event contracts play in the Commission's consideration of how prediction markets should be regulated? Do the considerations change depending on the type of event in question? Are there particular challenges related to cross-market manipulation—for example, where an individual or small group of individuals seeks to move the prediction market to influence another market, or *vice versa*? Are prediction markets more likely than other DCMs or SEFs to be susceptible to manipulation? Why or why not?

31. CEA section 6(c)(1) provides that “[i]t shall be unlawful for any person, directly or indirectly, to use or employ, or attempt to use or employ, in connection with any swap, or a contract of sale of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Commission shall promulgate by [July 21, 2011], provided no rule or regulation promulgated by the Commission shall require any person to disclose to another person nonpublic information that may be material to the market price, rate, or level of the commodity transaction, except as necessary to make any statement made to the other person in or in connection with the transaction not misleading in any material respect.”⁶¹ What aspects of prediction markets are relevant to the application of this statute? Are prediction markets more or less likely than other derivative markets to be susceptible to “any manipulative or deceptive device or contrivance”? How should the potential for application of this statute inform the Commission's regulation of prediction markets?

32. CEA section 4c(a)(3) provides that “[i]t shall be unlawful for any employee or agent of any department or agency of the Federal Government or any Member of Congress or employee of Congress . . . or any judicial officer or judicial employee . . . who, by virtue of the employment or position of the Member, officer, employee or agent, acquires information that may affect or tend to affect the price of any commodity in interstate commerce, or for future delivery, or any swap, and which information has not been disseminated [or disclosed] . . . in a manner which makes it generally available to the trading public, . . . to use the information in his personal capacity and for personal gain to enter into, or offer to enter into [a futures contract, option on a futures contract, commodity option, or swap].”⁶² Similarly, CEA section 4c(a)(4) provides that it is unlawful for any such Federal Government employee or official to impart such information in his personal capacity and for personal gain with intent to assist another person in entering into a futures contract, option on a futures contract, commodity option, or swap, and it is unlawful for the other person who receives such information from any such Federal Government employee or official to knowingly use the information in such transactions.⁶³ How are prediction markets likely to be affected by nonpublic information that is available to Federal Government employees or officials? How should the potential for application of this statute inform the Commission's regulation of prediction markets?

⁶¹ 7 U.S.C. 9(1) (<https://www.govinfo.gov/link/uscode/7/9>). See also Regulation 180.1, 17 CFR 180.1 (<https://www.ecfr.gov/current/title-17/section-180.1>).

⁶² 7 U.S.C. 6c(a)(3) (<https://www.govinfo.gov/link/uscode/7/6c>).

⁶³ 7 U.S.C. 6c(a)(4) (<https://www.govinfo.gov/link/uscode/7/6c>).

F. Types of Event Contracts and Other Issues

33. As noted above, event contracts may be covered by the statutory definition of the term “swap” in CEA section 1a(47)(A).⁶⁴ What aspects of prediction markets are relevant to whether event contracts should, or should not, appropriately be classified as swaps? What aspects, if any, distinguish event contracts from other types of swaps? The definition in CEA section 1a(47)(A)(ii) includes an event contract that “is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence.”⁶⁵ What potential financial, economic, or commercial consequences underlie event contracts? Similarly, CEA section 1a(47)(A)(i) includes an event contract that is an option “based on the value, of . . . financial or economic interests or property of any kind.”⁶⁶ How are any event contracts based on the value of financial or economic interests or property? What idiosyncratic risks embedded in event contracts differentiate them from other commodity derivative instruments? How should the Commission take these risks into account when considering how to regulate event contracts and prediction markets? Commodity options are also covered by the statutory swap definition in CEA section 1a(47)(A)(i).⁶⁷ How are event contracts similar to, or different from, other types of commodity options?

34. Event contracts are also traded on DCMs as futures contracts.⁶⁸ What aspects of prediction markets are relevant to whether event contracts should, or should not, appropriately be classified as futures contracts? What aspects, if any, distinguish event contracts from other types of futures contracts?

35. The event underlying an event contract is typically within the definition of the term “excluded commodity” in CEA section 1a(19).⁶⁹ Are there any event contracts that are based on events that are not within this statutory definition? If so, how are those event contracts similar to, or different from, event contracts based on events that are within the statutory definition of “excluded commodity”? How are such differences, if any, relevant to the Commission’s regulation of event contracts and prediction markets?

36. Are there any agreements, contracts or transactions that are significantly similar to event contracts, but are not listed on a DCM or SEF? If so, how are those agreements, contracts or transactions similar to, or different from, event contracts listed on DCMs and SEFs?

37. In the 2012 joint rulemaking to further define the term “swap,” the CFTC and the SEC adopted an interpretation which, in part, listed certain types of agreements, contracts, or transactions that “will not be considered swaps or security-based swaps when entered into by consumers (natural persons) . . . primarily for personal, family, or household purposes.”⁷⁰ In doing so, the CFTC and SEC stated that they “do not believe that Congress intended to include these types of customary consumer and commercial agreements, contracts, or transactions in the swap or security-based swap definition, to limit the types of persons that can enter into or engage in them, or to otherwise to subject these agreements, contracts, or transactions to the regulatory scheme for swaps and security-based swaps.”⁷¹ Are any event contracts similar to, or different from, the types of agreements, contracts and transactions that are excluded from the swap definition under this interpretation? How are such similarities or differences, if any, relevant to the CFTC’s regulation of those event contracts?

38. As noted above, CEA section 15(a) requires that the Commission, before it promulgates a regulation under the CEA, consider the costs and benefits of its action, including an evaluation “in light of—(A) considerations of protection of market participants and the public; (B) considerations of the efficiency, competitiveness, and financial integrity of futures markets; (C) considerations of price discovery; (D) considerations of sound risk management practices; and (E) other public interest con-

⁶⁴ See text accompanying note 11, *supra*.

⁶⁵ 7 U.S.C. 1a(47)(A)(ii) (<https://www.govinfo.gov/link/uscode/7/1a>).

⁶⁶ 7 U.S.C. 1a(47)(A)(i) (<https://www.govinfo.gov/link/uscode/7/1a>).

⁶⁷ *Id.*

⁶⁸ See *supra*, note 14.

⁶⁹ 7 U.S.C. 1a(19) (<https://www.govinfo.gov/link/uscode/7/1a>). The definition is set out in full in note 23, *supra*.

⁷⁰ Further Definition of “Swap,” “Security-Based Swap,” and “Security-Based Swap Agreement”; Mixed Swaps; Security-Based Swap Agreement Recordkeeping, 77 FR 48208 (<https://www.federalregister.gov/citation/77-FR-48208>), 48246 (<https://www.federalregister.gov/citation/77-FR-48246>) (Aug. 13, 2012). This further definition was adopted pursuant to Dodd-Frank Act section 712(d)(1), which directed the CFTC and SEC to undertake a joint rulemaking to define, among other terms, “Swap,” “Security-Based Swap,” and “Security-Based Swap Agreement.”

⁷¹ *Id.*

siderations.”⁷² How are these five considerations relevant to the Commission’s regulation of prediction markets? In general, what other costs and benefits should the Commission consider as it determines whether to adopt or amend any regulations with respect to prediction markets? Are there less costly alternatives that the Commission should consider? If possible, please provide specific information, data, or studies that you believe would be helpful to the Commission in this regard.

39. CEA section 15(b) requires that the Commission “take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of [the CEA], as well as the policies and purposes of [the CEA], in issuing any order or adopting any Commission rule or regulation.”⁷³ What aspects of prediction markets are relevant to the Commission’s consideration of the public interest to be protected by the antitrust laws as it determines whether to adopt or amend any regulations with respect to prediction markets? It may be appropriate to consider the scope of the relevant market in this regard; in that case, what factors should the Commission take into account? Also, it may be appropriate for the Commission to “endeavor to take the least anticompetitive means,” as contemplated by CEA section 15(b), with respect to prediction markets; in that case, what factors should the Commission take into account?

40. As noted above, the Commission has received recent applications for DCM registration from entities that have indicated that they are interested primarily, or exclusively, in operating prediction markets. While registered entities are not considered small entities by the Commission for Regulatory Flexibility Act (RFA) purposes,⁷⁴ the Commission is nevertheless seeking information on how any potential rule changes for prediction markets would impact “small entities” as defined by the RFA.⁷⁵ What projected cost increases would there be for any small entities impacted by a potential rule change? What less costly alternatives or flexibilities should the Commission consider? In general, how do small entities use prediction markets?

The Office of Management and Budget has determined that this action is a significant regulatory action as defined in Executive Order 12866, as amended, and this action has been reviewed by the Office of Management and Budget.

Issued in Washington, DC, on March 12, 2026, by the Commission.

CHRISTOPHER KIRKPATRICK,
Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Prediction Markets—Commission Voting Summary

On this matter, Chairman Selig voted in the affirmative. No Commissioner voted in the negative.

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⁷² 7 U.S.C. 19(a) (<https://www.govinfo.gov/link/uscode/7/19>).

⁷³ 7 U.S.C. 19(b) (<https://www.govinfo.gov/link/uscode/7/19>).

⁷⁴ The Commission previously determined that DCMs are not small entities in accordance with the RFA. See Policy Statement and Establishment of Definitions of “Small Entities” for Purposes of the Regulatory Flexibility Act, 47 *FR* 18618 (<https://www.federalregister.gov/citation/47-FR-18618>) (Apr. 30, 1982). Similarly, the Commission previously determined that SEFs are not small entities for purposes of the RFA. See Core Principles and Other Requirements for SEFs, 78 *FR* 33476 (<https://www.federalregister.gov/citation/78-FR-33476>), 33548 (<https://www.federalregister.gov/citation/78-FR-33548>) (June 4, 2013).

⁷⁵ 5 U.S.C. 601 *et seq.* (<https://www.govinfo.gov/link/uscode/5/601>). The RFA provides that the term “small entity” has the same meaning as “small business”, “small organization” and “small governmental jurisdiction” defined in paragraphs (3), (4) and (5) of section 601. “Small business,” in turn, is defined as having the same meaning of “small business concern” set forth in section 3 of the Small Business Act (SBA). 5 U.S.C. 601(6) (<https://www.govinfo.gov/link/uscode/5/601>). The RFA permits an agency to establish its own definition of small entity; otherwise, size standards set forth by the SBA apply. A size standard, which is usually stated in number of employees or average annual receipts, represents the largest size that a business (including its subsidiaries and affiliates) may be to remain classified as a small business for SBA and Federal contracting programs. The definition of “small” varies by industry. The SBA provides that the small business size threshold for securities and commodity exchanges is \$47 million in average annual receipts. See SBA’s 2022 Table of Size Standards, classifying securities and commodity exchanges under the North American Industry Classification System (NAICS), code 523210, Sector 52—Finance and Insurance, Subsector 523—Securities, Commodity Contracts, and Other Financial Investments and Related Activities, available at <https://www.sba.gov/document/support-table-size-standards>

* <https://www.federalregister.gov/d/2026-05105>.

APPENDIX D—CFTC STAFF ADVISORY ON PREDICTION MARKETS

**CFTC Staff Advisory
Division of Market Oversight****To: Designated Contract Markets****Subject: Prediction Markets Advisory**

“Prediction markets,” on which “event contract” derivatives are traded, are rapidly increasing in popularity with the American public both as a financial asset class and as a proven source of reliable information for news media, sports leagues, financial institutions, and everyday Americans. Staff of the Division of Market Oversight (“*DMO*”) of the Commodity Futures Trading Commission (“*CFTC*” or “*Commission*”) believes it is important to encourage innovation and growth in these markets, within the Federal oversight framework for Commission-registered derivatives exchanges set forth in the Commodity Exchange Act (“*CEA*”) ¹ and Commission regulations.²

Commission staff is issuing this advisory to share with designated contract markets (“*DCMs*”) certain views based on staff’s experience overseeing the listing and trading of event contracts. While certain aspects of the advisory focus on sports-related event contracts, the core principle compliance and product listing requirements highlighted in the advisory apply equally to other categories of event contracts—and to derivative products more generally. DCMs have self-regulatory obligations for the contract markets they operate.³ As front-line regulators, DCMs should be proactive, ensuring proper surveillance and oversight of trading in all of the products that they list, accounting for the particular characteristics and attributes of each product.

This advisory is intended to provide market participants, legal counsel, and interested members of the public DMO staff’s current views on the listing and trading of event contracts. This advisory should be reviewed by all registered DCMs and all entities that have applied for designation as a contract market with the Commission.

I. Background

While the term “event contract” is not a defined term in the CEA or the Commission’s regulations, event contracts are a type of derivative contract, often a swap with a binary payoff structure, whose settlement is based on the outcome of an underlying occurrence or event. As amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “*Dodd-Frank Act*”), the statutory definition of “swap” in section 1a(47) of the CEA is deliberately broad. As such, it can encompass event contracts within multiple sub-definitions.

Section 1a(47)(A)(i) of the CEA defines the term “swap,” in relevant part, to include “any agreement, contract, or transaction . . . that is a[n] . . . option of any kind that is for the purchase or sale, or based on the value, of 1 or more . . . quantitative measures, or other financial or economic interests or property of any kind,” and section 1a(47)(A)(ii) of the CEA defines “swap” to include “any agreement, contract, or transaction . . . that provides for any purchase, sale, payment, or delivery . . . that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence.” Thus, as an example, an event contract that is settled based on the outcome of a sporting event is an agreement providing for a payment dependent on a future occurrence.⁴

II. Regulatory Requirements for Event Contract Markets Offered by DCMs

As a general matter, DCMs are reminded that section 5c(c)(5)(C) of the CEA provides that the Commission may determine that an event contract is contrary to the public interest if the contract involves, among other things, assassination, war, or terrorism.⁵ No such contract determined by the Commission to be contrary to the

¹ 7 U.S.C. 1 et seq.

² Commission regulations can be found at 17 CFR Chapter 1.

³ See part II.A., below.

⁴ DMO staff also notes that depending on how the product is structured, an event contract may constitute a futures contract or a swap under the CEA. An event contract may be structured as a futures contract on an “excluded commodity,” as defined by 7 U.S.C. 1a(19)(iv), where, for example, the futures contract settles based on an occurrence, extent of an occurrence, or contingency that is beyond the contracting parties’ control and associated with a financial, commercial, or economic consequence.

⁵ 7 U.S.C. 7a–2(c)(5)(C).

public interest may be listed or made available for clearing or trading on or through a registered entity.⁶

A. CEA section 5(d) and Part 38

DCMs must comply with 23 statutory Core Principles that are set forth in the CEA,⁷ as well as applicable CFTC rules and regulations.⁸ The statutory Core Principles for DCMs reflect the important role that these exchanges play in promoting the integrity of derivatives markets by, among other things, establishing and enforcing rules for trading on the DCM and monitoring trading activity. Under DCM Core Principle 3, each DCM has a specific statutory obligation to list for trading only derivative contracts that are not readily susceptible to manipulation.⁹ Core Principle 4 requires a DCM to have the capacity and responsibility to prevent manipulation, price distortion, and disruptions of the delivery or cash settlement process, through market surveillance, compliance, and enforcement practices and procedures.¹⁰ And Core Principle 12 requires a DCM to establish and enforce rules to protect markets and market participants from abusive practices, and to promote fair and equitable trading on the DCM.¹¹

To meet these obligations, a DCM must, among other things, conduct real-time monitoring of all trading activity on its trading platform(s) to identify disorderly trading and any market or system anomalies.¹² If the DCM identifies any such anomalies, Commission regulations set forth procedures for the DCM to engage in appropriate inquiries,¹³ which may include obtaining trader-level data, and may lead under certain circumstances to disciplinary action by the DCM.

Commission staff further reminds DCMs and market participants that Commission Regulation 180.1 makes it unlawful for any person to employ any device, scheme, or artifice to defraud or attempt to defraud any person or manipulate the price of any contract listed on a DCM.¹⁴ Without limitation, these practices include misappropriation of confidential information in breach of a preexisting duty of trust and confidence to the source of the information (commonly known as “insider trading”), pursuant to CEA section 6(c)(1) and Commission Regulations 180.1(a)(1) and (3).¹⁵ The Commission retains authority to investigate and bring civil enforcement actions related to any such activity.

B. DCM Core Principle 3 and the Appendix C Guidance

Of particular note, DCM Core Principle 3 requires a DCM to only list for trading contracts that are not readily susceptible to manipulation. In connection with this requirement, the Commission has adopted guidance that is set forth in Appendix C to Part 38 (the “**Appendix C Guidance**”).¹⁶ The Appendix C Guidance outlines certain relevant considerations for a DCM when designing a contract, and providing supporting documentation and data in connection with the submission of the contract to the Commission.

With respect to cash-settled contracts (which include event contracts), DCMs are encouraged to recognize and account for the possibility that cash-settled contracts may create an incentive to manipulate or artificially influence the data from which the cash-settlement price is derived or to exert undue influence on the cash-settlement price’s computation in order to profit on a position.¹⁷ Accordingly, DCMs are encouraged to consider whether certain categories of event contracts create a heightened potential for manipulation or price distortion. For example, in the context of sports-related event contracts, such contracts could involve those that resolve or settle based on injuries to individual sports participants, unsportsmanlike conduct, or physical altercations between sports participants, as well as contracts that resolve or settle based on the action of a single individual or a small group of individuals, such as officiating actions occurring during a sporting event. DMO staff encourages DCMs to engage with staff in the early phases of designing such contracts to deter-

⁶ *Id.*

⁷ *See, generally*, CEA Section 5(d), 7 U.S.C. 7(d).

⁸ *See, generally*, 17 CFR Part 38.

⁹ CEA section 5(d)(3), 7 U.S.C. 7(d)(3).

¹⁰ CEA section 5(d)(4), 7 U.S.C. 7(d)(4).

¹¹ CEA section 5(d)(12), 7 U.S.C. 7(d)(12).

¹² *See* 17 CFR 38.157.

¹³ *See, e.g.*, 17 CFR 38.153, 38.158, 38.250, 38.254.

¹⁴ *See* 17 CFR 180.1 and 180.2.

¹⁵ *See* CFTC Division of Enforcement Press Release, <https://www.cftc.gov/PressRoom/PressReleases/9158-26>.

¹⁶ *See* 17 CFR Part 38, Appendix C.

¹⁷ *Id.*

mine if any heightened manipulation or price distortion risks exist, and, if so, whether they may be mitigated with appropriate controls.

With respect to non-price based contracts, some things to consider are the nature and sources of the data comprising the cash-settlement calculation, the computational procedures, and the mechanisms in place to ensure the accuracy and reliability of the index value.¹⁸ The DCM's evaluation should also consider the extent to which a third party has, or will adopt, safeguards against unauthorized or premature release of the index value itself or any key data used in deriving the index value.¹⁹ DCMs should continue to consider the principles of the Appendix C Guidance around transparency, accuracy, reliability, and impartiality when evaluating novel contracts.

C. Product Submission Requirements

To offer a new product for trading, including an event contract, a DCM can provide the Commission with a written certification—a “self-certification”—that the contract complies with the CEA, including the CFTC's regulations thereunder.²⁰ Alternatively, the DCM may elect voluntarily to seek prior Commission approval of the contract.²¹ In each case, the DCM must submit prescribed information to the Commission, including but not limited to, the contract's terms and conditions.²²

The prescribed information that must be submitted to the Commission also includes an “explanation and analysis that is complete” with respect to the contract's “compliance with applicable provisions of the [CEA], including core principles and the Commission's regulations thereunder.”²³ For example, the DCM's obligation to list only contracts that are not readily susceptible to manipulation. The explanation and analysis must “either be accompanied by the documentation relied upon to establish the basis for compliance with applicable law, or incorporate information contained in such documentation, with appropriate citations to data sources[.]”²⁴ Further, if requested by Commission staff, a DCM must provide any “additional evidence, information or data that demonstrates that the contract meets, initially or on a continuing basis, the requirements” of the CEA or the Commission's regulations or policies thereunder.²⁵

III. DCM Listing for Trading of Certain Event Contracts

Sports-related event contracts and event contracts more generally have often been shown to be consistent with DCM Core Principle 3 where the settlement outcome depends on the aggregate performance of multiple participants over an extended period of play. The breadth of the outcome, in the typical case, reduces the ability of any single actor to manipulate the settlement value without material cost or substantial risk of detection. These categories of event contracts have been self-certified by DCMs pursuant to Commission Regulation 40.2.

DMO staff reminds DCMs that a self-certified product submission must include an explanation and analysis of the contract's compliance with applicable provisions of the CEA and Commission regulations. DMO staff observes that overly broad or general contract specifications may affect a DCM's ability to analyze the compliance of the contract's various permutations with the CEA and Commission regulations, including the contract's susceptibility to manipulation. Where multiple permutations of a contract may be listed, with different underlying events, there may be different manipulation risks that would need to be analyzed. Overly broad or generalized contract specifications may also impact a DCM's ability to provide a complete explanation and analysis of compliance in the DCM's product submission to the Commission. DMO staff would expect a product submission to include, among other things, a description of the settlement methodology that accounts for differing potential permutations of the contract, including identification of the specific data source(s) on which settlement will be based, and an assessment of the reliability, objectivity, and

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ CEA section 5(c)(1), 7 U.S.C. 7a–2(c)(1). *See also* 17 CFR 40.2. The Commission must receive the DCM's self-certified submission at least 1 business day before the contract's listing. 17 CFR 40.2(a)(2).

²¹ CEA sections 5(c)(4)–(5), 7 U.S.C. 7a–2(c)(4)–(5). *See also* 17 CFR 40.3.

²² 17 CFR 40.2–40.3.

²³ 17 CFR 40.2(a)(3)(v) (for self-certification) and 40.3(a)(4) (for Commission approval). The “explanation and analysis” requirement for self-certified contracts provides for such explanation and analysis to be “concise.” 17 CFR 40.2(a)(3)(v). The “explanation and analysis” requirement for contracts submitted for prior Commission approval does not include the “concise” qualifier. 17 CFR 40.3(a)(4).

²⁴ 17 CFR 40.2(a)(3)(v) (for self-certification) and 40.3(a)(4) (for Commission approval).

²⁵ 17 CFR 40.2(b) (for self-certification) and 40.3(a)(10) (for Commission approval).

manipulation resistance of such sources.²⁶ DMO staff recommends proactive engagement with DMO staff when designing contracts with multiple possible permutations.

DMO staff recognizes that sports-related event contracts may implicate the involvement of professional sports leagues and their integrity units, as well as the governing bodies of nonprofessional sports organizations. DMO staff further understands that the Commission is actively discussing issues of settlement integrity with some relevant sports leagues and their governing bodies and foresees that appropriate information sharing by these entities with the CFTC may lead to enhanced CFTC oversight capabilities. DMO staff therefore recommends that DCMs consider (1) engaging in pre-self-certification communications with such relevant sports governing bodies or authorities when developing terms and conditions, compliance and market oversight programs for sports-related events contracts, (2) including, as part of the self-certified product submission, an explanation of whether the contract is consistent with the relevant league's or governing body's integrity standards, as applicable, (3) establishing information-sharing and data arrangements with the relevant sports integrity monitoring organization, and (4) relying on official data provided by the relevant league or governing body, as applicable, as the settlement source. DCMs are also encouraged to look to, among other items, any league integrity standards or guidance around markets, contracts, and restricted or insider participants lists, in order to protect against manipulation and insider trading, and to protect the integrity of the relevant league or governing body, as applicable, and the sporting events which it administers. DMO staff also recommends that DCMs cooperate with any league-run investigations into potential manipulation or insider trading investigations. In the view of DMO staff, engagement with the sports leagues and other sports governing bodies may further a DCM's ability to comply with their obligations under DCM Core Principle 3 with respect to sports-related event contracts by enhancing access to information about the nature and dynamics of underlying events (*e.g.*, information about categories of individuals who should be restricted from trading in certain sports-related event contracts as an informed participant).

DMO staff reminds all DCMs that the Commission retains authority to stay the listing of a self-certified contract pending Commission proceedings for filing a false certification or pending a petition to alter or amend the contract terms and conditions pursuant to section 8a(7) of the CEA. This would include any proceedings for filing a false certification that a contract complies with the "not readily susceptible to manipulation" requirements of DCM Core Principle 3. DMO staff believes that proactive engagement with DMO staff and any relevant sports league or governing body may reduce the likelihood of Commission action.

* * * * *

This advisory is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable by law by any party in any matter. This advisory does not provide any no-action position with respect to a recommendation by any division that the Commission initiate an enforcement action for failure to comply with the CEA or Commission regulations. Further, this advisory is not intended to, does not, and may not be relied upon to create any new binding rules or regulations, or to amend existing rules or regulations. This advisory represents only the views of DMO and does not necessarily represent the views of the Commission or of any other division or office of the Commission.

Questions concerning this advisory may be directed to DMOletters@cftc.gov.

Sincerely,

FRANK N. FISANICH,
Acting Director,
Division of Market Oversight.

The CHAIRMAN. Well, Mr. Chairman, thank you so much for your testimony today.

At this time, Members will be recognized for questions in order of seniority, alternating between Majority and Minority Members and in order of arrival for those who joined after the hearing convened. You will be recognized for 5 minutes each in order to allow us to get to as many questions as possible. I am going to hold pret-

²⁶ A statement that a contract will settle based upon a consensus of yet-to-be-determined sources may not be sufficient to satisfy the requirements of DCM Core Principle 3.

ty firm to that 5 minutes because we have, I guess, a vote series before noon today for some reason.

So I recognize myself for 5 minutes.

Mr. Chairman, crafting digital asset market structure legislation has been a long, thoughtful process for this Committee over a number of years. In your testimony, you expressed optimism that it will reach the President's desk. Where do you see the process on the CLARITY Act of 2025 (H.R. 3633, Digital Asset Market Clarity Act of 2025) in the Senate? And how important is it in your estimation to get CLARITY done?

Mr. SELIG. Thank you, Chairman. And as I said in my opening statement, I applaud the efforts of this Committee and Congress to get bipartisan market structure legislation on the President's desk for signature. And I do believe that this is absolutely essential. We have had too much ambiguity in these markets for way too long. The crypto asset community wants to build here in the United States, and they want to develop technologies that are going to move our country forward, are going to promote innovation and market integrity, but they have to have solidified legislation on the books that will provide future-proof clarity for the markets.

I am too concerned that if we do not get this right now, we will continue to see the lack of certainty, consumer protection, and clarity in these markets that will just drive builders and innovators offshore. So I very much applaud the efforts of this Committee to get legislation finalized that will distinguish between securities, commodities, and also provide the investor protections, consumer protections that the American people deserve.

The CHAIRMAN. Thank you, Mr. Chairman.

Mr. Chairman, the discussion around prediction markets feels a lot like the discussion around digital asset felt several years ago. These markets are popular, they are newsy and somewhat controversial. But unlike digital asset spot markets, there is crucial difference. Unlike spot digital commodity trading, event contracts are already within the Commission's jurisdiction. Nevertheless, there is significant confusion here about the Commission's authority here. Some stakeholders have described these markets as, "unregulated gambling" or a "loophole." Without a clear understanding of the Commission's historic jurisdiction, its regulatory posture and the tools it has to oversee these markets.

Mindful that I only have a few minutes, can you explain the jurisdiction and the authorities of the Commission with respect to event contracts?

Mr. SELIG. Well, Congress wisely granted the CFTC very broad exclusive jurisdiction over commodity derivatives markets. And the Commodity Exchange Act, our authorizing statute, has a very broad definition of the term *commodity*. It includes virtually everything except for onions and motion picture box office receipts. And we take that broad authority very seriously. When there are new creative instruments that are structured as derivatives, we of course have the authority to regulate those to the extent that the underlying asset is a commodity. And with that broad definition, that is a lot of things. And so we take this responsibility very seriously to police fraud, insider trading, and manipulation in the markets.

And we are defending that authority in court. As I am sure this Committee is aware, we are involved in some active litigation, so I can't speak to some of those matters. But rest assured that we will continue to defend the agency's authority to make sure that we police these markets.

The CHAIRMAN. So thank you, Mr. Chairman.

It is clear that you and your staff are thinking deeply about these issues. Would you be willing for your staff to give a deep-dive briefing into the many jurisdictional and regulatory questions that Committee Members might have?

Mr. SELIG. Mr. Chairman, absolutely. We would be happy to provide that briefing. And as you state, these are very complex issues that we, as subject matter experts, are spending a lot of time on. We will be happy to educate your staff and others on the Committee on.

The CHAIRMAN. Very good. Thank you so much. And I will yield back the balance of my time and recognize the Ranking Member for 5 minutes.

Ms. CRAIG. Thank you, Mr. Chairman. And again, thank you for being here, Mr. Chairman.

It is my understanding that the agency is currently operating with approximately 543 full-time employees, down from 708 at the end of Fiscal Year 2024. That is a reduction of over 20 percent of the workforce. Your budget request to Congress only seeks to fund 650 employees at a time when we are seeing continued growth of traditional futures markets, the swaps markets, and in emerging digital assets and prediction markets. Do you think it is reasonable to believe that the agency can be effective in 2026 and beyond with staffing levels significantly less than what the first Trump Administration had requested with the increased demands on your time?

Mr. SELIG. Thank you, Ranking Member. And yes, I do believe that we are running more efficiently and effectively than ever before, thanks to some of the right sizing of the government that has occurred under this Administration, thanks to the President's leadership. And it is absolutely vital that we continue to monitor, surveil, and police our markets, and we are doing just that. We are utilizing new tools, some from AI to automation and other surveillance systems that we are building out, and we take this responsibility very seriously, I assure you.

We have ranked up in terms of our staff. I will say that the résumés speak for themselves. We are hiring very talented people from the private-sector as well as talent from throughout the government, so we will continue to build up our staff. We have job postings on USAJobs today and are actively looking for folks. But it is absolutely critical that we have the funding and resources to continue to monitor and surveil our markets.

Ms. CRAIG. I am going to resist the temptation to argue with you on the efficiency in the Trump Administration, but I will stick with the CFTC here this morning.

I am very concerned about some of the activity going on with prediction markets under your jurisdiction. In policing these new prediction markets for fraud, manipulation, and insider trading, the exchanges where these contracts are traded, designated contract markets, also play a role in policing their own markets. Can you

give us a little more detail about the differences between the activity the CFTC engages to police these markets compared to what these prediction market DCMs are doing? Is the agency surveilling these markets itself, or is it just overseeing the efforts of the DCMs?

Mr. SELIG. The Commodity Exchange Act sets forth a regulatory scheme where the exchanges are the first line of defense. They are self-regulatory organizations, which means that they have quasi-regulatory authority granted to them by the government. These exchanges monitor for activity in their markets, including insider trading, abusive trading practices, fraud, and market manipulation. They are also the first line in reviewing contracts that are listed. So these contracts are typically self-certified with the agency. The exchange is certifying to us that they are not readily susceptible to manipulation, among other things.

We are the second line. We are always reviewing the activity of these exchanges on a regular basis and reviewing each contract's self-certification. We have the ability to reject those contracts.

We also have the ability, of course, to work together with the exchanges to police fraud, insider trading, and market manipulation, and so we are in regular dialogue to learn about what is occurring in these markets. We are surveilling them. The exchanges are surveilling them. And we are, of course, working with law enforcement where appropriate as well. So it is a comprehensive scheme where we have multiple levels of review of each contract and various activities in the markets, and we will continue to work together with the exchanges to make sure that the markets are well-functioning.

Ms. CRAIG. Mr. Chairman, you mentioned you have the ability to reject these contracts. Do you know off the top of your head, under your leadership, how many of these contracts have been rejected?

Mr. SELIG. Ranking Member, we regularly reject contracts. I don't have the exact number in front of me. But what I will say is that under the prior Administration, there was a lack of clarity on a lot of these contracts. And the floodgates really opened, and I inherited a lot of these contracts when I took office just over 100 days ago. So we are actively reviewing what is out there. We are making sure there is clear guidelines and guidance. And we have submitted for the record, actually, our advance notice proposed rulemaking on the topic of prediction markets, which a lot of these new self-certified contracts are within the event contract space. And so we are soliciting input as to what sorts of standards and guidelines we should have in the marketplace.

Ms. CRAIG. Thank you. As you well know, you are the only Commissioner at the CFTC, a scenario that, it is fair to say, Congress never intended. I talked about this in my opening remarks. Can I get your commitment that you will—well, number one, can I get your commitment that the Trump Administration, when it adds Commissioners, will do so as Congress intended, on a bipartisan basis? And also your commitment that you won't finalize any new regulations with you as the only sitting Commissioner?

Mr. SELIG. Well, of course, the President makes decisions around nominations, and so I look forward to working with whoever the President chooses to nominate. But in the interim, we cannot, for

the sake of the American people, slow down on our rulemaking. It is very important that we get investor protections, consumer protections, and safeguards for our markets. And so I cannot, unfortunately, commit to not do my job that I was appointed to do by the President.

Ms. CRAIG. Thank you. You just confirmed that you will not stop any regulation when you are the only sitting Commissioner, and sadly, I think this points to a continued partisanship.

Thank you, and I yield back.

The CHAIRMAN. The gentlelady's time has expired.

I now recognize the gentleman from Oklahoma, the Chairman emeritus of the House Agriculture Committee, one of them, Mr. Lucas, for 5 minutes.

Mr. LUCAS. Thank you, Mr. Chairman, and thank you, Chairman Selig. It is good to see you again.

I want to start off by thanking you for finalizing last year's proposal to expand cross-margining to customers. As Chairman of the Task Force on Treasury Market Resilience over on another committee, I have been calling for the CFTC and the SEC to finalize this proposal and well in advance of the clearing rules effective date, especially in coordination with the Basel re-proposals changes in netting.

Chairman Selig, the treasury market is the most important market in the world, and the last time Chairman Atkins testified before Financial Services, he and I agreed that cross-margining must be efficient with capital. How are you working with the Prudential Regulators through the Basel III comment period to ensure that their proposed changes on netting work together with the actions you have been taking today?

Mr. SELIG. Congressman, I absolutely share your view that the treasury markets are critical, and we have to make sure that we have efficiencies in our markets. And for too long, the SEC and CFTC regimes have not been compatible with one another, and so we have had broker dealers on the SEC side and futures commission merchants on the CFTC side that have different sets of customers, sometimes similar customers, but they have not been able to cross-margin and net their collateral across the regimes, and so we are working together with the SEC to make sure that that is no longer the case.

Yesterday, of course, we have put out some exemptive relief for the CME and FICC to make sure that their customers are able to cross-margin, and we believe this will trickle down and benefit our everyday American consumers and market participants as customers of these brokers. I think it is absolutely essential that we continue to work together.

Mr. LUCAS. Absolutely. The previous Basel proposal would have significantly increased capital associated with banks clearing derivative products, disincentivizing the already limited capacity for end-users. We know clearing reduces systematic risk and that hedging in derivatives markets is a helpful risk management tool. In your view, what are the benefits that clearing derivatives have in reducing systematic risk in derivatives markets? And how are you working with the bank regulators to make sure their final rules reflect that?

Mr. SELIG. One of the important reforms that came out of Dodd-Frank was focusing more of our derivatives markets into clearing, and I think this has been very beneficial. We have had much more transparency and much less risk, much less counterparty risk when you have a central counterparty clearing each trade, so I think that is absolutely essential. We are getting more information as to the risk in our markets by coordinating with the clearing-houses at the agency, and we will continue to monitor that risk and surveil that risk. But it does create a much more well-functioning system to have the central counterparty clearing each transaction.

Mr. LUCAS. You have mentioned previously that you are considering agriculture and energy exceptions from the swap dealer *de minimis* calculation. What liquidity benefits do you anticipate for commodity swaps markets with these changes?

Mr. SELIG. Well, it is very important that we have well-functioning commodity derivatives markets for our participants, and part of that goes to, as we just mentioned, central clearing. It also goes to making sure that we have robust order books with deep liquidity, and so we are continuing to surveil the markets, making sure that these markets are liquid, that they are deep, that they have investor protections to ensure that our market participants who are accessing these markets are able to get the best value for their money and also making sure that there is not risk of these clearinghouses and exchanges damaging the books of our everyday Americans who are using the markets.

Mr. LUCAS. Mr. Chairman, Congress created the CFTC and the SEC with separate and distinct missions. How are you ensuring jurisdictional lines of authority are not being blurred between CFTC and the SEC? I understand your interest in harmonization, but we must protect the market benefits of having bright lines of responsibility between the regulators.

Mr. SELIG. Congressman, I absolutely agree, and the CFTC and SEC serve very different functions. The SEC is a capital markets regulator. The CFTC is a risk management regulator, and we have been really focused on the agricultural markets for so long, whereas the SEC has been more focused on Wall Street, and so it is very important that we keep these two agencies distinct, but it is important that they work well together and that they have the ability to harmonize their rule sets. We don't want to overly regulate, to duplicatively regulate our market participants because that cost trickles down to the consumers that are using these markets.

Mr. LUCAS. Mr. Chairman, Congress created the CFTC to regulate our derivatives markets for ag commodity end-users. I look forward to seeing you reorient the focus of the agency on serving our producers, and I encourage you to work closely with this Committee and Secretary Rollins.

With that, I yield back, Mr. Chairman.

The CHAIRMAN. The gentleman's time has expired.

Now I recognize the distinguished gentleman from Georgia, also a Chairman emeritus, Mr. Scott, for 5 minutes.

Mr. DAVID SCOTT of Georgia. Thank you, Mr. Chairman, and welcome, Chairman Selig. Good to have you here.

But I would like to focus on how Congress can help the CFTC protect sensitive information in our markets from hackers and data

breaches. And I spoke about this issue in the Financial Services Committee yesterday as it pertains to the SEC.

Now, the CFTC and the SEC have recently entered into a memorandum of understanding to better align regulations on emerging trading models. And I am working on a bill to address that, along with my colleague and friend from Cobb County, which we serve in together.

So I want to ask you, Mr. Selig, could you clarify to Members of this Committee what this partnership will accomplish and why it is so important to the CFTC?

Mr. SELIG. Thank you, Congressman. For too long, the SEC and CFTC have failed to work well together, and this has been to the disadvantage of the American people. When our agencies are not able to share information and coordinate at the staff level, that means that things fall through the cracks. That also means that sometimes we might act in very different ways, and that is going to lead to inconsistent rules and regulations for the American people.

It also is important for our surveillance system. We have to make sure that we are comprehensively surveilling the markets, and so it is helpful to have an understanding of what is going on in the securities markets while we are at the SEC and for the SEC also to have an understanding of what is happening in the commodities markets.

So under this memorandum of understanding, we have committed to work together on certain areas of shared regulatory interest and also for our staff to share information and coordinate on various matters. And this can include things like surveillance, policymaking, as well as, just day-to-day, making sure the staff have the open lines of communication on all matter of issues.

Mr. DAVID SCOTT of Georgia. Okay. Thank you. And I recently worked with my colleague from North Carolina, Mr. Rouzer, on introducing the CFTC Proprietary Information Act of 2026 (H.R. 8125) to safeguard sensitive information.

So my second question to you is this. Mr. Selig, can you tell us how the Commission handles requests and shares sensitive information? Tell us how you do that.

Mr. SELIG. Congressman, we adhere to all statutory requirements with respect to protecting sensitive information, whether it is PII or other types of sensitive information. We take that very seriously. And so we are complying, of course, with all requirements in our statute and our rules that we have promulgated as well as any other Federal standards.

Mr. DAVID SCOTT of Georgia. Okay. Well, thank you for that. And are there any other authorities Congress can provide to you, to the CFTC, that can help you and the Commission better protect Americans' sensitive information? And as I mentioned to you, I am going to be working on this issue. I look forward to working with you. And as I mentioned, I am working on a bill with Mr. Loudermilk, my friend and colleague. And so we are going to be working with you.

This is a tremendous problem, and our nation is losing a lot of money because of these hackers. And you two have to work to-

gether and synthesize what we are doing. So I look forward to working with you on it. Thank you.

And I yield back, Mr. Chairman.

The CHAIRMAN. And the gentleman yields back.

I now recognize the other distinguished gentleman from Georgia, the Vice Chair of the full Agriculture Committee, Mr. Austin Scott, for 5 minutes.

Mr. AUSTIN SCOTT of Georgia. Thank you.

Chairman Selig, decentralized exchanges like Hyperliquid are now listing perpetual contracts on crude oil. These products are functionally identical to what is traded on the Chicago Mercantile Exchange and the Intercontinental Exchange. But they do not have segregated funds, market surveillance, or U.S. oversight. As a result, many market participants and hedgers are concerned about real-world economics of these platforms. For example, surging volumes in oil contracts are potentially impacting the price of a gallon of gas for U.S. drivers. And if my understanding is correct, as many as 200,000 orders per second occur on Hyperliquid and other decentralized exchanges. How should Congress ensure these platforms meet the same standards as our regulated exchanges, and what is the risk if we do not?

Mr. SELIG. Congressman, I appreciate you pointing out this distinction between our offshore and onshore markets. And of course, the markets here in the United States are subject to comprehensive CFTC regulation. We require these exchanges and clearinghouses to register with us and to abide by certain core principles that are set forth in our statute, and we surveil these markets on a regular basis.

We are very much aware of some of these products trading offshore in markets that are not comprehensively supervised by us. And, of course, our goal is always going to be to onshore those markets and to have the markets subject to our regulation here in the United States and accessible to our U.S. persons here in the U.S. But we are monitoring this, and of course, to the extent that there are products available that are taking liquidity out of the United States, we are going to make sure that we bring that back here into the United States under comprehensive regulation.

Mr. AUSTIN SCOTT of Georgia. Well, I look forward to specific recommendations that you have that Congress can do to make sure that those markets have to meet the same standard. If the volume that I am seeing is correct, it has the potential to be detrimental to the United States consumer.

In your testimony, you said a priority of yours is to modernize the agency, keep pace with innovation. The markets overseen by the agency continue to evolve rapidly, including some of the technology that I just discussed. As we have discussed, innovation is in the Commodity Futures Trading Commission's mandate. I introduced the CFTC Research and Development Modernization Act (H.R. 6598, Commodity Futures Trading Commission Research and Development Modernization Act of 2025) with Congresswoman McDonald Rivet to give the agency the necessary tools to stay ahead of the curve. This particular piece of legislation expands and future-proofs the Commission's mandate to explore new technologies, which we are seeing more trading on; encourages the

agency to establish a research and development plan; provides new procurement authorities to facilitate that plan; and allows the CFTC to work more closely with technology companies to understand what those technologies are developing and how those products will fit into or may fit into the agency's framework and their rules and regulations.

Do you think updating and formalizing the Commission's research mandate and tools makes sense? And will this be helpful, and how will this help the agency if you do?

Mr. SELIG. Congressman, I appreciate your leadership on this issue, and I think it is absolutely essential that we future-proof the agency, that we modernize the agency for things to come, and that can include things like research and using new technologies, understanding those technologies, and we have taken clear leadership on that since I have joined the agency, making sure the staff are prepared for this new age of innovation. And so I support your efforts, and we look forward to working with your office on the legislation.

Mr. AUSTIN SCOTT of Georgia. Thank you. I look forward to any specific suggestions that you have with any changes that you may need to the legislation to make it more effective.

With that, Mr. Chairman, I yield the remainder of my time.

The CHAIRMAN. Will the gentleman yield?

Mr. AUSTIN SCOTT of Georgia. Yes, sir.

The CHAIRMAN. Thank you. Mr. Chairman, I appreciate your emphasis on *efficiency*, kind of going back to previous discussions. I think that is important, especially, it sounds like you are really trying to leverage AI and automation where appropriate in order to gain greater efficiency.

I also know that we are putting a lot on your plate with digital assets, and we are obviously going down this path with prediction markets. I don't know how that is going to wind up. So I just want to make sure that if you find yourself in the future in a situation where the need for additional qualified staff emerges, that you will communicate that back to the Committee.

Mr. SELIG. Absolutely.

The CHAIRMAN. I appreciate it, and I yield back.

I now recognize the distinguished farmer from California, Mr. Costa, for 5 minutes.

Mr. COSTA. Thank you very much, Mr. Chairman, Ranking Member, and my colleagues for this hearing. I think it is important, and I think we need to continue this dialogue. There is a lot to dig into.

Let me make an observation, Chairman Selig, and I thank you for being here. As I observed and I looked back at the last 26 years of the Commission and its makeup and the membership and the requirement under the law that Congress set that three members be of one party and the other two vacant seats be of the other party, I am at a loss to understand—and I am sure you follow the law and you have a level of integrity—but no one has determined that you are Solomon-like nor king, and I think it is inappropriate to have one person, as much as you will try to be attentive, to making these determinations when the law was very clearly intended to be a bipartisan representation. And that is my observation, and I hope we address that at some point.

But I want to talk about some other efforts that are new today. We have the so-called event contracts. It is not just some new harmless financial product in my view. In too many cases, it is gambling by just another name, betting on sports, on politics, or in some cases, even on war, instability, and human suffering, while companies try to hide behind the Federal law and call it innovation. It is not innovation. It is a bet.

This is a serious problem I think we have in states like I represent in California, where voters have already rejected expanded online sports betting. It is a serious problem for Tribal governments, and we have 106 of them in California, whose gaming rights and revenues depend upon carefully negotiated Tribal-state compacts. And it is a serious problem for the credibility of your agency, your agency, the Commodity and Futures Trading Commission, if an agency starts looking less like a market regulator and more like a body that is giving permission for these platforms and what they cover.

I want to say this plainly. When I was here when Dodd-Frank was passed, Congress did not put public interest guardrails in a place for contracts involving gaming or death or assassination so that they could be later repackaged as a new line of business on a federally regulated exchange. That is my view. And so I want to know where you think this is going, Chairman Selig.

Let me shift to what this means for states like California. Tribal gaming does not exist in a vacuum. It operates under long negotiated Tribal compacts tied directly to their sovereignty. Do you recognize these platforms that offer sports or casino-style gaming contracts undermine that sovereignty?

Mr. SELIG. Congressman, we are taking our authority very seriously over prediction markets. As I laid out, the Commodity Exchange Act has a very broad definition of the term *commodity* as well as—

Mr. COSTA. Okay. On that point then, tell me that the Commission is not undercutting the Tribes so these markets continue to exponentially grow? Because that is what is happening.

Mr. SELIG. Congressman, as I was saying, we take this responsibility very seriously to regulate these markets, and we have come out with an advance notice of proposed rulemaking that lists out virtually every question imaginable on the subject matter.

Mr. COSTA. Well, I would like you, at a separate time, to provide this Committee help. I am not doubting that you are taking it seriously, but Congress intended sports wagering to be repackaged. I don't believe Congress intended sports wagering to be repackaged as a financial product to dodge rules that apply to everyone else, including our Tribes.

And for colleagues who are concerned about this, I am working on legislation. I would like to certainly encourage your participation if you are interested.

Another aspect, I find it deeply troubling that event contracts tie not just sports and politics but to war. Reuters reported that six accounts made a combined \$1.2 million profit from Polymarket bets that were placed in hours immediately before the February 28 strikes that killed the Ayatollah Khomeini. And Kalshi, there was a bet on whether Ayatollah Khomeini would be ousted as the su-

preme leader reached more than \$54.5 million in volume. I mean, this is nuts. Do you think this is what was intended?

Mr. SELIG. Congressman, our statute has a very broad definition of the term *commodity* and a very broad definition of the term *swap*. We have put out an advance notice of proposed rulemaking to solicit input as to how we should address these new markets.

Mr. COSTA. Well, I don't find that a satisfactory answer.

My time has expired, but let me just close on this note, Mr. Chairman. I will tell you, I don't believe this is market innovation. That is profiting from tragedy. And I think we need to get more invested and detailed with where this is all going. Thank you.

The CHAIRMAN. The gentleman's time has expired.

I now recognize the gentleman from North Carolina, Mr. Rouzer, for 5 minutes.

Mr. ROUZER. Thank you, Mr. Chairman.

Chairman Selig, great to have you here this morning. I am over here. Great to have you here this morning and appreciate your testimony very much. I want to touch on what my colleague, Mr. Scott from Georgia, former Chairman of the Committee, mentioned as it related to protecting all sensitive data.

The bill he and I are working on applies the same section 8 disclosure protections to sensitive data, proprietary information to harmonize the Commission's treatment of such data. What are your thoughts on the importance of section 8 protection and if you believe it is appropriate to expand the types of data covered, given the expanding reporting requirements of the Commission?

Mr. SELIG. Congressman, I appreciate your leadership on this legislation, and I share your view that it is really important that we harmonize standards across agencies, in particular when we have common registrants and common market participants. So I look forward to working with your office on this legislation, and we would be very happy to continue the discussion. Our staff, I believe, have already been providing some technical assistance and will continue to do so.

Mr. ROUZER. And we appreciate that very much. Moving on, your testimony highlights agriculture markets and how CFTC can improve. You specifically mentioned working on timely publishing of reports and data so the market has the best information possible. Can you speak about your goals with the Commitments of Traders report and how it would help improve the market?

Mr. SELIG. Absolutely. I think this is a really important issue to our agricultural community. I have met with many farmers, ranchers, and producers who feel that they don't have access to the transparent information that they need. We, of course, are producing these reports and generating reports on a daily basis but we only publish them on a weekly basis, and so we are evaluating whether to start pushing these out on a more frequent basis. And I hope to update you all on that very soon, but it is a top priority for us.

Mr. ROUZER. Very good.

One other issue that is big in farm country, particularly right now, the supply chain impacts in the Middle East have cut global fertilizer supplies by $\frac{1}{3}$, and prices have skyrocketed as a result. According to a report released by the American Farm Bureau this

past week, it says almost 80 percent of farmers in the southern part of the United States say they won't be able to afford all their needed supplies this year. And input costs, obviously, are high all across the board, and only 19 percent of southern farmers pre-booked fertilizer purchases in advance of the planting season.

So the question is this. As you look at global markets and how they operate with foreign traders possibly buying up our domestic supply and either reselling at a higher price or shipping it out of country, what is the CFTC doing to ensure bad actors are not taking advantage of the market volatility there?

Mr. SELIG. Well, as I said in my opening statement, we have a zero-tolerance policy when it comes to manipulation, fraud, or other abusive trading in our markets, and we will use the full force of the law against bad actors. We are also comprehensively surveilling these markets, and that is part of the reason we entered into this memorandum of understanding with the SEC so that we understand what is going on in the securities markets as well and are comprehensively evaluating what is happening in our markets offshore as well as in related markets. So we are a cop on the beat, and we will continue to monitor and protect these markets to ensure that they are well functioning.

Mr. ROUZER. Thank you. We have seen shifts towards 24/7 trading models, and some participants, particularly in agriculture, are concerned about this approach expanding to all contract types. Has this been a topic that has come up in relation to the work you are doing with the Agriculture Advisory Committee? And how are you looking at market questions like 24/7 trading with ag stakeholders?

Mr. SELIG. We are meeting with agricultural stakeholders on a daily basis and getting input. We are also—as you mentioned, we have an Agricultural Advisory Committee, which I am the sponsor of and have a senior agricultural advisor that is managing the Committee, so we are getting a lot of input from that. We hope to soon come out with some more information about the topics and subject matters that are under consideration by the Committee. We also, of course, will be hosting the AgCon later this year. I believe the save-the-date should go out tomorrow. So these are all topics that we plan to consider.

24/7 is an important issue. I have said it before, and I will say it again that it is not one size fits all, so we need to be very careful as we are evaluating where 24/7 is appropriate in different products and markets.

Mr. ROUZER. Very good. Thank you, Mr. Chairman. My time is expiring.

The CHAIRMAN. The gentleman yields back.

I am now pleased to recognize the gentleman from Massachusetts, Mr. McGovern, for 5 minutes.

Mr. MCGOVERN. Thank you. And I want to thank you, Mr. Chairman, for being here.

And while I appreciate that you think this Administration has done right by American farmers, let me tell you that our farmers are struggling like never before in a large part due to policies that this Administration has championed.

But I want to talk about the predictions markets. As you know, I and others, including Ranking Member Craig, sent you a letter

expressing our serious concerns about the possibility of insider trading, and I will get to that in a moment, but I just want to ask a couple of basic questions here.

Mr. Chairman, would you say that the two biggest prediction markets, Kalshi and Polymarket, are competing with one another? I mean, they are competitors, right?

Mr. SELIG. I believe all market participants are in competition.

Mr. MCGOVERN. All right. So I take it as a yes. And as competitors in the same field, it would stand to reason then that they are trying to gain an advantage over one another. That is what competitors do, right?

Mr. SELIG. That is what competition is, yes.

Mr. MCGOVERN. Yes. So Mr. Chairman, are you aware that President Trump's son, Donald Trump, Jr., has been hired as an advisor for both Kalshi and Polymarket, two competing companies?

Mr. SELIG. Congressman, I am aware of this.

Mr. MCGOVERN. And would you say that it is accurate then that the Trump family has a financial stake in how these prediction markets are regulated?

Mr. SELIG. Congressman, I believe this hypothetical that you are trying to engage in is a political exercise.

Mr. MCGOVERN. I don't know how this is hypothetical. The President's son is involved with both of these companies. I mean, he makes a lot of money for it. But of course they have a financial interest in all of this. I mean, the President's son is on the board of both multibillion dollar prediction market companies. So it seems to me like the only reason two competing companies hired the same person is because they think he must be really, really, really valuable. And I wonder why they would think that, right?

But Mr. Selig, has anybody in the White House ever asked or insinuated that you should drop the CFTC's probe into Polymarket?

Mr. SELIG. Congressman, we treat all market participants alike. We do not pick winners and losers or engage in favoritism or bring politics into any of these matters. We take them very seriously, and I think it is insulting that you are insinuating that we would play political games.

Mr. MCGOVERN. No, I am worried because it smells like corruption. I will be honest with you.

Mr. Selig, back to something you said about prediction markets and going after insider trading. You said in your testimony just now that anyone who engages in fraud, manipulation, or insider trading in any of our markets will face the full force of the law. And just before 7:00 a.m. on Monday, March 23, someone placed roughly \$500 million in oil and equities future trades, betting that oil prices would plummet and the market would rally. And at 7:04 a.m., President Donald Trump posted on Truth Social that the U.S. had begun ceasefire talks. Now, whoever placed that bet knew what the President was about to post and made a lot of money off of that, made a lot of money off of that.

Mr. Selig, you and I both know that the odds of that bet is like a billion to one. And I have one example after another of similar bets. There was no public information about ceasefire talks. These are decisions that are made in the White House at the highest lev-

els, decisions that very, very, very few people know about until the President posts them.

So yes or no, Mr. Selig, do you think the President's top staff would have that knowledge about a ceasefire?

Mr. SELIG. Congressman, as I said in my opening statement, we have a zero-tolerance policy when it comes to fraud, abusive trading practices, and manipulation, and anyone who engages in that behavior will face the full force of the law.

Mr. MCGOVERN. Do you think the President's family would have knowledge of that? Like, what about Donald Trump, Jr.? Do you think he would have known that maybe an announcement of a ceasefire was coming?

Mr. SELIG. Congressman, I am not going to play speculation games with you, but I will tell you that we have a zero-tolerance policy when it comes to fraud, manipulation, insider trading, and we will bring actions against those who engage in that behavior.

Mr. MCGOVERN. So yes or no, are you aware of public reporting that the net worth of the Trump family, meaning President Trump and his immediate family members, has gone up by \$1.4 billion since he took office a little over a year ago? Because it has. And I believe that this President is using public power for private profit. And I think he and his family are lining their pockets with insider information. And I think Donald Trump, Jr. is trading his access for money. And I think it is the definition of *corruption*. And I think that your actions to deregulate this market are helping them do it. And I think it is wrong. I think it is wrong. And I think it is something that this Committee needs to pay much more attention to.

With that, I yield back my time.

The CHAIRMAN. The gentleman's time has expired.

I now recognize the gentleman from Nebraska for 5 minutes.

Mr. BACON. Thank you, Mr. Chairman. And also thank you, Mr. Chairman, for being here.

I would like to follow up on some of the questions that Mr. McGovern asked. There are a number of stories circulating describing patterns of insider trading that the authors claim to be obvious trading. So my first question is, can publicly available trading data disclose individual traders, their individual positions, or the intentions behind individual trades?

Mr. SELIG. Well, Congressman, we have a number of different venues for transparency in our markets. Of course, the exchanges themselves have order books that we are monitoring as the CFTC, as a regulator of these markets. We also have swap data reporting. So a lot of the swaps markets that are over the counter in the wake of the financial crisis, we had Dodd-Frank, which has brought transparency to those markets. So, of course, the public has a line of sight into what is happening over the counter, as well as on the exchanges. And the CFTC is the real line of defense in monitoring all of that.

Mr. BACON. Okay. A follow-up. Second, does the Commission, either directly or with applicable self-regulatory organizations, examine reports of insider trading in the markets regulated by the Commission?

Mr. SELIG. As self-regulatory organizations, the exchanges have the ability to surveil and police and monitor their markets. They, of course, have rulebooks that expressly prohibit things like insider trading, market manipulation, abusive trading practices. And some of the exchanges have brought recently, actually, actions both in the prediction space, as well as in other contexts in our more traditional markets. And so that is something exchanges are doing on a regular basis. We are examining and overseeing those programs as the regulator of these SROs, and we will continue to do so.

Mr. BACON. Third, has the Commission examined the facts behind some of the recent high-profile accusations of insider trading in oil and S&P 500 futures?

Mr. SELIG. As I said in my opening statement, we have a zero-tolerance policy when it comes to fraud, insider trading, and manipulation in our markets, and we are actively policing and surveilling these markets. I can't speak to any particular investigation, the existence of an investigation or not because, of course, that would hinder the investigation itself, but we are a cop on the beat and will continue to be.

Mr. BACON. Okay. I also have a follow-up with Mr. Costa's question. I have seen some of the uncomfortable stories related to prediction markets in recent months, including the markets on Maduro's ouster and the war in Iran, markets settled just by words spoken on earnings calls and a story about a journalist being threatened over his reporting.

My question to you is, do you need more authorities, or how can we assist in this area?

Mr. SELIG. We have a wealth of authority under the Commodity Exchange Act. As I mentioned previously, the definition of *commodity* is very broad, the definition of *swap* is very broad. Our extraterritorial authority, to the extent things are happening offshore, is fairly broad. There are areas where it could be expanded. Under Dodd-Frank, we have much greater extraterritorial authority when it comes to the swaps markets, but the futures contracts markets, less so, and so that is certainly something we would be willing to consider and work with your office on expanding.

Mr. BACON. If we could take some of your counsel and advice on how we can provide the better and more defined authorities for you, we would be glad to support and work with you.

With that, Mr. Chairman, I yield.

The CHAIRMAN. The gentleman yields back.

I am now pleased to recognize the distinguished lady, Ms. Adams, from North Carolina for 5 minutes.

Ms. ADAMS. Thank you, Mr. Chairman, and thank you, Mr. Selig, for being here.

I want to follow up on the Ranking Member's question, and also Mr. Costa made reference to this. In terms of the new regulations and you being the only sitting Commissioner, did you say that you would move ahead, move forward with making major new regulations? Did I understand you to say that?

Mr. SELIG. Congresswoman, I believe I need to do that as Chairman of the agency. It is absolutely essential that the American people have the investor protections that they deserve, and so we will

continue to evaluate the need for new rules and move forward with those rulemakings as appropriate.

Ms. ADAMS. So as one person, and other Commissioners are not there, you think you—okay. Okay. Let me move on.

Your testimony says that your staff has been right-sized, comes up with some rules so that even small producers, farmers, can properly manage risk, but we haven't seen any proposed rule changes announced by the Commission, just the ANPRM on prediction markets. So can you explain what rules you have changed that directly impact farmers, and how was this done without notice and comment?

Mr. SELIG. Congresswoman, we are working on rules that will help protect our farmers, ranchers, and producers. One of the biggest issues that we are addressing has been the lack of the ability to access the markets, so some of the futures commission merchants, which are the brokers that these farmers, ranchers, and producers are using to get to the exchanges, they have been really heavily regulated. We have seen the massive over-regulation of the real-world economy through Dodd-Frank regulations over the years, so we are taking a hard look at those, and we do look forward to coming out with some new proposals that we believe will help roll that back.

We are also looking at the swap dealer *de minimis* threshold. As I mentioned in my opening statement, there are many of these dealers out there who are reticent to transact with the smallest producers, whether it is in energy, agriculture, or critical minerals, and so we are hoping to take a look at what sorts of swaps get calculated into the swap dealer registration threshold to help—

Ms. ADAMS. Thank you. Let me move on. So the *Financial Times* reported that U.S. broker Robinhood has excluded some prediction markets and some contracts from their customers over concerns they encourage manipulation and inside trading. They are particularly worried about so-called mention contracts where wagers are made on words that will be used at certain speeches or events. These are contracts that can be found on U.S.-registered exchanges. So if Robinhood recognizes these contracts as susceptible to manipulation and trading, why doesn't CFTC?

Mr. SELIG. Congresswoman, we have come out with an advance notice of proposed rulemaking on this subject, so I don't want to prejudge any of those issues, but we have laid out, and I believe we have submitted it for the record, a list of questions related to this subject as well as many others, and so we are hoping to get stakeholder input from Robinhood as well as anyone else that wants to comment on this issue.

Ms. ADAMS. Okay. So do you believe that these mention contracts, for example, like what former Congressman George Santos said on a Newsmax interview, do you believe that they are not susceptible to manipulation?

Mr. SELIG. Well, Congresswoman, I am not going to prejudge these questions, as I mentioned. Of course, the exchanges are the first line in determining whether a contract is readily susceptible to manipulation, and it is a very serious matter to self-certify that and to certify to the Commission that that is the case. We evaluate that, and we will continue to do so, but it is really important that

we get the input from the community on these issues through our rulemaking process.

Ms. ADAMS. So let me ask about this enforcement report. Typically, the CFTC publishes this enforcement report during the quarter at the end of the fiscal year, October 1 through December 31. It is 6½ months past that since Fiscal Year 2025 has ended, and the CFTC still has not published its 2025 enforcement report, which would primarily cover the period of your predecessor. So is it your decision to withhold publication of this report? If so, why? And if not, whose decision is it?

Mr. SELIG. Congresswoman, I have been in the seat for just over 100 days now, and so, of course, we have revitalized our enforcement program. We take this very seriously. As I said in my opening statement, we have a zero-tolerance policy when it comes to fraud, manipulation, and abuse, and we will continue to take action to make sure that our enforcement program is strong.

Ms. ADAMS. Thank you, Mr. Chairman. I yield back.

The CHAIRMAN. The gentlelady yields back.

I now recognize the favorite son of South Dakota, Mr. Johnson, for 5 minutes.

Mr. JOHNSON. Chairman Selig, thanks for being here.

I was glad Chairman Thompson hit a little bit on CLARITY, which, as you know, would clearly and further establish the CFTC's role as the primary regulator of digital commodities. To me, this just makes sense, given the fact that you are a principles-based regulatory framework agency. That is a much better fit than the SEC.

As your team has reviewed CLARITY, sir, do you feel like it gives you the legal authorities and the tools you would need on the spot market side?

Mr. SELIG. Well, Congressman, I applaud your leadership on digital asset issues and this Committee for working to advance bipartisan crypto market structure legislation. I believe that the legislation is really critical to allow for exchanges, brokers, and custodians to register with the CFTC. I think this is an important endeavor. We have seen for too long this patchwork of state licensing regimes, whether it is virtual currency licensing or money transmitter licensing, and I believe that the work of this Committee, as well as the work ongoing in the Senate Agriculture, Nutrition, and Forestry Committee, have really put forward a comprehensive and very well-thought-out registration regime with the CFTC. I believe the bills are very similar, and so I am looking forward to seeing these on the President's desk very soon.

Mr. JOHNSON. So obviously, if the CLARITY Act gets passed in law—which it should; it is a strong bipartisan work product—I mean, your agency is going to be given some additional tasks, particularly on the spot market side. Do you have comfort, sir, that the legislation as currently drafted gives you all the tools and the authority you need to do that appropriately?

Mr. SELIG. Congressman, I do believe that everything I have seen to date—of course, we don't have the final version on the Senate side, but everything that I have seen so far has been excellent and really provides the agency with the authority it needs to comprehensively regulate these markets, to have registration of new

market participants and make sure that we are really a future-forward regulator for this new asset class.

Mr. JOHNSON. Of course, too often it is the case that Congress doesn't act until there is some urgency. I mean, talk to the Committee a little bit. Is there any particular urgency in the marketplace? I mean, are there particular reasons why Congress should act to pass the CLARITY Act or some other market-regulating bill in the short-term? Or should we just shrug our shoulders and say we could get this done in 5 or 10 years?

Mr. SELIG. Well, we saw with the implosion of FTX that the CFTC-regulated FTX platform protected customer funds, whereas these offshore platforms, platforms subject to different regulatory treatment, really did not have the safeguards to protect American customers. And so I think it is absolutely critical. Every day we delay is putting American investors and consumers at risk. And I am concerned that if we don't get this done now, we won't have adequate time to get the rules in place. And so that also extends the risk to investors and consumers in these markets. And so I really applaud the efforts. And I do believe there is a sense of urgency because it is absolutely vital that we have clarity, certainty, and investor protections for these markets.

Mr. JOHNSON. Yes, Mr. Chairman, I think that is exceptionally well said. I mean, if we care about consumer protection and we need to, if we care about innovation and we need to, if we care about a fully functioning marketplace and we need to, passing the CLARITY Act is really, really important.

Lots going on in your world. I just want to touch base and see how the conversations are going with your Agricultural Advisory Committee as they look at all of the things going on at the Commission that are maybe not related to the ag portfolio of your authority. Does the Committee feel good about where your work is at on the agricultural side?

Mr. SELIG. Absolutely. So we have revitalized the Agricultural Advisory Committee. It has got a great team. We have just announced the whole roster, and we are looking forward to having the open meeting very soon with the full slate. And so the critical issues, I have discussed some of them today, but of course the COT reporting, 24/7 trading, all of that will feature prominently in these discussions.

And I am looking forward to continue discussions with the agricultural community and other venues as well. We have announced our AgCon that will be held later this year. And so it is not just limited to the Ag Advisory Committee. I encourage anyone that is interested in these issues to engage with us as much as they would like.

Mr. JOHNSON. Thanks much for that.

Chairman Thompson, I would yield back.

The CHAIRMAN. The gentleman yields back.

I now recognize the gentlelady from Oregon, Ms. Salinas, for 5 minutes.

Ms. SALINAS. Thank you, Chairman Thompson, for holding today's hearing, and Ranking Member Craig. And thank you to Chairman Selig for being with us today.

In his speech on March 31 that you enclosed with your two-page testimony, Director of Enforcement David Miller outlined the Division of Enforcement's five enforcement priorities and stated that CFTC will hire additional staff to help address these priorities. And you have been repeating that here today. However, since Fiscal Year 2024, the CFTC's budget for the Division of Enforcement has shrunk significantly, and the Fiscal Year 2027 budget only requests three additional staff. Will three additional staff members be able to adequately address these five priorities, specifically insider trading and fraud in the predictions markets? And how specifically do you use AI with human interaction intervention oversight to address this?

Mr. SELIG. Congresswoman, as I said in my opening statement, we take enforcement absolutely critically seriously. This is a top priority of mine as Chairman. I cannot have threats to our markets such as insider trading, manipulation, and fraud undermining the real important policy work that we are doing here, the real important investor protections that we are putting in place. So David Miller has been staffing up within the Division of Enforcement.

And the number that you cite, the three persons, I believe is possibly not exactly correct. We certainly will continue to expand. We have a number of job postings currently on USAJobs, and we will continue to post as needed.

Of course, tools such as AI are going to be very helpful in surveilling and bringing investigations, and we are incorporating that into various workflows. So we are a cop on the beat, and we are absolutely taking this mission-critical function seriously.

Ms. SALINAS. Thank you. How many investigations related to prediction markets are currently ongoing?

Mr. SELIG. Congresswoman, we have numerous investigations ongoing. I can't speak to the specific number and the specifics of those investigations as that is something that is non-public.

Ms. SALINAS. Why not?

Mr. SELIG. It would hinder the investigations themselves. And of course——

Ms. SALINAS. In the aggregate, how many investigations are ongoing? You can't give us that number?

Mr. SELIG. Congresswoman, we receive hundreds of tips that prompt investigations, so there are many, many—whether it is in the hundreds or thousands of investigations ongoing, I can't speak to the specific number. But of course, we are always receiving tips and always responding and making sure that we are protecting our markets.

Ms. SALINAS. Okay. Those hundreds to thousands of investigations, how long do the investigations typically take?

Mr. SELIG. Congresswoman, the investigations can take varying lengths. It really depends on the nature of the investigation. We are not going to rush these investigations, and then oftentimes, they require coordination with law enforcement and other agencies. But investigations take varying lengths. Sometimes it can take up to a year or multiple years before we charge or file any sort of complaint.

Ms. SALINAS. Okay. Thank you.

Has the Commission considered whether additional safeguards such as geofencing might be appropriate in certain contexts, including with respect to activity occurring on Tribal lands? And if so, what factors would inform that kind of rulemaking?

Mr. SELIG. Congresswoman, we have come out with an advanced notice of proposed rulemaking when it comes to prediction markets, so we are soliciting comments as to any changes to our rules with respect to these products. We of course are taking input from members of the Tribal community. I have met with several of the Tribes, and we will continue to meet with the Tribes going forward. So that is certainly an issue that we will consider, and we will be happy to work with your office if it is something of importance to you.

Ms. SALINAS. Thank you. I would like to work with you on that.

Can you explain how the lack of geofencing might interact with the Indian Gaming Regulatory Act (Pub. L. 100-497)?

Mr. SELIG. Congresswoman, this again is a matter that I don't want to prejudge. It is something that can be addressed in our rulemaking, so we have asked for public comments on these questions.

Ms. SALINAS. Thank you. One final question. I am co-chair of the Mental Health Caucus with one of my colleagues, Mr. Bacon, as well. There is growing attention around behavioral health risks in both financial trading and gambling. How does the Commission think about mitigating risks of excessive or compulsive participation in prediction markets? And is this something that you track?

Mr. SELIG. Well Congresswoman, this is something that is deeply concerning to the extent that there is addiction or other harms coming from the use of our financial markets. We take that very seriously and are here to assist whether it is through legislation or otherwise with these efforts.

We also have market participants such as brokers and exchanges that have responsibilities to their customers to disclose and educate on the various risks in using the markets, so we will continue to work with our exchanges and our brokers to make sure that they are providing that information and disclosure to their market participants.

Ms. SALINAS. Thank you again for being here. I yield back.

The CHAIRMAN. The gentlelady yields back.

I now recognize the gentleman from Kansas, Mr. Mann, for 5 minutes.

Mr. MANN. Great. Thank you, Mr. Chairman. Thank you for being here to testify.

I represent the Big First District of Kansas, which is 60 primarily rural counties in western and central Kansas. The CFTC plays a critical role in our economy, ensuring that our markets for ag producers function as they should. For farmers, ranchers, and ag producers in my district, these markets are essential risk management tools to allow them to hedge a ton of uncertainty in agriculture and secure prices, which is always the case. I appreciate CFTC's oversight on these very important risk management tools.

It was mentioned before but to reiterate, and as you are well aware, the agency has gone more than 15 years without full reauthorization, even as the markets that you regulate and the chal-

allenges facing agriculture have grown more and more complex by the day, much less the last 15 years. So I think we all agree it is way past time that we reauthorize CFTC and make sure that we have transparent, fair, and well-functioning markets.

Just a few questions for you, Chairman Selig, and again, thank you for being here today. In your written testimony, you mentioned that your agency is rebuilding the Agriculture Advisory Committee. I think just last Friday you released the members of that committee. And I know you also had mentioned that you are reintroducing AgCon in conjunction with K-State, which is in my district. I commend and appreciate that effort. Can you speak to some of the priorities that you have and what you really hope to get from this Agriculture Advisory Committee?

Mr. SELIG. Thank you, Congressman. And I enjoyed the opportunity to hear you speak at the Commodity Markets Council Conference several months ago.

The Agriculture Advisory Committee and our AgCon efforts are really critical. We have to make sure that our farmers, ranchers, and producers have a seat at the table. And there are so many issues that they are interested in, whether it is 24/7 trading, these perpetuals and new types of products in our markets, as well as the really over-regulation of the real-world economy through the regulation of our brokers and swap dealers. So we are considering all of that. We hope to have a real open and transparent dialogue with the market participants at the Advisory Committee as well as the Agricultural Convention. And of course, I am meeting with these folks on a regular basis in my day-to-day job.

Mr. MANN. And what have you been hearing from the folks representing agriculture? What are the kind of the themes or the main things that you have been hearing so far?

Mr. SELIG. Well, they are both excited about the new technologies and changes in our markets, but they do have some concern about things like 24/7. Reporting is an important issue, so the reporting of the trading on call reports, they want to make sure that that is transparent. They have been concerned that some participants have accessed this information from proprietary tools that they don't get, and so they want that reported so that they understand what is going on in the markets.

We are also seeing interest and concern around new types of derivative instruments, whether it is prediction markets or perpetuals. And so we are certainly listening to all these voices and making sure that we are addressing these concerns.

Mr. MANN. I am glad that you mentioned the 24/7 model. I had stopped over the district the last couple of weeks, met with a cattle feeder in Garden City, Kansas, which is in southwest Kansas. These are very sophisticated ag producers that are trying to hedge tens of millions of dollars of risk on very thin margins, so they cannot afford to make errors. He mentioned to me this concern about 24/7 markets. What thoughts do you have on that, and what ought we be doing, in your view, so far as helping our ag producers with this 24/7 model?

Mr. SELIG. Well, 24/7 is not one size fits all, so we have to look at each product, each market, and consider whether it makes sense for that product market. And as I mentioned, many of the farmers,

ranchers, and producers are concerned that they are going to have to trade on a 24/7 basis, monitor the markets all night. And that also means 24/7 risk management. So these are all considerations and concerns that we are taking in. We have actually come out, I believe, under Chairman Pham previously in soliciting input on these issues, and we will consider all of those comments. But it is definitely something that we are on top of in making sure we don't roll out all over the place. It may work for crypto but not for other things.

Mr. MANN. I really appreciate you saying that. I think it is important to acknowledge that if we get this wrong, and 24/7, has the potential to really impact our food supply because you could have some very sophisticated large ag producers, small ag producers for that matter, that go out of business because they are on the wrong side of a market move because it happens at 3:30 in the morning because there is something going on, on the other side of the world, right? So I think we have to understand and acknowledge the complexities of these markets and the importance of getting it right for ag producers.

So thank you for being here.

Mr. Chairman, I will yield back the 5 seconds that I have.

The CHAIRMAN. The gentleman yields back.

I recognize the gentleman from North Carolina, Mr. Davis for 5 minutes.

Mr. DAVIS of North Carolina. Well, thank you so much, Mr. Chairman, and to the Ranking Member for having today's meeting and all the work of the Committee regarding the CFTC.

And to the Chairman, thank you so much for being here today.

I have taken tremendous interest in the CFTC, and I want to jump in here. The recent SEC-CFTC memorandum of understanding, which represents a significant step towards reducing fragmentation and improving coordination among our financial regulators.

From your perspective, Mr. Chairman, what are the most meaningful ways this agreement will improve regulatory clarity and consistency for market participants, particularly in areas like digital assets where jurisdiction has historically been less clear?

Mr. SELIG. Thank you for that question, Congressman. This is a really important issue. If you look at digital assets, as you suggest, blockchain networks span all sorts of products. We have seen digital securities, digital commodities, collectibles, and all sorts of things put on a blockchain. And if we have different rules and requirements on the security side from the commodity side, that can create market issues, and that can also result in essentially having to use different blockchains and different types of technologies on each side. We want things built in a way that works for both securities and commodities.

And of course, there are differences in the way we regulate and our requirements. So having the open line of communication, having the ability to share ideas and work together to make sure we get it right on both sides in a way that really fits comprehensively and works well together is important to the American people. And so Chairman Atkins and I are committed to working together, and

this memorandum of understanding really solidifies our vision for comprehensively regulated, well-regulated markets.

Mr. DAVIS of North Carolina. Thank you. In your remarks at the D.C. Blockchain Summit, you spoke about a shift towards trust and decentralization where market confidence can increasingly come from transparent systems and verifiable code. As the CFTC evaluates digital asset markets, how do you think about translating that concept into a regulatory framework that still ensures accountability, market integrity, and customer protection?

Mr. SELIG. Well, for too long, our software developers, our builders, our innovators have been living in this world of uncertainty where they are trying to build software systems that oftentimes achieve the goals of our regulations, but they might do it in a way that is slightly different from the way our rules and regulations are set up, the way that they require things to run. And so we need to create a future-proof, flexible regulatory scheme that allows for these software systems to function. Oftentimes, automation really works better than regulation because you know that the code is designed to achieve the aim, and it functions as designed, as opposed to regulation, where we have to look over each participant and make sure that they are following the rules.

So we don't want to discourage software systems that are autonomous and function on-chain in a way that achieves our regulatory aims. We need to accommodate that and allow for it. So we are working closely, as I mentioned, with the SEC and also with the market participants to understand what they are building and make sure we have the space here in the United States for them to do it.

Mr. DAVIS of North Carolina. Well, I want to make clear, I don't come up here to focus on throwing attacks at anybody, the other side, but I do believe that this is a very, for me, an important conversation that we should be able to have in a meaningful way.

You are currently the only Commissioner at the CFTC, leaving four Commissioner seats vacant. And I realize the President has a role in this, and again, it is not aimed here at an attack. But my question, just for perspective and background, is what do you see as the impact, the lack of having other Commissioners that are on-board, working, during this critical time? Because, right now, the role of the CFTC is vastly changing.

Mr. SELIG. What I believe is critically important is that we get a wide range of input on our work. And what I have committed to do, and as I have put forward in advance in this rulemaking already, is that we are going to do more through rulemaking. We can't have the staff deciding on discretion what the rules are. So we are putting that out for public input. That allows for a wide range of comment from all stakeholders, and we will consider those comments. We are statutorily required to do so.

Mr. DAVIS of North Carolina. Thanks, Mr. Chairman. I yield back.

The CHAIRMAN. The gentleman's time has expired.

I now recognize the gentleman from Indiana, Mr. Messmer, for 5 minutes.

Mr. MESSMER. Thank you, Mr. Chairman. And thank you, Chairman Selig, for being here today.

Last November, Representative McClain Delaney and I introduced the CFTC Charitable Organization Exemption Act of 2025 (H.R. 6655). Many churches provide retirement and medical benefits to their employees through something called a church plan. And while a small church may not be able to provide robust benefits for its staff, church plans allow multiple churches to pool their resources and improve how they can serve their employees.

Unfortunately, the Commodity Exchange Act does not account for church plans, so the Commission regulates them as a commodity pool operator or a commodity trading advisor.

Chairman Selig, the Commission has laid out robust disclosure and reporting requirements for CPOs and CTAs. While prudent for these market actors, would you agree that the same regulations might be burdensome for a church plan?

Mr. SELIG. Congressman, I appreciate your leadership on this issue, and I do believe that some of our rules and regulations really are ill-fit for market participants and for different purposes. And church plans is one great example of where you might have a group pooling together funds to manage risk or to create an investment position, and the rules and regulations are really designed for very sophisticated, large institutions. So it is certainly something that I would be very happy to work with your office on. I believe we are already providing TA on this bill.

Mr. MESSMER. Would you commit to partnering with me as Congress works for a legislative solution for church plans?

Mr. SELIG. Congressman, I am very happy to work with your office on this legislation.

Mr. MESSMER. Thank you. Now, I want to pick your brain about another one of CFTC's legal priorities. As you know, in the 2019 CFTC reauthorization bill, which passed out of this Committee with broad bipartisan support, included a provision related to privilege retention. Could you explain what *privilege retention* is and why it is an important protection for the CFTC?

Mr. SELIG. Well, Congressman, as we are working with various matters, we engage in certain communications, and oftentimes, those communications are protected by a privilege such as attorney-client privilege, work-product privilege, or deliberative privilege. And this privilege protects that information from being disclosed, but there are instances where we are disclosing this information, for example, to another agency or to Congress, and that could jeopardize the privilege.

Mr. MESSMER. Okay. Thank you. How would benefits of privilege retention protection translate to the CFTC registrants or individual consumers?

Mr. SELIG. Well, Congressman, I do believe it is very important that we protect privilege when it comes to our communications, but sometimes, as I mentioned, we do have to share certain information with Congress or with other agencies, and we don't want to jeopardize the ability to protect that information. Some of this information is very sensitive, and if it were disclosed, could put individuals at risk. So we are very supportive of protections for our privilege.

Mr. MESSMER. Thank you. I yield back the remainder of my time.
The CHAIRMAN. The gentleman yields back.

Votes will be called momentarily, but my intention is to get through at least two more Members, and then we will reconvene 5 minutes after the last vote is called. But we are going to keep going and recognize Ms. Budzinski of Illinois for 5 minutes.

Ms. BUDZINSKI. Thank you, Mr. Chairman. And thank you for being here, Chairman Selig. I also want to thank my Ranking Member, too. I don't want to miss that opportunity.

But thank you, Chairman Selig, for being here. I do appreciate that.

Right now, the Commodity Futures Trading Commission is really in the spotlight because of the role it plays in new and emerging markets, especially prediction markets. At their core, prediction markets can look pretty harmless. People are trading on questions such as what song will be number one, who the next James Bond will be. But that is not really where it stops is on these kind of lighter questions, obviously. These markets are also being used to trade on real-world events, government decisions, geopolitical conflicts, and even military action. And that is where prediction markets start to raise some really serious concerns for me.

Earlier this year, an article crossed my desk that made this risk very real. And I point this out. Hours before the United States carried out airstrikes on Iran, a group of newly created accounts on Polymarket placed significant bets that those strikes would happen. Six wallets funded within 24 hours of these strikes bet yes that they would happen and when the strikes would happen. And then they ended up, these six wallets, those folks that had them, walked away with about \$1.2 million in profit. That looks like someone that perhaps might have known some inside information, in my opinion, or at the very least was trading like they did.

And it is not just a one-off event. We are seeing repeated patterns of well-timed, highly profitable bets tied to sensitive global events. That should concern every single one of us in Congress. I think the question is pretty simple. How did they know that information?

And that is why I introduced a bipartisan bill called the PREDICT Act (H.R. 8076, Preventing Real-time Exploitation and Deceptive Insider Congressional Trading Act) to make sure senior government officials, including Members of Congress, senior staff, and Executive and Judiciary Branch officials cannot participate in prediction markets using nonpublic information that they gain through the jobs that they have. This bill is straightforward. If you are entrusted with sensitive information, you cannot turn around and profit off of it.

Because there is a clear difference between making an educated guess on what can happen and insider trading, public servants should not be profiting off of privileged information that is entrusted to them by the American people. If we do not draw a clear line here, we are leaving the door wide open to corruption.

So Chairman Selig, I want to thank you again for being here to talk with us about this important topic. And I do look forward to working with you to stop any insider trading in the prediction markets. My first question is, on the PREDICT Act, do you have any thoughts or feedback on what additional steps you would rec-

commend to rooting out insider trading and protecting the integrity of the prediction markets?

Mr. SELIG. Congresswoman, thank you very much for your leadership on this issue. I think it is vitally important that we protect our markets from insider trading, fraud, manipulation, and abuse. And as I said in my opening statement, we have a zero-tolerance policy when it comes to any of this activity in our markets.

I believe that it is in our statute currently to of course police these things, but we can always use additional authorities as we would be happy to work with your office on how to build that out further. In our statute, the insider trading authority is based on our anti-fraud and anti-manipulation authority, and so it is quite broad, but there are always areas where we can expand that.

In particular, some of the contracts you referenced are offshore. I mentioned our authority when it comes to policing. Fraud manipulation is different when it comes to swaps *versus* futures, so that might be an area where we can work together.

Ms. BUDZINSKI. That would be great. I look forward to that.

The CFTC is responsible for overseeing the markets that our farmers, producers, and cooperatives rely on every single day to manage real risk, as you know. At the same time, the Commission's responsibilities are rapidly expanding into digital assets, into prediction markets, and into increasing complex and fast-moving financial products. I know this has been covered by some of my other colleagues, but I share their concern about the lack of staffing at the CFTC, and I want to specifically highlight, you are an independent agency, just like the Consumer Product Safety Commission is an independent agency. There is a legal action that is escalating to the Supreme Court on the fact that they, too, like the CFTC, don't have their Commissioner spots filled. They, too, only have one person serving on that Commission. And my question is, just with 2, 3 seconds remaining, how challenging is that to not have other colleagues, other Commissioners, when you are taking on more and more responsibility there at the CFTC?

Mr. SELIG. Well, as I mentioned, the way that we are addressing this is by making sure that we go through the Administrative Procedure Act rulemaking process, and we take a wide range of industry comment, and we will continue to do so on major policy changes.

Ms. BUDZINSKI. I yield back.

The CHAIRMAN. The gentlelady's time has expired.

I now recognize the gentleman from North Carolina, Mr. Harris, for 5 minutes.

Mr. HARRIS. Thank you, Mr. Chairman, and thank you, Chairman Selig, for being with us today.

Mr. Chairman, I was concerned to learn that the only approved metals depositories used for deliveries on gold and silver futures contracts are heavily concentrated in the single geographic region around New York City. And this level of geographic concentration is troubling to me from a point of national security, market efficiency, and operational resiliency standpoint, which is why I chose to be an original cosponsor of the SILVER Act (H.R. 8007, System Integrity through Licensed Vault Expansion and Resilience Act) that seeks to correct this issue. After all, we have seen firsthand,

whether through terrorist attacks like 9/11, extreme weather events like Hurricane Sandy, the New York region is not immune to disruption.

And so concentrating critical financial infrastructure in a single region like New York does tend to create potential risk and vulnerabilities that we just wouldn't accept in other sectors, especially one that is so crucial to our financial system. So with that, and our national security, this is why I believe geographic diversity is an important component of operational resilience and risk management.

Mr. Chairman, let me ask you, while it made sense 100 years ago for these depositories to be located in the greater New York area, why in our modern age are they still centralized in a single location where they are susceptible to these kind of events, terrorist attacks, and foreign threats that I just mentioned?

Mr. SELIG. Well, Congressman, as a regulator of our commodity derivatives markets, it is absolutely critical that we have deliverable supply available as it is possible to take our futures contracts to delivery. And to the extent there is concentration risk, that is certainly something that we would evaluate as a regulator in ensuring that our contracts have integrity and that our markets are well-functioning. So we applaud your leadership on this issue and would be happy to work with your office on it.

Mr. HARRIS. Super. So are you willing to study whether the current concentration of precious metals depositories in a single geographic area does pose a systemic risk to market stability and our national security?

Mr. SELIG. Well, Congressman, we would certainly work together with your office to better understand the risks posed by this concentration.

Mr. HARRIS. Super. Well, these markets really were designed to help participants manage and mitigate risk, so it stands to reason that we should also ensure the market structure itself is resilient and capable of mitigating its own risk. Real quickly, and before we break for votes, my colleague, Mr. Messmer, brought up the issue, and I have been a pastor for 37 years, so I am well aware of the fact that churches often operate with limited administrative and financial resources. He mentioned the problem, and you addressed the issue. I want to go a little bit further.

In 2014, the CFTC issued a no-action letter offering relief for church pension plans, and in 2017, a no-action letter offering relief for university endowments. These policies have remained in place since they were issued across multiple Administrations. However, we know these letters can be revoked at any time. As Chairman, are you committed to continuing the precedent set by previous CFTC leadership and maintaining these no-action policies to protect our churches and nonprofits to not be treated as Wall Street actors?

Mr. SELIG. Congressman, I am glad you raised this. I think it is critical that we actually take a lot of these no-action letters and codify them in rules so that they have longevity because there is always this risk that a future Chairman or future Commissioner will come along and pull those letters. So we will certainly continue

to keep that in place, but we would like to work on trying to finalizing and codify these as rules.

Mr. HARRIS. I agree with you 100 percent. We didn't want to codify it, but just wanted to know that you were on the same page here and moving forward.

And with that, Mr. Chairman, I yield back.

The CHAIRMAN. I appreciate the gentleman yielding back.

I have been informed that a vote is fixing to be called, but I am going to recognize Mr. Vasquez, and when he is done, we will recess the Committee. And I think anyone who stays will have adequate time to get to the Floor for the vote.

So the gentleman from New Mexico is recognized.

Mr. VASQUEZ. Thank you, Mr. Chairman, and welcome, Chairman Selig.

Mr. Chairman, behind me are two separate betting lines for a baseball game that took place earlier this week.¹ So I would like to ask you, can you identify which betting line is from a regulated major sports book and which one is from an event contract from a prediction market?

Mr. SELIG. Congressman, I am not an expert on identifying betting lines, so I am not certain. Why don't you please enlighten me?

Mr. VASQUEZ. Well, it is clear to me that you can't tell, and that is the problem because the average consumer also can't tell. Here you see that the results from the prediction market and the state-regulated gaming entity and the lines that are put on these sports bets aren't much of a difference, yet they are regulated completely differently. And although the odds are functionally the same, the outcome for the end-user is the same. Consumers couldn't care less if they are using an official sports book or engaging with a prediction market. The purpose of engaging in the activity for monetary gain is the same.

So here is the problem, Mr. Chairman. Tribes in my district and across the nation have gone through decades-long negotiations, agreements, and settlements with states and the Federal Government to have the ability to engage in sports betting. States themselves have as well. They have built out legal gaming systems with compacts, licensing, integrity rules, age verification, and consumer protections.

So when a Federal agency like the CFTC allows prediction markets to bypass these established longstanding legal requirements but under a different label and uses loopholes to evade regulation and consumer protection standards, it undermines Tribal sovereignty and state protection.

What this means in practical terms is that Tribal communities like the Pueblo of Laguna in my district, which I just visited, are losing out on vital revenue to pay for their childcare, education, infrastructure, and the overall well-being of their community. Not fair, right?

Now, I understand the CFTC's role is to oversee derivatives markets. Traditionally, that has meant helping businesses hedge real economic risk. Airlines hedge fuel costs. Farmers hedge crop prices. That is very different from putting money on the outcome of a

¹ Editor's note: the poster referred to is located on p. 105.

baseball game. On a prediction market, consumers can trade on whether, as an example, Astros second baseman, Jose Altuve, hits a home run in tonight's game against the Rockies. Does a contract on a single player's performance on a single statistic hedge any real economic risk?

Mr. SELIG. Congressman, there are many risks that could be hedged through various contracts in our markets. The bottom line is that these markets need to be well-functioning and comprehensively regulated by the CFTC. Our statute mandates it, and we will continue to do it.

Mr. VASQUEZ. Well, Commissioner, with all due respect, I don't think this is hedging. I think this is a bet, as is clearly outlined in the way that these transactions are taking place.

And so let me make this clear. The CFTC was not created or intended to regulate sports gambling. States and Tribes have systems for licensing, integrity monitoring, and responsible gaming such as age verification and addiction support and enforcement. If this product looks like sports betting, the public should expect sports betting type of protections and regulations.

So at the end of the day, this comes down to a simple question. Are we regulating real economic risk, or are we allowing prediction markets to steal billions of dollars in an unregulated free-for-all with no consumer protection as Congress and the CFTC turns a blind eye? The CFTC should focus on ensuring that the integrity of the derivatives and commodities markets, ensuring that farmers and businesses receive fair prices and protections, and preventing our country from facing another financial crisis. That should be the focus. I believe the CFTC does not have the know-how, and it doesn't need to be focused on sports betting because our Tribes and our states can't do that.

Now, in your earlier comments in your introduction, you mentioned what you were focused on was modernization, rapid speed, and response to innovation, and that is your focus. Now, what I did see with rapid speed was the withdrawal of the 2024 proposed rule on political and sports contracts. What I would also similarly like to see in terms of that rapid speed and response to innovation and modernization is actual regulation so that we can allow our Tribal communities, our Tribal nations with their own negotiated contracts not to lose out on vital revenue for their communities as these event contract managers enter states like New Mexico where online gambling is already legal. This is crucial for our Tribes, and I suggest that you talk to the Indian Gaming Association about how they feel about this because they do represent gaming casinos on Tribal nations all across the country.

Thank you, Mr. Chairman. And thank you, Mr. Chairman. I yield back.

The CHAIRMAN. The gentleman yields back.

Given the fact that votes have been called, series, the Committee should now stand in recess until 5 minutes after the last vote is called. So I encourage Members to return here to the hearing room at that point.

We are in recess.

[Recess.]

The CHAIRMAN. All right. I know the Ranking Member is en route, but since we have another series of votes coming up, we are going to go ahead and get started.

Next on the list in terms of attendance at the beginning is Mr. Rose from Tennessee. You are recognized for 5 minutes.

Mr. ROSE. Thank you, Chairman Thompson and Ranking Member Craig, for holding the important hearing today, and thank you to Chairman Selig being here with us.

Mr. Chairman, the Committee has, for years, heard about the danger of the Customer Protection Fund's potential insolvency. In fact, Congress passed legislation creating a separate account to allow the operations of the whistleblower office to continue in the event the fund becomes insolvent. But this is a temporary fix, which Congress keeps having to extend. The CPF pays out whistleblower awards, a very important function. If whistleblowers do not receive the rewards they are entitled to, I am concerned confidence in the program will be lost, discouraging future whistleblowers from coming forward.

Can you discuss the benefit of this program and how it has been an important mechanism for CFTC to fulfill its mission?

Mr. SELIG. Congressman, thank you for that question. I believe in the whistleblower program. It is really a critical program for people that are afraid to come forward when they have information that could help us prosecute a case, whether it is in a market manipulation matter or a registration failure or anything else. It is really important that people are willing to come forward with information that could help further an investigation. And I do have a concern that if these incentives are not provided to the marketplace, that people will choose out of fear of retaliation or for other reasons not to come forward, and so we greatly appreciate the ability to offer whistleblower rewards and are really focused on making sure this program continues on within the agency. So thank you for your efforts in Congress to help support the program.

Mr. ROSE. Mr. Chairman, do you support a permanent legislative fix to the CPF and Whistleblower Office funding issues? Additionally, what does Congress need to do to address these issues with the fund?

Mr. SELIG. Congressman, it is very important that we have adequate funds to be able to provide whistleblower awards. And there are times when the fund can be strained, and that really undermines the ability of the program to function. So we support efforts to continue to make sure that the fund is available. We have been providing technical assistance on various pieces of legislation that can help make sure that the fund is always available for market participants.

Mr. ROSE. We have also heard concerns that payments to the whistleblowers in certain instances have been delayed. Can you tell us what you are doing to ensure that there are timely payments of these rewards?

Mr. SELIG. Congressman, we are on track to provide several rewards in the days to come, and I believe we will exceed the amounts paid out over the past 2 fiscal years. So we are certainly taking this very seriously, but it is very important that we continue to support the fund with adequate funding.

Mr. ROSE. Mr. Chairman, you are no doubt aware that CFTC's authorization of appropriations last expired back in 2013. How does operating without a current authorization affect the Commission's ability to plan long-term and to attract and retain specialized staff and invest in modern oversight tools?

Mr. SELIG. Well, the CFTC, under my leadership, continues to be an effective market regulator, and we will continue to do so as long as we have appropriations. And of course, it is great to have reauthorization where we have a definite plan for the ability to perform our key functions, but we are, of course, happy to work however Congress chooses to fund us.

Mr. ROSE. Thank you. And in the Commission's March 12, 2026, prediction markets advisory, staff noted that sports-related event contracts are generally consistent with core principle 3 when the settlement outcome depends on the aggregate performance of multiple participants over an extended period of play. Does this language indicate that it is the Commission's view that proposition-style bets, those not dependent on performance over an extended period or an aggregate outcome, would not satisfy core principle 3 and therefore may fall outside permissible event contract activity under existing CFTC regulations?

Mr. SELIG. Well, Congressman, the CFTC staff has put out this advisory that you are referencing that gives some considerations for the marketplace for our exchanges that are self-certifying contracts to consider as they are evaluating contracts and putting them up for self-certification. We do have an advance notice of proposed rulemaking out that solicits feedback on this issue, among others, and we are hoping to provide more concrete rules and regulations around the self-certification process in the near future.

Mr. ROSE. Thank you.

Mr. Chairman, I yield back.

The CHAIRMAN. I thank the gentleman. The gentleman yields back.

I now recognize the gentleman from Illinois, Mr. Sorensen, for 5 minutes.

Mr. SORENSEN. Thank you, Mr. Chairman, and thank you, Mr. Chairman, for being here. I appreciate your time and being forthright with us here in the Committee today.

I represent Illinois' 17th District. Now, we are far removed from the big city of Chicago. It is a tough place to live, but we persevere like no one else. It is that part of America where if you put in a hard day's work, you come home, and you are proud of what you accomplished.

This is also a place where people make just enough to get by these days. In my neighborhood, we try to put a couple of bucks into a savings account, but we don't have the money to trade stocks or bet on what could happen in the future. I understand what my neighbors feel when they tell me how mad they are when there is rampant insider trading here in Washington, D.C., because my neighbors back home should be able to trust the people in Washington, D.C., and trust that you are going to hold them accountable.

But now we have prediction markets and get-rich-quick schemes that are only realistically available for people who are now in the

know. My neighbors are not in the know. There is no limit to what someone can make money on these days, from how long a White House press briefing will last or the ramifications of Trump's war in Iran. To be honest with you, it is sickening.

And in Illinois, home to one of the CFTC's regional offices, reports say that every one of the investigative attorneys have left the office. Yesterday, it was reported by Bloomberg that the CFTC is launching an investigation into oil future contracts that enriched potential insiders just as Donald Trump went to war with Iran.

Will you tell this Committee that you will hold to account everyone who violated the law, even if they are connected to the White House or the President's family? Please be clear with us.

Mr. SELIG. Congressman, as I was saying in my opening statement just about an hour and a half ago, we have a zero-tolerance policy when it comes to insider trading, fraud, or manipulation, and we will take action against any bad actors in our markets.

Mr. SORENSEN. I appreciate your words. You have an incredible opportunity to rebuild the trust that was lost. What is the most important step that you are taking? And no jargon, I mean, speak to me as if you are speaking to the 3,900 people in Morrison, Illinois.

Mr. SELIG. Congressman, I have made very clear we will continue to ensure that our markets are well-functioning and that they are free from fraud, manipulation, and abuse. This is our core responsibility as an agency. We are not going to pursue political pet projects. We are going to focus on market integrity.

Mr. SORENSEN. I appreciate that. My colleagues have asked similar questions, but I wanted to kind of reframe the issue. So yes or no, given the continued steady growth of industries and markets that you oversee, do you think it is reasonable to believe that the agency can be effective in the year of 2026 with staffing levels that are at the lowest since the Great Recession?

Mr. SELIG. Congressman, as I said earlier, the agency is functioning better and more effectively than it ever has, and this is thanks to the leadership of the President. He has made it a mandate to ensure that our agencies are well-functioning and accountable to the taxpayer, and the staffing that we are ramping up on speaks for itself.

Mr. SORENSEN. So if you just said that you are working better, then why are you hiring anybody?

Mr. SELIG. Congressman, we continue to bring on talent where it makes sense within the building. We are actively recruiting and hiring, as I have made clear. We have postings on USAJobs, and this is to fill posts that have been vacated by former staff.

That said, we have not let up on our mission. We continue to fight for the American people and ensure that our markets are well-functioning and free of fraud, abuse, and manipulation.

Mr. SORENSEN. Are you and will you be working with international partners to oversee insider trading that gets around your enforcement?

Mr. SELIG. Congressman, we, of course, on a regular basis are consulting with our foreign counterparts throughout the world. It is very important that we do so because fraud and manipulation and market issues span our borders, cross our borders, and so we

are actively in conversations with foreign regulators on a frequent basis.

Mr. SORENSEN. Last year, Republicans on the Appropriations Committee proposed cutting the CFTC's funding from Fiscal Year 2025 levels by eight percent. Can you tell the American people that the derivative markets are safe with a cut in funding like that?

Mr. SELIG. Congressman, as I have made very clear, we continue to police our markets. We continue to comprehensively surveil our markets, and we will do so with whatever staff we have. We are using tools like AI and automation throughout the building to make the agency more efficient, and I believe it is functioning better than it ever has under my leadership and thanks to President Trump's leadership.

Mr. SORENSEN. Insider trading should be flagged and investigated, and it shouldn't matter who you are. If you violate the law, you go to jail, and I hope that you are able to do that for the people who are ripping off the people back home. Thank you.

Mr. Chairman, I yield back.

The CHAIRMAN. The gentleman's time has expired.

I now recognize the gentleman from Ohio, Mr. Taylor, for 5 minutes.

Mr. TAYLOR. Thank you, Mr. Chairman, and thank you, Ranking Member, for holding this hearing today, and thank you very much, Chairman Selig, for being here with us today and sharing your expertise.

I represent a very rural district in southern Ohio. Before being elected to Congress, I worked in the county prosecutor's office and was a small business owner for 25 years in the concrete business. One of my top priorities during my time in Congress has been to reduce regulations and allow people to participate in the economy without the government always breathing down their neck.

Chairman Selig, as CFTC Chairman, can you describe to me your approach to regulation and how you balance protecting consumers with promoting economic growth?

Mr. SELIG. Thank you, Congressman. And it is, of course, critically important that we both encourage growth and innovation in our markets but also ensure that there are safeguards and investor protections. We can't have the American people paying the price for new ideas and new creative activities in our markets. What we are doing to make sure that consumers and investors are protected is enforcing our laws, enforcing the statute that is our key mission, right, the Commodity Exchange Act, ensuring that the exchanges are doing their job in surveilling the markets and protecting investors, and, of course, policing fraud, manipulation, and bad behavior.

Mr. TAYLOR. Thank you, Mr. Chairman.

Another priority I have is making sure our Federal agencies operate efficiently to try to match the speed of business, not the plodding pace of government. As Congress works to reauthorize the CFTC, we have the opportunity to make improvements to ensure maximum efficiency toward its mission to promote integrity, resilience, and vibrancy for the U.S. derivative markets. By all accounts, the CFTC advisory committees serve a great purpose and provide great insight to the Commission from people who utilize the markets every day.

But one improvement I think Congress can make is to streamline the advisory committee structure so that all advisory committees operate equally. Currently, the agency has one advisory committee, the Environmental and Energy Markets Advisory Committee, operating with different rules from the rest of the advisory committees. This makes no sense and only makes our government less efficient.

I was proud to lead the CFTC Advisory Committee Improvement Act of 2025 (H.R. 6899) with my fellow Ohioan Congresswoman Shontel Brown. This bill improves the administration of the advisory committees by allowing the Commission to establish them all in the same way.

With that said, Chairman Selig, can you tell me a little bit about your plans to ensure the CFTC is operating at maximum efficiency?

Mr. SELIG. Congressman, I absolutely share your view that the agencies should run more like businesses, and we are taking measures to make sure that the CFTC is more efficient than ever before. One of the new technologies that we are incorporating throughout the building is artificial intelligence. We have authorized the use of Microsoft 365 Copilot, which is an AI tool, that all the staff are being trained on, and this is going to make their jobs much easier. It is going to make them much more productive in their day-to-day tasks. It is going to allow them to do things like create new types of workflows for more efficient operations.

We are also making sure that AI and automation is incorporated through the registration process when new applicants are submitting forms and registration materials.

We have also made sure that there is KPIs in place, key performance indicators, to make sure that when a new application comes through the door, there is real accountability and real milestones that the staff have to meet to make sure that these things get done. Our statute has prescribed timelines, 180 days for most applications, and we have to hit that. It can't be the case that we extend every time when a new application is coming in because we just can't do our job.

So we are making sure that the staff are more accountable, that they are more efficient, and of course, we are hiring up where it makes sense to make sure that we are getting some new viewpoints from the private-sector within the building.

Mr. TAYLOR. Since you are here and you have the captive audience, are there other areas where Congress could be helpful to the CFTC in operating more efficiently? I appreciate your testimony today that it is operating more efficiently than it has in recent years, but are there other ways we could be helpful?

Mr. SELIG. Well, of course, we appreciate your support for the agency. We are performing really mission-critical tasks of ensuring that our markets are well-functioning and have appropriate safeguards for our market participants. I would very much appreciate the opportunity to meet with your office and talk more about how we might be able to work together to ensure that the agency has all the resources it needs, but I can assure you we are well-functioning today and we will continue to do so in the future.

Mr. TAYLOR. I look forward to that, and thank you again, Mr. Chairman.

I yield back, Mr. Chairman.

The CHAIRMAN. The gentleman yields back, and I thank the gentleman.

We will next recognize the gentleman from Virginia, Mr. Vindman, for 5 minutes.

Mr. VINDMAN. Thank you, Mr. Chairman.

Chairman Selig, thank you so much for joining us today. This hearing couldn't have come at a better time. In recent weeks, we have seen countless news stories about individuals making massive profits in prediction markets on bets related to national security, for example, bets on whether Ali Khamenei leaves office before March 1, 2026, whether the U.S. would strike Iran by February 28, whether the U.S. confirms that the pilots in Iran were rescued, and when the U.S. would announce a ceasefire with Iran.

I ask unanimous consent to enter into the record an article from April 9 from THE WASHINGTON POST titled, *Prediction markets are back in the spotlight, this time because of the war in Iran*.

The CHAIRMAN. Without objection.

[The article referred to is located on p. 105.]

Mr. VINDMAN. Just recently, the White House warned its staff not to engage in insider training on prediction markets. I am sure you agree that this is highly concerning, and it endangers national security. I am hoping you can help clarify the seriousness of this issue. And I am not trying to play gotcha. I hope we can work together to crack down on these illegal and dangerous bets. So I am going to ask you a few ethics-related questions, and I would like you to provide a yes or no answer, please.

Should any government official be allowed to use classified or nonpublic information to profit on prediction markets?

Mr. SELIG. Congressman, it is illegal to utilize any nonpublic information to trade in our markets when you are misappropriating that information.

Mr. VINDMAN. Okay. So I will take that as a yes. No, sorry. I don't want to put words in your mouth.

Could a senior official with advanced knowledge of military operations use prediction markets in a way that could incentivize decisions that endanger service members or compromise national security?

Mr. SELIG. Congressman, as I said, it is illegal to trade on inside information.

Mr. VINDMAN. I am not asking you about the legality. I am asking how the markets can be used.

Mr. SELIG. Congressman, markets have been used to engage in fraud and manipulation, insider trading for centuries.

Mr. VINDMAN. Okay. So I will take that as a yes as well. If someone with insider knowledge places a large bet right before a military action, could adversaries monitoring these markets be tipped off to what is coming?

Mr. SELIG. Congressman, of course there are instances where bad actors are going to engage in abusive trading practices. The purpose of the CFTC—

Mr. VINDMAN. I am just asking, actually, if people monitoring the markets can use that information, bets, to discern what is going to happen.

Mr. SELIG. Congressman, of course there are instances where people could obtain information. It is illegal for them to utilize that to engage in—

Mr. VINDMAN. Again, I think what you are—that is a yes, simply. And look, I served 25 years in the Army. And some of these accounts were opened within days and weeks and bets were placed within 24 hours of some of these actions occurring. And 24 hours in a military operation is a lifetime. It is a lifetime to either remove highly enriched uranium. It is a lifetime to replace and place air defense assets. So this is, in fact, a serious threat to our national security.

So you have said you want the U.S. to be a markets capital of the world and that we are watching every trade. Will you commit to robust enforcement ensuring anyone trading on government or military information is held accountable, regardless of their political party?

Mr. SELIG. Congressman, as I have said countless times today, we have a zero-tolerance policy. That is zero tolerance. That means that we will hold whoever is engaging in fraudulent, manipulative, or insider trading activity accountable to the American people.

Mr. VINDMAN. Well, I think what this boils down to—and I am going to give you credit for agreeing with the fact that these are dangerous issues related to national security. So I appreciate your commitment to holding bad actors accountable and hope to work together to crack down on anyone endangering our national security and our troops with these types of bets. That is why I sent a letter to Polymarket last week instructing the company to preserve and share with Congress all information related to suspicious bets on national security matters that may link to government officials.

I ask unanimous consent to enter my letter into the record.

The CHAIRMAN. Without objection.

[The letter referred to is located on p. 109.]

Mr. VINDMAN. Thank you, Mr. Chairman.

So we need to find out who is placing these bets no matter how high level or well-connected they are and hold them accountable.

Finally, my office is currently drafting legislation to increase penalties for officials convicted for illegally trading on events contracts with national security implications. Such a measure is necessary because the pattern of massive prediction market stakes in the hours immediately before U.S. forces deploy or take action is alarming and dangerous. And I would hope that if you, in the event that you find that there is wrongdoing, are prepared to immediately refer these matters to DOJ. I look forward to working with you on this matter.

Thank you, I yield back.

The CHAIRMAN. The gentleman's time has expired.

I now recognize the gentleman from Alabama, Mr. Moore, for 5 minutes.

Mr. MOORE. Hey, thank you, Mr. Chairman. Chairman Selig, thank you for being with us today.

I am proud of the work that this Committee did on the CLARITY Act to help give digital assets markets the rules they need to grow in the United States. A lot of that responsibility is going to fall on CFTC, obviously. Can you talk a bit about how the Commission is

getting ready for that authority and how you are working with the SEC now to build a clear framework that can last into future Administrations so we do not need to back up regulatory information by enforcement?

Mr. SELIG. Thank you, Congressman. And I applaud this Committee's efforts to pass bipartisan crypto asset market structure legislation. As I have made very clear multiple times today, I believe that this is absolutely essential for the country to lead in innovation, and I am very supportive of this legislation.

It has been too long in the United States where we have pushed innovators offshore, we have regulated by enforcement, and the lack of clarity around the asset classes just caused it to really languish here in the United States. I think that legislation is key both to identify what is a *security* and what is not and have some certainty in the statute as to what is subject to the SEC's authority and what is subject to the CFTC's authority.

I also believe it is very important that we register these platforms under a Federal regulatory scheme. There has been a patchwork of different state licensing arrangements under the money transmitter laws of various states, as well as the virtual currency business laws that have been newly enacted, and some states have no laws whatsoever. And so having a Federal scheme that is uniform across the country is really essential to protect consumers that are using these crypto assets every day.

Mr. MOORE. And certainly, Mr. Chairman, we appreciate the work the Commission is doing to bring more clarity to digital asset markets, but one thing I hear from a lot of folks in this space is a concern that software developers and people building blockchain infrastructure could once again be caught up in regulation by enforcement under a future Administration. Can you talk about what the CFTC is doing to help build a durable framework that protects people who are simply building software and not holding customer funds so we do not go backwards a few years from now?

Mr. SELIG. Absolutely. One critical endeavor that we have supported over at the SEC has been the codification of an interpretation on what is a *security* and what is not. And the CFTC signed onto this interpretation, so it was done through a joint rulemaking, and it clarifies the SEC's view as to which types of crypto assets are securities and lays out a very clear taxonomy.

And it also has an interpretation related to the *Howey* Test, which has been the bane of the industry's existence for so long because of the many judicial opinions interpreting the definition of an *investment contract*. And so this is laid out very clearly as to how the SEC is looking at things. Now we at the CFTC have a view as to what is a *security* and what is not, and we are starting to implement things like tokenized collateral relief, clarifying the status of stablecoins and how that can be used within our registrants. And so it is really critical that we start to clarify things in the interim, but legislation can help lock it in for the long-term, and that is why we are so supportive of that effort.

Mr. MOORE. And I appreciate you, again, taking time to appear before this Committee. In the words of your March 3 X post, "POTUS is right, the CLARITY Act must pass." And I agree. We need a future-proof market structure now so America can lead in

the world in innovation under President Trump. I want to conclude my time by encouraging my colleagues in the Senate to pass market structure.

And with that, Mr. Chairman, I will yield back.

The CHAIRMAN. The gentleman yields back.

I am now pleased to recognize the gentleman from California, Mr. Carbajal, for 5 minutes.

Mr. CARBAJAL. Thank you, Chairman Thompson, and thank you, Chairman Selig, for being here today. You have a tough job.

Chairman Selig, as you are aware, concerns continue to grow over the use of prediction markets to wager on outcomes involving elections, government activity, war, and other geopolitical events. The CFTC's lack of enforcement on betting in these contexts poses clear risks to public safety, national security, and has fostered conditions for potential insider trading. It has become so concerning that even the White House has warned its staff not to engage in such trading on prediction markets.

Congress has previously identified categories of events, event contracts that may be contrary to public interest, including terrorism, assassination, war gaming, and illegal activity. Chairman Selig, do you believe event contracts related to these categories I mentioned are contrary to public interest?

Mr. SELIG. Congressman, we are approaching this issue through rulemaking, and we have put out an advance notice of proposed rulemaking, so I won't prejudge the outcome of that process where we are receiving input from stakeholders throughout the country on these issues, but we will take those comments into consideration and make sure that we are adhering to the comments and putting rules in place that are going to address these concerns.

Mr. CARBAJAL. In your view, are there subjects that should be clearly off-limits for prediction markets?

Mr. SELIG. Well, Congressman, again, I am not going to prejudge the rulemaking process. I believe that in a free market, it is really important to have access to financial tools, hedging tools, risk management tools, and a broad range of different types of commodities as our statute is designed, of course, with a very broad definition of *commodity*, but I won't prejudge the rulemaking process. We are going to take all the comments and make sure we get the rules right.

Mr. CARBAJAL. Chairman Selig, it is alarming and concerning to see advertising that sports betting is legal in California. I know the Tribes and the people of California would disagree. Voters rejected two different sports betting propositions in 2022 in one of the most expensive ballot campaigns in U.S. history, but now these platforms are operating in California with little oversight, offering wagers on Tribal lands. What steps is the CFTC taking to ensure that derivative markets are not being used to offer gambling-style products outside established state and Tribal regulatory systems?

Mr. SELIG. Congressman, I think it is very important to distinguish between, let's say, gambling-style products and derivatives. Derivatives are a type of financial instrument, and as our statute prescribes, they can be traded with a broad range of different underlying assets, and it is very important that we continue to oversee these markets comprehensively, whether the market is a

sports-related derivatives contract, a political derivatives contract, or a derivative on corn or grain. These are derivatives instruments. They trade on federally regulated exchanges with order books, with clearinghouses, and all the investor protections that you would expect for very sophisticated financial markets.

So we will continue to enforce our statute, but of course, it is critical that we get input on potential rulemaking in the area of prediction markets, as there are some unique considerations around retail participation in these markets, among other things.

Mr. CARBAJAL. Has there been any instances of fraud that you have found to date?

Mr. SELIG. Well, Congressman, I can't speak to any particular investigation or the details of investigations, but we are investigating insider trading, market manipulation, fraud, and so on and so forth in these markets, just like any other. And the exchanges are doing the same. I believe Kalshi has now called out two instances of insider trading, market manipulation in their markets, and fined participants in those markets.

Mr. CARBAJAL. Chairman Selig, with the increasing number of questionable trades taking place as recent, there are growing concerns that those placing these bets may have insider knowledge, whether it is the trade in which a user reportedly earned over \$400,000 by correctly betting on Nicolas Maduro being out of office just hours before the operation, or the account that made hundreds of thousands of dollars by wagering on the U.S. striking Iran, and/or the removal of Ali Khamenei.

These incidences raise serious concerns. Many Americans hear about these trades, which appear to resemble potential insider trading, but hear little about what the agency is doing to hold those involved accountable. What steps, concrete steps, are you taking other than general statements to find these people accountable?

Mr. SELIG. Congressman, they will be held accountable. We are ramping up our enforcement program. We have an excellent director of enforcement, David Miller, who is both former CIA and former Southern District of New York prosecutor, and he will be building out our team, and we are a cop on the beat. We will make sure that those who engage in bad activities are held accountable.

Mr. CARBAJAL. Thank you. I yield back.

The CHAIRMAN. The gentleman's time has expired.

I recognize the gentleman from Iowa, Mr. Nunn, for 5 minutes.

Mr. NUNN. Well, thank you, Chairman Thompson.

Thank you, Chairman Selig. You bring a wealth of experience, both at your time at the SEC and certainly at the Commodity Futures Trading Commission. Guys like me back home in Iowa, we appreciate this because here is the reality. I have a host of 87,000 farm families who wake up every morning not knowing what corn or beans is going to look like until the closing bell, and that is what they look to the CFTC to be a leader in. And just as a point of reference here, corn is at \$4.56 a bushel and beans are up to \$11.65. We are going to hopefully jack that up before our closing bell today.

Look, the reality here is that I am encouraged by your early focus on reducing regulatory burdens, but I want to make sure that we keep the plow pointed in the right direction, as it were, because farmers and ranchers deserve a CFTC that stays laser-focused on

market integrity, accessible hedging, and protection against manipulation. So as you get to work here, we want to be part of your team as you march out with the Agriculture Committee.

Now, as we represent a number of farmers who depend on futures and options to mitigate risk, I was glad to see that you have relaunched the Agriculture Advisory Committee. That is a direct investment making sure that ag continues to be at the forefront of what the CFTC is doing. It is meaningful, and it signals that you are heading in the right direction.

I would also like to make sure that all the discussion today has been on prediction markets for the most part. I want to hear from you. Where does farm and production commodities rank as a list of your top priorities?

Mr. SELIG. This is the top priority. The CFTC grew out of the Department of Agriculture. We have our roots in that community, and we will continue to service it. As I said, the agriculture community will always have a seat at the table in this Administration.

Mr. NUNN. That is exactly what I want to hear, and I know that makes our farm families very happy to hear because we have had a great relationship with the CFTC moving forward.

I am going to transition to something that my senior Senator, Chuck Grassley, who 20 years ago I had the privilege of working with, has made it his number one priority, and an item we are working on together. This is the Whistleblower Fund. Now, Chairman Selig, Senator Grassley has worked to strengthen the CFTC's whistleblower efforts, and whistleblowers who have done everything right, challengingly, have not been paid, some waiting more than a year for the award from the office itself to determine what they were owed. *Pro rata* payments and authorities exist for exactly this situation, so we can call out bad actors and recognize those who are doing the right thing.

I would like you to come alongside me here in committing that you will use that authority today to help make sure that whistleblowers are compensated when they do the right thing.

Mr. SELIG. I believe strongly in our whistleblower program. I am always concerned that there is a risk of retaliation when people are fearful to come forward because they are going to be retaliated against, and so we have to protect that fund and make sure we are continuing to pay out whistleblower awards.

Mr. NUNN. I am heartened by that. I am also heartened by your staff, who I know is also fully committed to this as well. We want to make sure we are all doing the right thing.

When it comes to your background in both the SEC and CFTC harmonization, I would like to say thank you for reducing the duplication between these good markets. Could you talk to us a little bit about one of the top areas where you feel you can move the most rapidly in eliminating inconsistent requirements under the existing authorities before you?

Mr. SELIG. Absolutely. One area that we are keenly focused on is substituted compliance. So for too long, duplicatively registered entities such as a broker-dealer, FCM entity that is both a broker on the SEC side and on the CFTC side, have been strangled with these different regulatory requirements. And working together, we can knock out some of these requirements that are duplicative or

inconsistent in some cases, still making sure there are no gaps, but working closely together to make sure that we are harmonizing our rule sets, and in some instances, relying on one regulator as a primary regulator so that we are not putting too much work on one regulator *versus* the other.

It is important also to recognize that there are areas where we can free up capacity to more effectively regulate new registrants as opposed to working on duplicatively regulating the ones that the SEC already regulates.

Mr. NUNN. And I think that will help not only eliminate the duplication but also the timeliness in which we can execute on that, so that is an encouraging hear-back.

Look, I will end with this. Small Iowa producers are facing higher costs, fewer intermediaries, and complex products. As you talk about vertical integration and market structure reform, from your perspective, whether it is a hog farmer in Altoona, Iowa, or a row crop grower in Red Oak, what does that actually deliver to the little guy with this type of integration?

Mr. SELIG. Well, this is critical for everyday Americans. When you are using the derivatives markets to hedge risk, you have to go through an intermediary, and the more regulation we have on these intermediaries—and some of them, as I mentioned, are both CFTC- and SEC-regulated, so the more duplication and kind of regulatory burdens, that gets passed down to the market participants, the farmers, the ranchers, the producers, and then the consumers who are buying their goods. So this is going to make our markets better, and it is going to reduce costs for everybody.

Mr. NUNN. Keep up keeping the farmer first. Thank you very much.

I yield back my time, Mr. Chairman.

The CHAIRMAN. The gentleman's time has expired.

I now recognize the gentleman from Illinois, Mr. Jonathan Jackson, for 5 minutes.

Mr. JACKSON of Illinois. Thank you, Chairman Thompson. Thank you, Chairman Selig.

As you know, I am sure, section 342 of the Dodd-Frank authorizes the Office of Minority and Women Inclusion at all other financial regulators, including the SEC, where you previously worked. The only Federal financial regulator without a statutorily authorized OMWI is the CFTC. At previous hearings before this Committee, former CFTC Chair Russ Behnam explained how the CFTC's OMWI had improved the agency by establishing partnerships with minority-serving institutions and rural colleges and universities.

Given the good this office has done, it is a shame that your predecessor, Acting Chair Carolyn Pham, appears to have done away with the OMWI. It no longer appears in the CFTC's website, the outreach for minority and women institutions, or on its organizational chart, or at least as a separate office. I ask you the question, are you willing to return the Office of Minority Women back to the CFTC, or do you support the outgoing acting chair's actions?

Mr. SELIG. Well, Congressman, it is very important that we are accountable to the taxpayers and that we are using our resources and staffing the building effectively. So of course, we are consid-

ering each office, making sure that each office is performing an important role, and so I would certainly evaluate that. It is not something that I have evaluated yet, but we are very happy to consider that and work with your office to review it.

Mr. JACKSON of Illinois. Would you be willing to comply with the statutory compliance of other offices in the financial regulation?

Mr. SELIG. Well, Congressman, we are bound by the Commodity Exchange Act, and so to the extent this is not something required in our statute, of course, we are not going to create new statute out of thin air. That is Congress' job.

Mr. JACKSON of Illinois. Okay. Thank you. Let me reclaim my time. I thank you for that.

As we talk about the greater transparency that the CFTC wants to do for robust price discovery, the mechanism, the careful development of derivative products, now we are going on to the predictive markets, we are talking about supporting hedging without undermining market integrity, talking about the liquidity, supply chains, and I used to trade at the Chicago Board of Trade, so I am very familiar with this. You are currently the only Commissioner at the CFTC, correct?

Mr. SELIG. That is correct.

Mr. JACKSON of Illinois. And previously, there were five Commissioners. Is that correct?

Mr. SELIG. At times, there have been five. At times, there has been one, there has been two, various numbers throughout the years.

Mr. JACKSON of Illinois. Considering the enormity of this job, do you feel that you could potentially be overwhelmed?

Mr. SELIG. Congressman, I am performing the role in a very effective way. I am not concerned about the lack of Commissioners. But of course, this is a decision for the President, and to the extent he appoints additional Commissioners, I look forward to working with them.

Mr. JACKSON of Illinois. In the swap markets alone, there is over \$400 trillion of notional value we are looking at from all the sophistication with critical minerals and supplies. How would you say you prioritize how you look at the markets and the regulation necessary every day?

Mr. SELIG. Congressman, I am lucky to have a large building filled with lots of dedicated career civil servants, and so we are comprehensively looking at the markets, whether it is critical minerals, energy, agricultural products, or new digital assets and prediction markets. We perform our role to make sure that the markets are well-functioning in all asset classes.

Mr. JACKSON of Illinois. Thank you so much.

Do you foresee any potential crisis on the horizon that we may be confronted with in this new world of rising energy costs as well as conflicts?

Mr. SELIG. Congressman, what is important is that we are surveilling these markets. We, of course, are a cop on the beat. We are making sure that, to the extent there are any sort of threats to the markets, whether it is fraud, manipulation, insider trading, we are policing that. Systemic issues, of course, we are working together with our counterparts throughout the government—the

SEC, Treasury, and other regulators—to ensure that there is not a threat on the horizon, but we have to be vigilant because there is always a risk.

Mr. JACKSON of Illinois. Well, just like we have price discovery, the Office of Minority and Women Inclusion, that was for talent discovery, that too often these corridors have been segregated because of culture, because of history, because of time, and if we are going to recruit the best, have the best, I think that it would be of great value to yourself and to this nation if you embrace the previous work of the Offices of Minority and Women Inclusion to have more talent discovered. There may be people that can offer more talent that will come from untraditional avenues that could serve our nation well and serve your department.

On that, I yield back. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman yields back.

I now recognize Mr. Baird from the State of Indiana for 5 minutes.

Mr. BAIRD. Thank you, Mr. Chairman and Ranking Member, really appreciate the opportunity to be here today with you. And Mr. Chairman, thank you for being here and sharing your input as we make these kind of decisions.

But anyway, my question deals with this. Back in June of last year, the previous acting Chairman announced a 1 year extension of the Commission's current headquarters lease and a new headquarters in southwest D.C. to come online this June, and so that is just about 6 weeks away. So would you mind giving us an update what the status is of that new lease and the new headquarters?

Mr. SELIG. Congressman, unfortunately, under the prior Administration, there was a focus on rethinking office space and a culture of work from home and flexible hours. And the President has been very clear that it is back to the office and has said so through Executive Order. So we are focused on working together with GSA to identify a proper office space that is going to be able to house as many of our workers as possible. We want to make sure that we are close to 100 percent in line with the President's Executive Order, so we are working hard to identify a proper office space, and we will be moving in as soon as we are complete with that process.

Mr. BAIRD. So I understand from that, you are still moving ahead. It is just you are getting lined up with the rest of the requirements.

Mr. SELIG. Congressman, we are able to stay in our current space, and we are evaluating new space for the future. But rest assured, we will make sure that we have adequate office space so that everyone can be in the office that wants to be.

Mr. BAIRD. So let's turn to another area then. I represent a rural district where agriculture is the backbone of our economy. Our farmers depend on stable, transparent commodity markets every day to manage risk and stay in business.

And so we are also home to Purdue University, a leader in agriculture and data-driven research that helps shape the future of these markets. Given my background in science and my district's deep ties to both production agriculture and innovation, I am particularly interested in how the Commission is balancing its focus on emerging markets like digital assets and new trading struc-

tures, while continuing to ensure that traditional producers have fair access to reliable risk management tools.

And so with that, my question deals with how is the CFTC ensuring these markets remain transparent, liquid, and free of manipulation?

Mr. SELIG. Congressman, we take this responsibility very seriously. We have to comprehensively surveil our derivatives markets, whether it is markets for digital assets, grains, metals, or anything else. We don't discriminate on the product. We are making sure that the markets are well surveilled and we are policing fraud, manipulation, insider trading in all of these markets.

We are working to ensure as well that innovators are able to develop their software systems here, build their new markets here in the United States rather than pushing that off through enforcement. So part of our mandate is responsible innovation, and we are considering tweaks to our regulatory scheme to accommodate these new technologies. But rest assured, we are surveilling, we are making sure that the markets are well functioning in all asset classes.

Mr. BAIRD. So I am glad to hear that because you recognize how important—you know that you are dealing with farmers' lives when you are talking about their income and livelihood, so I am glad to hear that.

One quick last question: How is the Commission then working with the Agriculture Advisory Committee to incorporate real-world feedback from producers into the regulatory prospects?

Mr. SELIG. We are taking working together with the agricultural community as a top priority. We have—for the first time actually, it is very surprising—put out an agriculture webpage on the CFTC website, and we are soliciting feedback from the full spectrum of participants in these markets. And farmers, ranchers, and producers are regularly coming in to meet with us. I have appointed a senior agriculture advisor in my office. We have also built out, as you mentioned, the Agricultural Advisory Committee, which provides a more robust venue for people to provide commentary to the Commission through reports. We are also taking regular meetings with these folks in my office and throughout the building. So it is very important that all of the agricultural community feels welcome back at the Commission. We are here to help and take feedback on all manner of issues.

Mr. BAIRD. Thank you. And I must tell you, you can share that I had a lot of producers that came to the Ag Day that the President had, and they really enjoyed it.

The CHAIRMAN. The gentleman yields back.

Mr. BAIRD. I yield back.

The CHAIRMAN. I now recognize the gentlelady from Connecticut, Mrs. Hayes, for 5 minutes.

Mrs. HAYES. Thank you, Mr. Chairman. Thank you for being here today.

In December, the Connecticut Department of Consumer Protection issued a cease and desist order to Kalshi, Robinhood, and Crypto.com for conducting unlicensed online gambling, specifically sports wagering in Connecticut. States that have legalized sports betting have regulatory frameworks to protect the integrity of the

sports wagered on, as well as consumer protections such as resources for gambling addictions.

The DCP gaming director, Kris Gilman, stated, “These organizations were operating outside of a regulatory environment, posing a serious risk to consumers who may not realize wagers placed on these illegal platforms offer no protections for their money or their information.”

Chairman Selig, this was around the same time you were sworn in as the Chairman of the CFTC, and under your leadership, the CFTC has filed a lawsuit against three states, including my home State of Connecticut, for attempting to regulate online gambling within their jurisdictions.

As you know, more than 34 states and territories have filed *amicus briefs*, asserting their regulatory authority over prediction markets. In your short tenure as Chairman, you have clearly and publicly expressed your views on the jurisdiction of CFTC in interviews. You recently told CoinDesk that the agency will continue to defend its exclusive regulatory authority to oversee prediction markets in court, specifically saying, “It doesn’t matter if it is on sports, politics, or anything else. If it is a validly offered product within a CFTC-regulated exchange, then we regulate that.” When the Federal Government steps in like this, it can undercut the work that states are already pursuing to protect their residents.

Chairman Selig, would Congressional clarity on the roles and responsibilities of states regarding prediction markets help resolve this ongoing legal dispute? And are you willing to work with Congress in a bipartisan manner to clarify that issue so it is not a back-and-forth between the states and Federal Government over this regulatory process?

Mr. SELIG. Congresswoman, I appreciate the concern for states’ rights and all of that, but the statute is very clear that we have the exclusive regulatory authority when it comes to commodity derivatives that are offered on a designated contract market. We will continue to assert ourselves in litigation to defend that right. Of course, we are happy to discuss policy, and we have put out an advance notice of proposed rulemaking to make sure that we get the rules right for these products. But they are exclusively within our regulatory remit, and it is concerning, as the Chairman of the agency, when states try to nullify Federal law.

So we will continue to defend that law in court, but of course, we are happy to discuss policy, and that is why we have an advance notice of proposed rulemaking, which we would welcome all states and stakeholders to engage on.

Mrs. HAYES. Well, it is interesting that you bring up an advance notice of proposed rulemaking for public comment that went out, seeking feedback on how the agency should proceed on the issues of jurisdiction that you are talking about. But given the extensive lengths to which the CFTC has gone to block state regulatory authority over prediction markets, I am concerned that your organization will not give this feedback full consideration during the rulemaking process. And in fact, today, you have said that you are not going to prejudice the public comment period.

So can you tell me today how you ensure the opinions of stakeholders are considered in your Federal rulemaking period? And ad-

ditionally, if public comments are overwhelmingly opposed, what will you do to work that into any implementation going forward?

Mr. SELIG. Well, Congresswoman, there is two separate issues here. There is the issue of our jurisdiction, which in my view is very clear, but this is of course working its way through the courts, and part of this is being argued today in the Ninth Circuit.

The second issue is the policy. We are very happy to engage with anyone who wants to comment on the policy, and that is why we have put this out for notice and comment from the public. And we have never said that a state can't engage on that front. We have never said we are not going to listen to the states. And of course, we are bound to listen to any comments under the Administrative Procedure Act. So we welcome your state to comment. The concern is when states start suing our registrants. This is not the right fight. The fight is with us. If you want to go debate the policy, come and work with us—

Mrs. HAYES. Can you repeat that? When states start suing what?

Mr. SELIG. Start suing our registrants, which is what we have seen, and that just wastes your own state's taxpayer dollars in suing participants that are complying with Federal law. So if you want to fight with us, we will fight with you in court, but the real work should be done in the policy spectrum, comment and comment, and we will work with you all to get the policy right.

Mrs. HAYES. Well, thank you. I appreciate that, but I just want to remind you that states' attorneys generals are also elected by the people in those states, and they have a responsibility to ensure that they are fighting for the best protections for their constituents as well.

I yield back.

The CHAIRMAN. The gentlelady yields back.

Now I am pleased to recognize our newest Member on the House Agriculture Committee, David Valadao, a dairy farmer from California has joined the Committee. And the gentleman is recognized for 5 minutes.

Mr. VALADAO. Thank you, Chairman Thompson. Thank you, Chairman Selig.

This is my first hearing, and the bad thing about being the newest guy on the Committee is everyone has already asked all the questions you wanted to ask. But I do want to touch on a couple things, and I appreciate you being here.

The ability of traditional commodity contracts to self-certify is absolutely vital to farmers, ranchers, producers, energy suppliers, and others who need to hedge markets. And I know that other aspects of this have been touched on, but how can the CFTC ensure that the integrity of the self-certification model is preserved so that traditional commodity contracts remain readily available for commercial users who rely on these markets for price discovery and price management or risk management?

Mr. SELIG. Well, Congressman, it is a pleasure to be able to testify before you as your first hearing. Self-certification is absolutely vital. It is a really great innovation that has come in the commodities markets through this Congress, and it allows us as an exchange to quickly certify products to the CFTC without having to go through a full process of engagement with the staff.

Now, it is critical that the exchanges take that responsibility to heart and that they evaluate each product to ensure that it is not readily susceptible to manipulation and meets our standards, and we work with the exchanges on that. We have done a great job under my leadership in providing guidance. We recently put out an advisory for event contracts. But in prior Administrations, unfortunately, there has been a lack of clarity, and I have inherited a lot of these contracts in the market. So we are working quickly to ensure that there is protections for investors, that the exchanges are doing their job, and we very much appreciate the self-certification process because it allows for innovation in our markets.

Mr. VALADAO. Well, and in the ag world, making sure that you can at least protect from any of the risks out there on the pricing side, especially when you grow as many different commodities as we do. And I mean, I know other states do as well, but my district, about 400 different types of commodities, so it is something we take seriously.

Under the current statute, the CFTC has the authority to determine whether or not an event contract is contrary to the public interest. The statutes go on to list such things as war, terrorism, gaming, and assassination as reason to not list a given contract. The CFTC has taken action to block events. Is the CFTC taking action to block events from being listed that seem to fall into these categories?

Mr. SELIG. Well, in our regulated markets, we have not allowed for any war, terrorism, and assassination contracts, and we are evaluating—this is why we have put out an advance notice of proposed rulemaking. And I won't prejudge that, but we are evaluating the questions as to what the public interest analysis should look like and what sorts of products are not allowed in our markets and which ones are. So this is certainly something we are considering and will continue to consider, and we are optimistic that we will get some very clear rules of the road for this so that, going forward, there is no ambiguity as to what is allowed in our markets.

Mr. VALADAO. All right. And then just one last one. You said on the record before that it is vitally important for CFTC to look at the courts when it comes to constituting gaming on prediction markets. In more recent statements, it seems to have changed a little bit, and I just wanted to give you an opportunity to address that if you had anything to add to that.

Mr. SELIG. Well, the question of gaming is one that is very complex, so there is various interpretations as to what should constitute gaming, and it is not defined in our statute. So we are evaluating that, and that is why we have put out this advance notice of proposed rulemaking so that we get input from the whole community of whether it is the Tribes or the casinos or the prediction markets themselves or other stakeholders to make sure that we get that definition right to the extent that we were to define it under any future rulemaking.

Mr. VALADAO. I appreciate your time, and I have no further questions. I yield back. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman yields back.

I am now pleased to recognize the gentlelady from Maryland, Mrs. McClain Delaney, for 5 minutes.

Mrs. MCCLAIN DELANEY. Thank you for being here today, Chairman Selig. And I represent Maryland's 6th Congressional District, and I think I am the last one on this, so thank you for your willingness to be so responsive.

The CFTC's work as you know is essential, and Marylanders in the 6th District are facing uncertainty from tariffs and volatile markets to more frequent national disasters, and they do rely on stability in the derivatives market to manage that risk. As the sole regulator overseeing these—and I do hope that there are four more that soon join you there to assist with that work—the CFTC is key to keeping supply chains strong, food security is national security, and our producers, our farmers need transparent, liquid, well-regulated markets to manage prices.

You also oversee the digital asset blockchain space, and I am proud that we advanced the bipartisan CLARITY Act, including several of my amendments to strengthen consumer protections and agency durability. I encourage you to continue to work with Congress to empower the CFTC to develop a transparent, principle-based framework to oversee crypto markets in the U.S. And working with you, Congress must establish clear, doable rules for digital assets that foster responsible innovation and also protect our consumers, right?

So to do this, we must move from regulation by enforcement approach at the SEC to, as I said, principle-based framework that provides market clarity, supports market integrity, and allows responsible actors to operate. And this includes empowering you with appropriate authority over that. I look forward to this work in this Congress and future Congresses, but I just wanted to put that out. And in the interest of time, I am submitting some questions for the record on that.

Moving on, Mr. Chairman, last year I introduced, along with Congressman Messmer, the bipartisan CFTC Charitable Organization Regulation Exemption Act of 2025. I think he raised it earlier, and I just want to lift up that bill again. I really think it is an incredible one, and many of our churches have reached out to us. Thank you for your commitment to working with us on this issue and ensuring that charities can responsibly diversify their portfolios and protect their investments from market volatility.

And in the interest of time, I will also submit some questions on that but really work on that because it is really important.

And last, I am going to talk about energy and long-term durability. As many of my colleagues have said, the energy futures market has experienced significant shocks over the past few weeks. The volatility has real consequences for farmers, for families, and these markets rely on trust and transparency. Your responsibility is to protect and prevent these destabilizing conditions and root out fraud and abuse.

And the President's budget does, though, include significant increases in its budget, and I assume that these resources will be tagged for part of that. Building on some of Rep. Vindman's questions because I want to get to it, about these suspicious oil trading futures that were aligned with major developments in the Iranian conflict, and most notably, roughly \$500 million in oil futures were traded just hours before the strikes on Iranian energy infrastruc-

ture on March 23. And this really raises questions about market integrity. And you spoke to zero tolerance on this type of trading. I am concerned about how the CFTC can maintain this long-term stability with global shocks and then also deal with this.

So my question is, how would the Administration's additional resources help the CFTC maintain durability, predictability, and capacity in our energy markets but also just turmoil and reign in corruption? And you said something about AI. I am going to add about that. Given your focus on AI and using it for additional efficiencies, will you be using AI tools with appropriate human oversight to correct abuses? Or are there other tools or policies that we can help you with? Really important.

Mr. SELIG. Well, on your first question related to enforcement, we are building out even more comprehensive and strong safeguards around surveillance, so that is going to allow us to catch bad actors in the act and make sure that our enforcement staff are able to then prosecute the cases with the best information and the best data on what is occurring in our markets. So that is a key priority, and we are bringing on some new talent to help build out those systems, but we have really strong systems in place as it is. But of course, you can always tweak those with new technologies and new opportunities in terms of third-party software systems.

In terms of AI, we are starting with some of the Microsoft 365 products that I mentioned that will allow our staff to start incorporating AI into their workflows, and this is going to make them more productive so that they can, of course, focus on their day-to-day tasks and also manage things using automation and software tools. So that is a key priority of ours, expanding the use of AI throughout the building. And there are also software systems and tools that can allow us to pick things up faster, whether it is surveillance or otherwise using AI.

Mrs. MCCLAIN DELANEY. Thank you. I yield back.

The CHAIRMAN. The gentlelady's time has expired.

I now recognize Congresswoman Brown from the State of Ohio.

Ms. BROWN. I think I am actually the last person, so thank you.

The CHAIRMAN. You are.

Ms. BROWN. Thank you, Chairman Thompson. Mr. Chairman, thank you for being here today.

The CFTC's last reauthorization expired in 2013. Since then, we have seen the responsibility of the agency expand without any additional resources or authorities in order to respond to them. These are serious concerns that need to be addressed as the Commission absorbs and Congress gives it a larger regulatory role.

So let's be clear. I support innovation. However, I am deeply concerned about current and growing gaps in the existing regulatory regime and the lack of investigation from the CFTC into unethical behavior. Public reporting has described highly suspicious well-timed trading ahead of the U.S.-Iran ceasefire announcement. Reuters also reported the White House warned staff not to use their positions to place market bets amid concerns about insider trading and suspicious trading around Iran-related events. This raises serious questions around public trust and corruption risk when markets are tied to government actions, political outcomes, diplomacy, and official decisions.

So my concern is simple. As the CFTC takes on more responsibility, Congress needs confidence that the agency has the resources, the staffing, the legal clarity, and the enforcement posture to adequately regulate these markets, allow innovation to advance, and protect consumers.

So, Mr. Chairman, given the Commission's vacancies, expired re-authorizations, current staffing constraints, and growing workload, do you believe the CFTC today has the staff, technology, and enforcement capacity to effectively oversee not only the traditional derivatives markets but also digital assets and rapidly expanding prediction markets?

Mr. SELIG. Congressman, we are running more efficiently and effectively than ever before, thanks to right-sizing things within the building, and this is all thanks to the President's leadership. We are a cop on the beat. We are policing fraud, manipulation, insider trading, and I think your allegations to the contrary are completely unfounded.

Ms. BROWN. Well, that is interesting. What more do you all need from Congress in order to ensure that you have an agency that is well-resourced enough to respond to the market innovation that we have seen explode in the last few years?

Mr. SELIG. Congresswoman, we are adequately staffed right now. We are continuing to bring on new staff, and the résumés speak for themselves. As I have said, we have brought on real experts from the outside, private-sector expertise, and we are functioning better than ever.

It is really critical that we continue to bring on new software systems like AI tools and surveillance tools to make sure that we are better suited to police the markets, but we are running very effectively and efficiently, and I think a lot of this fake news out there about us being under-resourced is incorrect. We have a very well-resourced building, and we will continue to fulfill our mission.

Ms. BROWN. Just a point of clarification, so you said you are adequately staffed, and you are bringing on more staff. So which one is it?

Mr. SELIG. Congresswoman, we are bringing on additional talent where it can be helpful to fulfill our mission, but we have the staff and resources to make sure that we are carrying out our mandate as an agency.

Ms. BROWN. So you do, by your own admission, think that you need more staff if you are bringing them on?

Mr. SELIG. Congresswoman, there are certain vacancies that we are filling. That does not mean that we don't have the resources and staff to fulfill our mission. We can always do more as an agency, and we will continue to make sure that we are setting the gold standard for regulation of our financial markets, but we are on the beat, and we will continue to perform our vital mission.

Ms. BROWN. And I want you to be clear. I am not trying to be adversarial. I want to be helpful to you, so that is why I am trying to get to the root of the issue. If you need more resources, this is the time to let us know.

Do you believe that the current guardrails are sufficient to address insider trading?

Mr. SELIG. Congresswoman—and I very much appreciate that.

Ms. BROWN. Woman.

Mr. SELIG. Congresswoman, I very much appreciate that. It is very important that we have the resources, as you mentioned, and I do believe that we have the resources we need to continue to carry out our mission, but of course, we are always broadening our abilities to police the markets.

In terms of—sorry, what was your second question? I apologize.

Ms. BROWN. The guardrails. Do you think you have sufficient guardrails to address insider trading?

Mr. SELIG. Yes, in terms of insider trading, our statute is very clear. We have very broad authority to police for fraud, manipulation, and insider trading, and we are building out our surveillance capabilities to be able to more effectively police in these markets.

In terms of the newer markets, like prediction markets, we have entered into a memorandum of understanding with the Major League Baseball organization, and we will continue to enter into agreements with other leagues and participants to ensure that we have all the information we need to adequately police these markets.

Ms. BROWN. Okay. Thank you. This Committee has an obligation to ensure that the CFTC is fully staffed, fully funded, formally re-authorized, and prepared to protect the public from insider trading, corruption, and profiteering off the government in action, and I look forward to working with my colleagues to address these concerns.

Thank you for indulging me, Mr. Chairman. I yield back.

The CHAIRMAN. The gentlelady's time has expired.

Before we adjourn today, I invite the Ranking Member to share any closing comments that she may have.

Ms. CRAIG. Thank you, Mr. Chairman, and thank you, Chairman Selig, for your participation today.

This Committee takes seriously its responsibility to oversee the CFTC's work, and I believe today's discussion has helped highlight both the challenges and the opportunities facing our agricultural producers, retail investors, and the broader markets that they rely on.

As Ranking Member of the Committee, I am constantly reminded of the vital role our farmers, ranchers, and rural communities play in our nation and economy and of the volatility that they have endured since President Trump has taken office. At the very least, they should be able to trust without a doubt that America's financial system and markets are reliable, stable, and impartial and that the regulators who take enforcement actions are capable and equipped to look out for the American people's financial interests without political interference or favoritism.

Allegations of insider trading on prediction markets are serious concerns, and today's discussion made clear that there are steps the CFTC and Congress must take to ensure market integrity, protect consumers, and meet the needs of businesses that use commodity markets to hedge risks.

It also is made clear that we need more than just you at the Commission, and I would encourage the Administration to nominate and fill these positions and return to a bipartisan organization.

I look forward to continuing this conversation in the coming days and months and encourage my colleagues on both sides of the aisle to work together to provide the CFTC with the funding and resources it needs to do the job that we have set out for it to do.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Ranking Member.

Chairman Selig, thank you so much for your time, your leadership, your expertise, much appreciated. I thought it was a very good hearing. We touched on a lot of different issues. We look forward to working with you and your team in the critical role that you have and in an evolving role, obviously, with digital assets, with the rulemaking in terms of the prediction markets and where that may go. I appreciate the fact that you are using those listening skills through the rulemaking process to make informed decisions.

The Ranking Member and I will be sending a letter to the White House, just encourage him to promptly fill those Commissioner positions with qualified individuals, making sure both Majority and Minority is represented. We will get you some talented folks there, which I know that you will work with and deploy to help fulfill the mission.

And with that, we just really appreciate your time today and your testimony.

So under the Rules of the Committee, the record of today's hearing will remain open for 10 calendar days to receive additional material and supplementary written responses from the witnesses to any question posed by a Member.

This hearing of the Committee on Agriculture is adjourned.

[Whereupon, at 1:57 p.m., the Committee was adjourned.]

[Material submitted for inclusion in the record follows:]

SUBMITTED ARTICLE BY HON. DAVID ROUZER, A REPRESENTATIVE IN CONGRESS FROM NORTH CAROLINA



[<https://www.fb.org/market-intel/farm-bureau-survey-reveals-real-impact-of-fertilizer-availability-and-price>]

Market Intel¹ | Apr. 14, 2026

FAITH PARUM, PH.D.,² Economist

Farm Bureau Survey Reveals Real Impact of Fertilizer Availability and Price



Key Takeaways

- **Fertilizer pre-booking rates varied significantly by region**, with just **19% of Southern producers** reporting fertilizer purchases secured ahead of the season, compared to **30% in the Northeast, 31% in the West and 67% in the Midwest**, reflecting differences in planting decision timelines and **exposure to recent price increases**.
- **Fertilizer affordability challenges are most acute in the South and Northeast** but remain a concern for farmers across **all regions**. Around **70% of respondents** report being unable to afford all the fertilizer they need.
- **Farm diesel prices have increased 46% since the end of February**, raising costs for **fieldwork, fertilizer transport and irrigation** during both planting and growing seasons.
- **Nearly six in ten farmers report worsening finances**, reflecting **rising fertilizer and fuel costs during spring planting** and underscoring the urgent need for **immediate economic assistance** to keep farms gates open.

Rising input costs tied to the conflict in the Middle East are adding strain to an already challenging farm economy. To better understand how global fertilizer market disruptions are affecting producers during spring planting, the American Farm Bureau Federation conducted a Fertilizer Availability Survey of farmers and ranchers across the country. More than 5,700 farmers responded to the survey, which was conducted April 3 through April 11.

Regional Differences Reflect Crop Mix and Supply Exposure

Survey responses show the closure of the Strait of Hormuz is affecting regions across the United States differently because crop production systems and fertilizer needs vary.

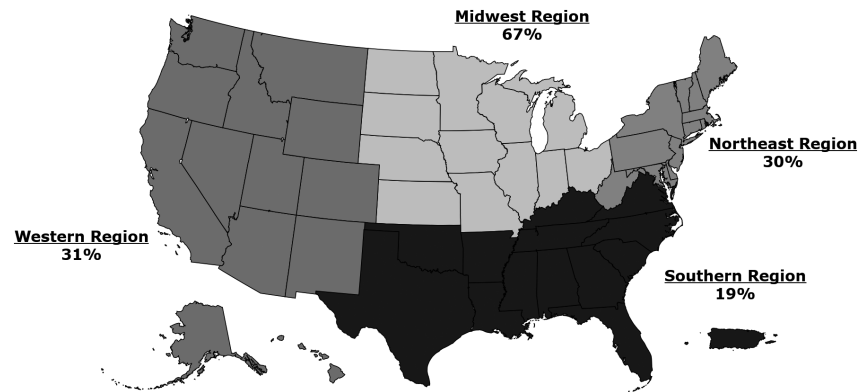
¹<https://www.fb.org/market-intel>.

²<https://www.fb.org/author/faith-parum>.

Midwestern producers—often relying on a corn and soybean rotation—reported higher pre-booking rates, with 67% securing fertilizer earlier in the season. Given these crop rotations, pre-booking is more common in the Midwest, where fertilizer needs are typically larger and purchasing decisions are often made well ahead of planting. As a result, a larger share of Midwestern farmers reported being able to secure the inputs they need before recent price increases. Even with higher pre-booking rates, nearly one in three Midwestern farmers still report entering the season without securing all of their fertilizer needs.

Percentage of Farmers Who Pre-[B]ooked Fertilizer

Share of Respondents by Region Who Pre-[B]ooked Fertilizer for 2026



American Farm Bureau Federation

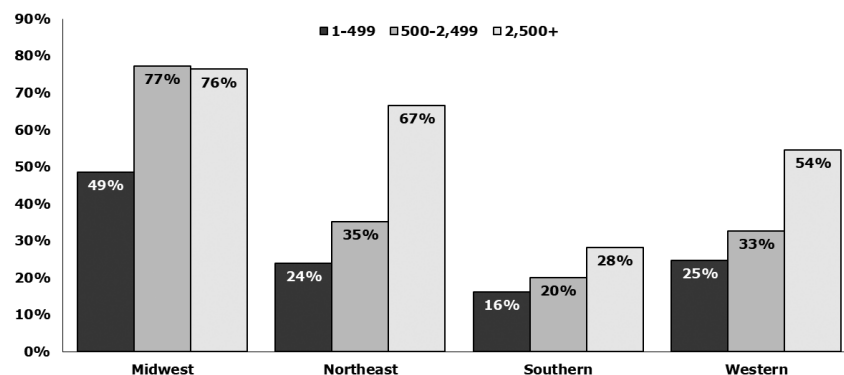
Source: AFBF Fertilizer Availability Survey; Analysis by American Farm Bureau Federation.

In contrast, producers in other regions are more likely to purchase fertilizer closer to application, increasing exposure to in-season price volatility during periods of market disruption. Nineteen percent of southern farmers pre-booked fertilizer this crop year. Southern producers often grow crops such as cotton, rice, soybeans, corn and peanuts that rely heavily on applied nutrients and can be particularly sensitive to changes in fertilizer costs. Pre-booking rates are similarly limited in other regions, with just 30% of farmers in the Northeast and 31% in the West securing fertilizer ahead of the season.

Smaller farms reported substantially lower fertilizer pre-booking rates than larger operations across every region, suggesting greater exposure to recent price volatility during the spring purchasing window. In the Midwest, 49% of farms with 1–499 acres pre-booked fertilizer, compared to 77% of farms with 500–2,499 acres and 76% of farms with 2,500+ acres. The gap was even more pronounced in the Northeast, where only 24% of the smallest farms pre-booked fertilizer, compared to 35% of mid-sized farms and 67% of the largest operations. Similar patterns appeared in the South (16% for 1–499 acres *vs.* 28% for 2,500+ acres) and West (25% *vs.* 54%). Because smaller farms are less likely to secure fertilizer ahead of the season, they are more exposed to in-season price increases, which can make it harder to afford full application rates and increase the risk of reduced yields and tighter margins in 2026.

Fertilizer Pre-Booking by Farm Size

Share of Respondents Reporting They Pre-Booked Fertilizer, by Farm Size (Acres) and Region



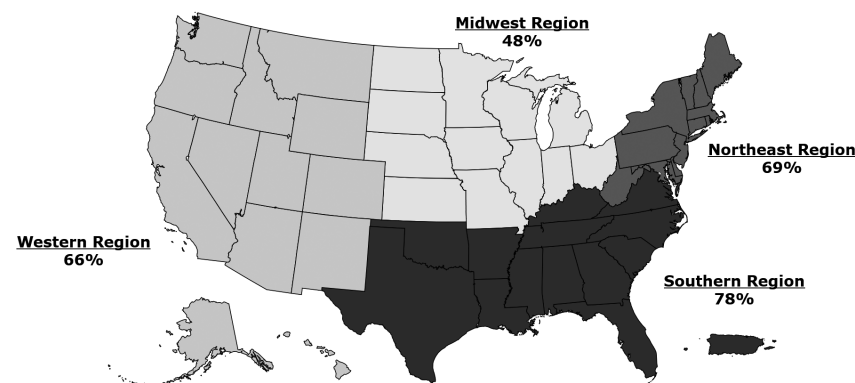
American Farm Bureau Federation

Source: AFBF Fertilizer Availability Survey; Analysis by American Farm Bureau Federation.

Farmers in the Southern region reported the greatest difficulty securing fertilizer, with 78% unable to afford all needed inputs this season. Producers in the Northeast and West also reported significant challenges, with 69% and 66%, respectively, unable to afford all required fertilizer, compared to 48% in the Midwest. When producers cannot afford full fertilizer application rates, they may reduce nutrient use or shift acreage decisions, both of which increase the risk of lower yields and reduced production potential in the 2026 crop year.

Percentage of Farmers Unable to Afford All Needed Fertilizer

Share of Respondents by Region Unable to Afford All Needed Fertilizer for 2026



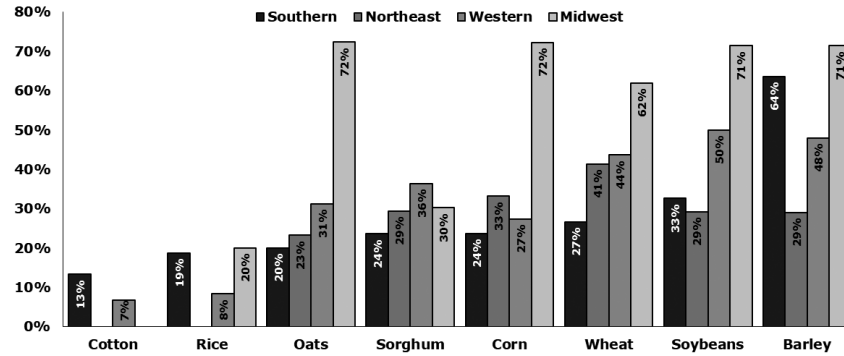
American Farm Bureau Federation

Source: AFBF Fertilizer Availability Survey; Analysis by American Farm Bureau Federation.

Pre-booking behavior varies significantly across commodities. Nearly half of soybean producers reported pre-booking fertilizer (49%), followed by barley (47%), corn (44%), and wheat (42%) growers. Lower pre-booking rates among cotton (13%) and peanuts (9%), both crops grown in the southern U.S., suggest greater farm exposure to in-season price volatility.

Fertilizer Pre-Booking by Commodity

Share of Respondents Reporting They Pre-Booked Fertilizer, by Commodity and Region



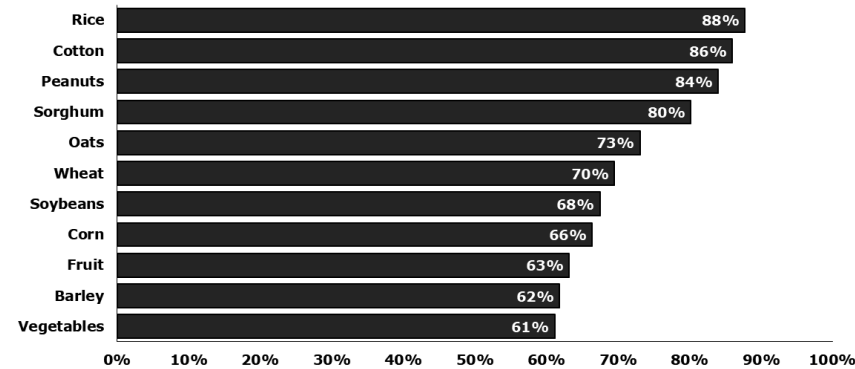
American Farm Bureau Federation

Source: AFBF Fertilizer Availability Survey; Analysis by American Farm Bureau Federation.

Affordability concerns are even more pronounced when viewed by commodity. More than 80% of rice, cotton and peanut producers reported they cannot afford all required fertilizer, highlighting the vulnerability of these production systems to input cost shocks. Over half of all commodities report not being able to afford all fertilizer needs this year.

Share of Farmers Unable to Afford All Required Fertilizer

Share of Respondents Reporting They Could Not Afford All Required Fertilizer, by Commodity



American Farm Bureau Federation

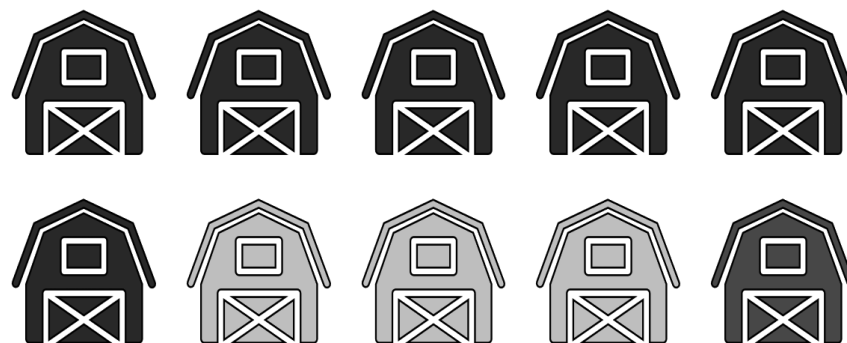
Source: AFBF Fertilizer Availability Survey; Analysis by American Farm Bureau Federation.

According to the survey, 94% of respondents reported their financial situation has worsened or remained the same since last year, while only 6% reported improvement. Poor financial conditions going into this growing season impacted planting and purchasing decisions, and as a result, rapidly changing fertilizer and fuel market price volatility impacted farmers across the country in different ways—as confirmed by our survey.

94% of Farmers Report Same or Worse Financial Conditions

Share of Farmers Reporting the Same or Worse Financial Conditions in 2026

Worse: 58% | Same: 36% | Better: 6%



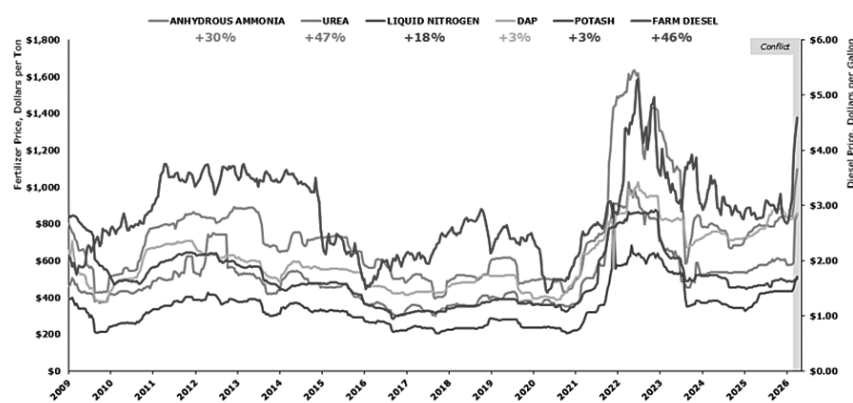
American Farm Bureau Federation

Source: AFBF Fertilizer Availability Survey; Analysis by American Farm Bureau Federation.

Spring planting decisions depend heavily on access to fertilizer and diesel fuel, both of which have been impacted by geopolitical risks that have disrupted global markets. Since the escalation of tensions in the Middle East, nitrogen fertilizer prices have risen more than 30%, while combined fuel and fertilizer costs have increased roughly 20% to 40%. Urea prices have increased by 47% since the end of February, marking the largest month-to-month percentage increase in the price of urea. These increases are occurring when many producers were already facing *tight margins for many consecutive years*.³

Farm Fertilizer and Diesel Prices Climb

Fertilizer and Fuel Prices in Illinois, Percent Change Since End of February



American Farm Bureau Federation

Source: USDA AMS; Analysis by American Farm Bureau Federation.

Fuel is a major operating expense during spring planting, affecting machinery operation, fertilizer transport and irrigation. As energy markets tightened following the closure of the Strait of Hormuz, diesel and gasoline prices increased significantly, raising costs across nearly every stage of production. Farm diesel prices have

³ <https://www.fb.org/market-intel/significant-farm-losses-persist-despite-federal-assistance>.

risen 46% since the end of February, marking the largest month-to-month percentage increase in diesel prices over the period.

Higher energy prices also increase the cost of producing nitrogen fertilizer, which relies heavily on natural gas as feedstock. Together, these overlapping increases in fuel and fertilizer expenses help explain why more than 90% of farmers surveyed reported that their financial conditions have worsened or remained the same since last year.

Bottom Line

Fuel and fertilizer markets are the most volatile since Russia's invasion of Ukraine, and the duration of disruptions in the Middle East and closure of the Strait of Hormuz will ultimately determine farm production expenses in the months ahead—a variable that significantly impacts farm margins given historically low crop prices. While the United States is the world's largest producer of oil and natural gas, fuel and fertilizer markets remain globally interconnected.

Countries exposed to instability in and around the *Persian Gulf* account for roughly 49% of global urea exports⁴ and about 30% of global ammonia exports. Because these products are essential for crop production, disruptions in the region can influence fertilizer availability and prices well beyond the Middle East.

Survey results suggest many farmers are already adjusting fertilizer purchases and application decisions in response to rising costs. If disruptions persist, these adjustments could affect yields, *acreage decisions*⁵ and overall production potential in the 2026 crop year. The first opportunity to see how farmers reacted will come with USDA's May World Agricultural Supply and Demand Estimates (WASDE) report, followed by the June 30 Acreage report.

Domestic Food Production Security is National Security

The Administration has announced plans to help ensure the safe passage of fuel shipments through key global shipping lanes. Expanding these protections to include *agricultural input supplies such as fertilizer*⁶ should also be a priority given their importance to food production and national security.

Given the worsening financial conditions on the farm, support is building for additional economic aid for farmers in any upcoming legislation to help offset economic hardships made more challenging by recent increases in fertilizer and fuel prices.

SUBMITTED LETTER BY HON. JAMES P. MCGOVERN, A REPRESENTATIVE IN CONGRESS
FROM MASSACHUSETTS

April 6, 2026

Hon. MICHAEL S. SELIG,
Chairman,
Commodity Futures Trading Commission,
Washington, D.C.

Dear Chairman Selig,

We write to express concern that prediction markets have come to resemble an unregulated "Wild West." The Commodities Futures Trading Commission (CFTC) has rebuffed this characterization, but recent high-profile instances of alleged insider trading on prediction market platforms relating to U.S. Government actions—including the military's intervention in Venezuela and our recent attack on Iran—have fueled concern that the CFTC does not have adequate control over these fast-growing markets. Accordingly, we write to seek information about the CFTC's regulatory approach to the current situation.

The prevalence of event contracts that appear to flout United States law is concerning and indicative of a sector lacking proper oversight. Although many of the most flagrant recent trades occurred outside the United States, this should not preclude the Commission from undertaking enforcement actions to uphold and enforce United States law.

As you know, CFTC Rule 40.11 prohibits the listing of contracts that "involve, relate, or reference terrorism, assassination, war, gaming, or an activity that is unlawful under any State or Federal law." In turn, the CFTC has the authority under the Commodities Exchange Act (CEA) to apply its rules and regulations for the pur-

⁴ <https://www.fb.org/market-intel/middle-east-tensions-raise-spring-planting-concerns>.

⁵ <https://www.fb.org/market-intel/prospective-plantings-report-provides-first-look-at-acreage-intentions>.

⁶ <https://www.fb.org/files/AFBF-Letter-to-POTUS-Fertilizer.pdf>.

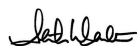
pose of preventing evasion of the CEA's underlying swap provisions (which would include the Commission's Section 6(c)(1) authority to combat market manipulation). Furthermore, Section 2(i) of the CEA allows the CFTC to apply any rule or regulation issued under the CEA when swap activities outside the United States have a direct and significant connection with activities in, or effect on, commerce of the United States.

These provisions make it clear that the CFTC has the authority to police insider trading in swaps markets and should apply its existing rule prohibiting bets relating to terrorism, assassinations, and war. This should especially be clear for contracts that are as morally obscene as betting on military action in Venezuela and Iran. Such corrupt trades deserve swift and decisive oversight. Allowing these contracts to persist raises troubling concerns about the Commission's desire and capacity to fulfill a global regulatory role.

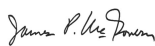
As described above, we believe that the Commission has the authority to regulate insider trading and violations of U.S. law occurring within swaps contracts outside of the United States, and we are requesting information as to why the Commission has not taken greater action against them. We request responses to the following questions by April 15, 2026, so that we can better understand your regulatory approach.

1. Why has the Commission neglected to take public action, thus far, against prohibited war, terrorism, or assassination swaps issued by non-U.S. entities?
2. Does the Commission agree with our assessment that it has the authority to regulate insider trading, as a form of market manipulation, and swaps that violate Rule 40.11, even if the violations occur outside the United States?
3. Does the Commission have adequate enforcement capacity to regulate insider trading, market manipulation, and swaps that violate Rule 40.11 on U.S.-regulated exchanges?
4. Did the Commission discuss with Polymarket the continued listing of swaps prohibited by Rule 40.11 during negotiations to allow Polymarket reentry into the United States?
5. Does the Commission believe it has adequate statutory authority to regulate insider trading within prediction markets?
6. Has the Commission been made aware of any conflicts of interest between major market participants and family members of Executive Branch officials, including the President of the United States?

Sincerely,



SETH MOULTON,
Member of Congress



JAMES P. MCGOVERN,
Member of Congress



GREG CASAR,
Member of Congress



JAMIE RASKIN,
Member of Congress



DINA TITUS,
Member of Congress



GABE AMO,
Member of Congress



YASSAMIN ANSARI,
Member of Congress

SUBMITTED ARTICLE BY HON. ERIC SORESENSEN, A REPRESENTATIVE IN CONGRESS
FROM ILLINOIS



[<https://www.bloomberg.com/news/articles/2026-04-15/us-probes-suspicious-oil-trades-made-before-trump-iran-pivots>]

US Probes Suspicious Oil Trades Made Before Trump Pivots

By Ben Bartenstein,¹ Isis Almeida,² and Nicola M. White³

April 15, 2026 at 12:51 PM EDT

Updated on April 15, 2026 at 4:26 PM EDT

The top U.S. derivatives regulator is investigating a series of suspiciously well-timed trades in the oil futures market ahead of recent policy pivots by President Donald Trump related to the war in Iran, according to people familiar with the matter.

The *Commodity Futures Trading Commission*⁴ is leading the probe into trading of oil futures contracts on platforms belonging to *CME Group Inc.*⁵ and *Intercontinental Exchange Inc.*,⁶ said the people, who asked not to be identified as the information is private. Both exchanges were asked to hand over data, the people said.

The CFTC is looking into at least two instances over a period of about 2 weeks where trading volumes surged shortly before major announcements, the people said. Data requested from the exchanges include the so-called Tag 50 identifications of the entities behind the trades, the people said.

Recent examples where oil trading volumes spiked at key moments in the past few weeks have raised concerns about potential misuse of material non-public information tied to Trump's shifting stance on the war in Iran. Historic disruption to Middle Eastern oil flows sent oil soaring at the start of the conflict. Prices whipsawed in subsequent weeks on speculation over when tanker traffic might resume through the Strait of Hormuz.

The CFTC and Intercontinental Exchange declined to comment on the investigation. A White House spokesperson referred comment to the CFTC.

"We vigorously surveil our markets and work closely with the CFTC to oversee trading activity," CME said in a statement. "Importantly, any review of market behavior must include all venues, including prediction markets like Polymarket and Kalshi that list related products with little to no visibility."

Kalshi declined to comment while Polymarket didn't immediately respond to a request for comment.

As scrutiny of the well-timed trades has intensified, two Democratic senators have urged⁷ the CFTC to examine potential irregularities. The White House circulated an internal memo last month *cautioning staff*⁸ against trading on sensitive information in financial markets and rapidly expanding event-based betting platforms.

"These suspicious oil trades look like an appalling example of insiders rigging the market," Democratic Senator Elizabeth Warren said in a statement Wednesday. The probe "is a start, but CFTC and the SEC should do their job and investigate anything that looks like insider trading by Trump Administration officials."

On March 23, oil and stocks futures worth billions of dollars were traded *15 minutes*⁹ before Trump said previously threatened strikes on Iranian energy infrastructure would be delayed. The President's comments in a Truth Social post sent crude prices plummeting and equities soaring.

¹ <https://www.bloomberg.com/authors/ASoVO4WYW28/ben-bartenstein>.

² <https://www.bloomberg.com/authors/AQUS59a2qxc/isis-almeida>.

³ <https://www.bloomberg.com/authors/AXDw5O79HNg/nicola-m-white>.

⁴ <https://www.bloomberg.com/quote/13358Z:US>.

⁵ <https://www.bloomberg.com/quote/CME:US>.

⁶ <https://www.bloomberg.com/quote/ICE:US>.

⁷ <https://www.bloomberg.com/news/articles/2026-04-10/senators-push-cftc-to-probe-oil-trading-before-trump-iran-news>.

⁸ <https://www.bloomberg.com/news/articles/2026-04-10/white-house-warns-staff-on-insider-trading-amid-iran-war-bets>

⁹ <https://www.bloomberg.com/news/articles/2026-03-24/oil-market-sees-spike-in-trades-ahead-of-trump-s-iran-pivot-post>.

A similar pattern was observed ahead of Trump's April 7 announcement of a 2 week ceasefire with Iran. Futures activity increased in the hours before the news, which caused both oil and gas prices to *plunge*.¹⁰

West Texas Intermediate oil futures, the most widely cited price for U.S. crude, trade on the CME's Nymex platform. Brent oil, the global benchmark, trades on Intercontinental Exchange's ICE Futures Europe exchange.

While the CFTC can request data directly from CME for WTI trades, since Nymex is based in New York, any request regarding Brent needs to be made via the UK's Financial Conduct Authority because Brent trades in London, the people said. The FCA didn't immediately respond to a request for comment.

"There's enormous appetite to pursue cases like this," said Brian Young, the former director of the CFTC's enforcement division who's now a partner at Jones Day. "After all, prices at the pump closely correlate to oil futures contracts, so we're talking about American pocketbooks at stake here."

CFTC Enforcement Director David Miller said in late March that the agency was monitoring oil futures trading for potential irregularities, while declining to comment on any specific investigations.

*With assistance from Charles Gorriivan, Lydia Beyoud, Jonathan Browning, Skylar Woodhouse, and Katherine Doherty
(Updates with additional comment from CME in sixth paragraph, response from Kalshi in seventh, comment from senator in ninth.)*

SUBMITTED POSTER BY HON. GABE VASQUEZ, A REPRESENTATIVE IN CONGRESS FROM NEW MEXICO

April 14: Colorado Rockies vs Houston Astros



Houston -1.5

YES: \$10 wins \$11.70

No Run First Inning

YES: \$10 wins \$8.70

PREDICTION MARKET

Houston -1.5

YES: \$10 wins \$11.30

No Run First Inning

YES: \$10 wins \$8.70

**STATE-REGULATED
GAMING ENTITY**

SUBMITTED ARTICLE BY HON. EUGENE SIMON VINDMAN, A REPRESENTATIVE IN CONGRESS FROM VIRGINIA

The Washington Post

Democracy Dies in Darkness

¹⁰ <https://www.bloomberg.com/news/articles/2026-04-07/latest-oil-market-news-and-analysis-for-april-8>.

[https://www.washingtonpost.com/politics/2026/04/09/prediction-markets-kalshi-polymarket-iran-maduro/b6497988-3454-11f1-b85b-2cd751275c1d_story.html]

Prediction markets are back in the spotlight, this time because of the war in Iran

Prediction markets let people wager on anything from a basketball game to the outcome of a presidential election—and recently, even the fate of the U.S. and Israel's war against Iran

April 9, 2026



Government supporters gather to mark the 40th day since the death of Supreme Leader Ayatollah Ali Khamenei in Tehran, Iran, Thursday, April 9, 2026. (AP Photo/Vahid Salemi)

By Wyatt Grantham-Philips | AP

Prediction markets let people wager on just about anything—from *basketball games*¹ to *elections*.² And among more jarring bets recently, the fate of the U.S. and Israel's war against Iran.

Shortly ahead of a fragile ceasefire agreement earlier this week, a new group of accounts on prediction market platform Polymarket made *highly specific, well-timed trades*³ betting there'd be an announcement about a halt in fighting for April 7. Some quickly pocketed awards, which amounted to hundreds of thousands of dollars in profits combined. Others are still awaiting payouts as an end to the deadly conflict *still seems uncertain*.⁴

Regardless, the trades once again put the spotlight on a murky—and growing—world of speculative, 24/7 transactions now filling the internet. And some have raised questions about suspicious activity, including an anonymous Polymarket trader *pocketing more than \$400,000*⁵ following the U.S. military's capture of former Venezuelan President Nicolás Maduro in January.

¹ <https://apnews.com/article/kalshi-polymarket-nfl-nba-mlb-nhl-663ec7f5da78aedd7d7c145bb9cb65ca>.

² <https://apnews.com/article/betting-elections-gambling-cftc-kalshi-trump-harris-892d98e4d358fbc2b1022744b5827c45>.

³ <https://apnews.com/article/polymarket-iran-trump-ceasefire-prediction-markets-350d9fe5ffefa74080ff5dd973aef48b>.

⁴ <https://apnews.com/live/iran-war-israel-trump-04-09-2026>.

⁵ <https://apnews.com/article/prediction-markets-maduro-trades-1f47e737f915fff00c57f03e7390b41f>.

The timing and subjects of such trades have fueled concerns about potential insider trading—with calls *increasing among lawmakers*⁶ for investigations. Popular platforms, including Polymarket, have rolled out added guardrails in efforts to *combat insider trading*⁷ recently, but critics say it isn't enough.

Meanwhile, because prediction market wagers are categorized differently than traditional forms of gambling, tensions about government oversight have erupted. President Donald Trump's Administration has already *thrown its support*⁸ behind company operators—and *sued three states*⁹ over their efforts to regulate them further.

Here's what we know:

How prediction markets work

The scope of topics involved in prediction markets can range immensely. Recently, there's been a surge of wagers on elections and sports games. But some users have also bet millions on things like a rumored—and ultimately unrealized—"secret finale" for the Netflix's "Stranger Things," whether the U.S. Government will confirm the existence of extraterrestrial life and how much billionaire Elon Musk might post on social media this month.

In industry-speak, what someone buys or sells in a prediction market is called an "event contract." They're typically advertised as "yes" or "no" wagers. And the price of one fluctuates between \$0 and \$1, reflecting what traders are collectively willing to pay based on a 0% to 100% chance of whether they think an event will occur.

The more likely traders think an event will occur, the more expensive that contract will become. And as those odds change over time, users can cash out early to make incremental profits, or try to avoid higher losses on what they've already invested.

Proponents of prediction markets argue putting money on the line leads to better forecasts and allow you to gauge public opinion as an alternative to polling. And some think there's value in monitoring prediction markets for potential news, particularly elections.

Still, prediction markets can also be wrong. People investing their money may be closely following certain events, but others could just be randomly guessing.

Who is behind all of the trading is also pretty unclear.

The companies running today's biggest platforms know who their customers are—as they collect personal information to verify identities and payments. But most users can trade under anonymous pseudonyms on public-facing websites, making it difficult for the world to tell who is profiting off many event contracts.

Critics also stress that the ease and speed of joining these 24/7 wagers leads to financial losses everyday, particularly harming users who may already struggle with gambling.

The major players

Polymarket is one of the largest prediction markets in the world. Users can fund event contracts through cryptocurrency, debit or credit cards and bank transfers.

Restrictions vary by country, but in the U.S., the reach of these markets has expanded rapidly over recent years, coinciding with shifting policies out of Washington.

While prediction markets have found backing from the Trump-controlled Commodity Futures Trading Commission, former President Joe Biden was more aggressive in cracking down. Following a 2022 settlement with the CFTC, Polymarket was barred from operating in the country. That changed under Trump late last year, when Polymarket announced it would be returning to the U.S. after receiving clearance from the Commission. American-based users can now join a "waitlist" to access the platform.

Meanwhile, Polymarket's top competitor, Kalshi, has been a federally-regulated exchange since 2020. The platform offers similar ways to buy and sell event contracts as Polymarket—and it currently allows event contracts on elections and

⁶<https://apnews.com/article/polymarket-kalshi-trump-iran-prediction-congress-d16d7bdf9a56cc1466b44baaf634aeb>.

⁷<https://apnews.com/article/kalshi-polymarket-prediction-markets-cftc-trump-insider-trading-fe7435cf6efed922aa2edb9a0e80a05>.

⁸<https://apnews.com/article/kalshi-polymarket-cftc-selig-prediction-gambling-cf1fa23f126a77400a363ba920afcfbf>.

⁹<https://apnews.com/article/prediction-markets-kalshi-polymarket-lawsuits-bf02dafc40758887b03b4e9fc8aac104>.

sports nationwide. Kalshi *won court approval*¹⁰ just weeks before the 2024 election to let Americans put money on upcoming political races and began to host sports trading last year.

The space is now crowded with other big names. Major League Baseball *inked a deal*¹¹ with Polymarket last month, following other partnerships in professional hockey and soccer. Meanwhile, sports betting giants DraftKings and FanDuel have launched their own prediction platforms. Trump's social media site Truth Social has also promised to offer an in-platform prediction market through a partnership with Crypto.com—and one of the President's sons, Donald Trump, Jr., holds advisory roles at both Polymarket and Kalshi.

Last month, The Associated Press *agreed*¹² to sell its U.S. elections data to Kalshi.

Loose regulation and calls for reform

Because they're positioned as selling event contracts, prediction markets are regulated by the CFTC. That means they can avoid state-level restrictions or bans in place for traditional gambling and *sports betting*¹³ today.

"It's a huge loophole," *said*¹⁴ Karl Lockhart, an assistant professor of law at DePaul University who has studied this space. "You just have to comply with one set of regulations, rather than (rules from) each state around the country."

*Sports betting*¹⁵ is taking center stage. There are a handful of big states—like California and Texas, for example—where sports betting is still illegal, but people can now wager on games, athlete trades and more through event contracts.

A growing *number of states*¹⁶ and *Tribes*¹⁷ are trying to stop this. But the Trump Administration has already pushed back, *maintaining*¹⁸ that the CFTC has the sole authority to regulate prediction markets. Many lawyers expect litigation to eventually reach the U.S. Supreme Court.

Despite overseeing trillions of dollars for the overall U.S. derivatives market, the CFTC is much smaller than the Securities and Exchange Commission, which regulates the securities industry. And at the same time event contracts are growing rapidly on prediction market platforms, there have been sizeable workforce cuts and leadership departures. CFTC Chairman Michael Selig is the sole member filling just one of five Commissioner slots.

Meanwhile, Congress Members from both sides of the aisle have introduced broad legislation for more guardrails in recent months. Soon after, Kalshi—which has maintained that it's always banned insider trading—*quickly moved*¹⁹ to bar political candidates from trading on their own campaigns, and preemptively block anyone involved in college or professional sports from contracts related to the sports they play or are employed by. Polymarket rewrote its rules to clearly say users cannot trade on contracts where they might possess confidential information, or could influence the outcome of an event.

The CFTC can also bar event contracts related to war, terrorism and assassinations, which experts say could put some prediction market trades—including those related to the Iran war—on added shaky ground, at least in the U.S. Lawmakers like Democratic Sen. Adam Schiff are seeking an outright ban of these kinds of trades.

Still, users might find ways to buy certain contracts while traveling abroad, or through connecting to different VPNs.

¹⁰ <https://apnews.com/article/betting-on-elections-kalshi-gambling-trump-harris-765c318244e3fe60dd2bb56f32bc7603>.

¹¹ <https://apnews.com/article/mlb-prediction-markets-polymarket-79965008b559ea3c00940ea6e92dd509>.

¹² <https://www.ap.org/media-center/press-releases/2026/ap-to-provide-kalshi-its-gold-standard-elections-data-ahead-of-primaries/>.

¹³ <https://apnews.com/article/sports-betting-nba-gambling-probe-1c49fcf651b8e6906c21811eec3b860f>.

¹⁴ <https://apnews.com/article/prediction-markets-maduro-trades-1f47e737f915fff00c57f03e7390b41f>.

¹⁵ <https://apnews.com/article/kalshi-polymarket-nfl-nba-mlb-nhl-663ec7f5da78aead7d7c145bb9cb65ca>.

¹⁶ <https://apnews.com/article/arizona-kalshi-criminal-charges-prediction-markets-gambling-3687ec3ea6725fa53389d9d594433580>.

¹⁷ <https://apnews.com/article/tribal-gambling-prediction-markets-kalshi-2ceec44d51d4afce484242e63d83389a>.

¹⁸ <https://apnews.com/article/prediction-markets-kalshi-polymarket-lawsuits-bf02dafc40758887b03b4e9fc8aac104>.

¹⁹ <https://apnews.com/article/kalshi-polymarket-prediction-markets-cftc-trump-insider-trading-fe7435cf6efef922aa2edb9a0e80a05>.

SUBMITTED LETTER BY HON. EUGENE SIMON VINDMAN, A REPRESENTATIVE IN
CONGRESS FROM VIRGINIA

April 7, 2026

SHAYNE COPLAN,
Founder and Chief Executive Officer,
Polymarket,
New York, NY

Dear Mr. Coplan,

Recent reporting has raised serious concerns about traders utilizing Polymarket to profit, sometimes by tens of thousands, and even millions of dollars, on bets related to U.S. military actions in places like Venezuela and Iran. For example, in the hours preceding the deployment of American troops in Venezuela, a newly created Polymarket account placed a bet contingent on kinetic military action in that country, ultimately collecting over \$400,000 in proceeds.¹ Another suspicious account issued a similar wager roughly a month later, pocketing \$553,000 in the lead-up to the joint U.S.-Israeli strike on Iran.² These are not isolated incidents. Analysts tracking activity on your platform have identified numerous other users making millions of dollars by correctly betting on military actions before they occur.³ While the precise source of this activity remains unclear, the pattern raises the alarming possibility that government officials, military personnel, or those with access to classified information are trading on nonpublic or otherwise sensitive information.

Americans are rightly frustrated with insider trading in Washington. That is why I support the TRUST in Congress Act (H.R. 396) to ban Members from trading individual stocks. The American people deserve honest and accountable government and leadership. However, the use of sensitive or classified information to place bets on military actions endangers and undermines national security and risks the lives of our men and women in uniform. It is immoral, dishonest, vile, and traitorous.

This conduct cannot be allowed to continue. It is not only corrupt, immoral, and unethical, but it creates dangerous incentives for leaders to authorize military actions in order to line their own pockets. Moreover, large bets placed on these markets in the lead-up to military action can signal U.S. intentions to adversaries, compromising operational security. This endangers the lives of the troops carrying out those missions and jeopardizes critical military objectives.

As Vice Ranking Member of the House Agriculture Committee's Subcommittee on Commodity Markets, Digital Assets, and Rural Development, which is tasked with regulating prediction markets, I request that Polymarket immediately secure, preserve, and share with Congress all information related to bets placed on national security matters. This may include, but is not limited to, all IP addresses, VPNs utilized, bank accounts, wallets, other bets made by those users, and any other associated metadata or personal data that could help identify these criminals. Congress has a responsibility to investigate this matter and hold accountable those who have misused insider knowledge of military operations for personal financial gain.

As a veteran and an American, I will not stand idly by while any individual—inside or outside of government or the military—profits at the expense of servicemembers, civilians, and our national security. I will work to ensure the individuals placing bets on insider or classified information that endanger our national security are brought to justice. I urge you and your team at Polymarket to fully cooperate with this inquiry.

Please send the information requested by no later than Tuesday, April 21, 2026.

Sincerely,



EUGENE VINDMAN,
Member of Congress.

¹Alexander Osipovich and Caitlin Ostroff, "A Mystery Trader Made \$400,000 Betting on Maduro's Downfall," *Wall Street Journal*, January 5, 2026, <https://www.wsj.com/world/americas/maduro-polymarket-bet-a2e5d100>.

²Bobby Allyn, "Someone Made \$553K on a Polymarket Bet on Khamenei's Death," NPR, March 1, 2026, <https://www.npr.org/2026/03/01/nx-s1-5731568/polymarket-trade-iran-supreme-leader-killing>.

³Rob Wile, "Can Anyone Police Insider Trading on Prediction Markets?" *NBC News*, March 2026, <https://www.nbcnews.com/business/consumer/insider-trading-prediction-markets-trump-rules-rcna265452>.

SUBMITTED STATEMENTS BY HON. CHELLIE PINGREE, A REPRESENTATIVE IN
CONGRESS FROM MAINE; ON BEHALF OF:

HON. DAVID Z. BEAN, CHAIRMAN, INDIAN GAMING ASSOCIATION

Chairman Thompson, Ranking Member Craig, and Members of the Committee, thank you for holding this hearing to examine the priorities and views of the Commodity Futures Trading Commission (“CFTC”) Chairman, Michael Selig.

My name is David Bean, and I serve as the Chairman of the Indian Gaming Association (“IGA”). Founded in 1985, IGA is a national association of federally recognized Indian Tribes united behind the mission of protecting Tribal sovereignty and preserving the ability of Tribal governments to attain economic self-sufficiency through gaming and other forms of economic development. We appreciate this opportunity to submit testimony to detail our concerns with the Commodity Futures Trading Commission’s (“CFTC”) ongoing efforts to foster nationwide online sports gambling through prediction markets.

Summary of Concerns with Prediction Markets

In 2025, CFTC inaction led to the explosion of prediction market platforms offering event contracts relating to sports gambling. Since the seating of Chairman Selig in December, the CFTC has become an active proponent of them, filing legal briefs opposing the enforcement of Tribal and state gambling laws.

As it supports sports betting through prediction markets, the CFTC ignores its core principles and its own regulation that prohibit registered entities (designative contract markets or “DCMs”) from listing swaps that are related to “terrorism, assassination, war, gaming, or an activity that is unlawful under any State or Federal law.” 17 CFR Part 40.11.

The CFTC has indicated in testimony to this Committee and in Federal court filings that it will weaken this existing regulation and the agency’s own prior determination that “gaming” is contrary to the public interest through an advance notice of proposed rulemaking.

Prediction markets’ target audience is retail customers under the age of 21 and those located in Tribal and state jurisdictions where online sports betting is illegal.¹ Prediction markets reported annual volume of approximately \$60 billion in 2025. Thanks to CFTC inaction and failure to enforce its own regulations, that volume is estimated to easily top \$250 billion in 2026.

Sports betting through prediction markets tramples on the sovereignty of Tribal and state governments. Gambling has always been an issue that Tribes and states debate at the local level. Since the Supreme Court’s 2018 *Murphy v. NCAA* decision, which struck down the Federal prohibition against sports betting, Tribes and states continue to debate the potential risks and rewards of whether to legalize and regulate online sports betting or maintain criminal prohibitions on the activity.

However, the current one-person CFTC has removed local governments from the online gambling debate, proclaiming that online sports betting is now legal on every Indian reservation and in every state. No one voted for this and Congress did not pass a law to authorize online sports gambling.

To return the debate over online sports gambling to Tribal and state governments, we respectfully urge this Committee to advance H.R. 7840, the Event Contract Enforcement Act, sponsored by Rep. Blake Moore of Utah and cosponsored by Rep. Salud Carbajal of California. This bill would simply codify the CFTC’s existing regulations and reaffirm Tribal and state government authority over online sports betting.

The Importance of Indian Gaming to Tribal Government Economies

When the United States formed, it acknowledged the governmental status of Indian Tribes, engaging in more than 300 treaties with Tribal governments to establish commerce and trade agreements, form alliances, and preserve the peace. The U.S. Constitution affirmed these treaties and the sovereign authority of Indian Tribes as separate governments. The Constitution’s Commerce Clause expressly provides that “Congress shall have power to . . . regulate commerce with foreign nations, and among the several states, and with the Indian Tribes.”²

¹See CNBC: *College Students and Teens Could be Fueling the Prediction Markets Boom* (Jan. 15, 2025) <https://www.cnbc.com/2026/01/15/prediction-markets-college-students-teens-could-be-fueling-the-boom.html>.

²In addition, the U.S. Constitution refers to Tribal citizens in the Apportionment Clause, as “Indians not taxed”, excluded from enumeration for Congressional representation. The 14th Amendment repeats the original reference to “Indians not taxed” and acknowledges that Tribal

In the 1970s, much of Indian Country lacked resources for healthcare, education, public safety, water and sewage, roads, bridges, and other basic infrastructure and services. Tired of waiting on the United States to fulfill its solemn treaty and trust obligations, a handful of Indian Tribes took measures to address shortfalls and rebuild their communities by opening the first modern Indian gaming operations. Tribes used the revenue generated from Indian gaming to fund essential health, education, public safety, and infrastructure programs for reservation residents.

These acts of self-determination were met with legislative and legal challenges lodged by states and commercial gaming interests. In 1987, after years of litigation, the U.S. Supreme Court, in *Cabazon Band of Mission Indians v. California*, affirmed that Tribal governments retain inherent authority to govern Tribal gaming activities on Tribal lands, free of state government interference.

A little more than 1 year later, on October 17, 1988, Congress passed the Indian Gaming Regulatory Act (“IGRA”) and President Reagan signed it into law. IGRA was a compromise that acknowledged Tribal government authority over Class II gaming (primarily bingo and similar games, including the use of computer or technologic aids), assigning regulatory oversight to Tribal governments and the newly established National Indian Gaming Commission (“NIGC”). Class III gaming encompasses all other forms of gaming but requires the execution of a Tribal-state gaming compact before a Tribal government may conduct Class III gaming. Class III gaming is regulated pursuant to these agreements with Federal oversight. Sports betting is a form of Class III gaming.

IGRA’s stated goals are to promote Tribal economic development, self-sufficiency, and strong Tribal governments; provide a statutory basis for the regulation of Indian gaming to shield it from organized crime and to ensure that Tribal governments are the primary beneficiaries of gaming revenue; and establish an independent regulatory framework for gaming on Indian lands.

As intended, Tribal gaming has worked to strengthen Tribes and improve the quality of life in Indian Country. It does not enrich individuals but instead serves entire communities. Indian gaming is the economic bloodline for many Tribal governments, which have used gaming revenue to rebuild their communities.

For many Tribes, Indian gaming is first and foremost about jobs. Nationwide, Indian gaming is a proven job creator. In 2025, our industry generated more than 682,000 for rural American families.

Tribal governments realize that none of these benefits would be possible without a strong regulatory system to protect Tribal gaming revenues and preserve the integrity of our operations. Tribes invest more than \$450 million annually, employing more than 6,000 regulators to oversee Indian gaming operations.³ While Tribal governments take on the primary day-to-day regulatory role, IGRA requires coordination and cooperation with the Federal and state governments. Our comprehensive regulatory system ensures consumer protection, fraud prevention, and local decision-making to address social implications like problem and underage gaming.

This comprehensive multi-layered system of regulation is costly and time consuming, but it has proven its worth. The credit for this system goes to the Tribal leaders who make the decisions to fund this system and to the thousands of men and women who have devoted their lives to protecting Tribal assets and the integrity of our operations.

Gambling through the CFTC Violates Tribal, State, and Federal Laws

Sports betting that is being conducted through prediction markets—Designated Contract Markets, registered with and licensed by the CFTC—violates Tribal, Federal, and state laws, including the Indian Gaming Regulatory Act, which expressly provides Tribal governments with exclusive authority to regulate gaming on Indian lands in partnership with states and the NIGC.

Background: Sports Betting in the United States

Historically, gambling in the United States has been subject to the local decision-making of Tribal and state governments. Where they choose to legalize the activity, states and Tribes establish gaming commissions and control boards to oversee gambling operations and enforce local laws and regulations.

Gambling on the outcomes of sporting events has a more complicated and relatively recent history. In 1992, Congress sought to prohibit all forms of sports betting in the United States through enactment of the Professional and Amateur

citizens were not subject to the jurisdiction of the United States. The Constitution also acknowledges that treaties are the Supreme law of the land.

³NIGC Budget Justifications and Performance Indication FY2025 at NIGC-1; <https://www.doi.gov/sites/default/files/documents/2024-03/fy2025-nigc-greenbook.pdf>.

Sports Protection Act (“PASPA”). While several state governments were exempted from the nationwide prohibition, gambling on sporting events was generally prohibited at the Federal level for more than 25 years.

On May 14, 2018, the United States Supreme Court, in *Murphy v. NCAA*, struck down PASPA as violating the Tenth Amendment’s anti-commandeering doctrine. *Murphy* returned oversight of sports betting to local Tribal and state government policymakers. In the 8 years since the *Murphy* decision, sports betting has grown slowly on a Tribe-by-Tribe and state-by-state basis.

Alternatively, several states chose to continue the prohibition against sports betting for religious, moral, and other reasons. Two states, Utah and Hawaii, criminally prohibit nearly all forms of gambling within their jurisdictions. Nine other states—Alabama, Alaska, California, Georgia, Idaho, Minnesota, Oklahoma, South Carolina, and Texas—prohibit sports betting, while others prohibit online sports gambling.

The jurisdictions that have legalized sports betting set strict parameters, including age restrictions—with the great majority restricting sports betting to persons 21 years of age and older. They establish problem gambling measures, prohibitions against betting on local sports teams, prohibitions against betting on high school and college sports, prohibitions against player proposition bets, and some states and Tribes also require operators to offer mandatory deposit limits and session time limits, integrated with local problem gambling helplines and self-exclusion systems.

Tribal and state regulatory systems ensure full transparency, working with the sports leagues to protect the integrity of American sports and maintain strict consumer safeguards and responsible gaming practices. States and Tribes have developed a proven framework that protects players and the public while delivering resources to benefit local community.

Under this system, elected leaders in each Tribe and state decide whether to allow sports betting, and in return, economic and tax benefits flow directly back to their communities.

IGRA requires that Tribal governments use all revenue generated from gaming, including sports betting, to Tribal government programs and services as well as contributions to state and local governments. Pursuant to some Tribal-state gaming compacts, Tribes also share a portion of their sports gambling revenue with state governments.

In 2025, state governments generated approximately \$3 billion from taxes and fees on sports wagering. States and Tribes use the revenue generated from sports gambling to offset costs of regulation, employ problem gambling programs, and direct remaining revenue towards local priorities, including education and elder programs, property tax relief, infrastructure and public services, and other initiatives.

Online sports betting is part of a decades-long debate among the Tribal and state governments that have legalized sports gambling. To some, online sports betting poses added risks to underage and problem gambling, heightened risks of addiction, mental health concerns, and personal financial and other concerns. Determining whether and to what extent any form of gambling is permissible in a state or Tribal jurisdiction and the nature, scope, and rules/regulations/standards that apply is a fundamental aspect of sovereignty. Overriding Tribal and state sovereignty and the legitimate police power of these sovereigns through a cynical re-interpretation of a statute never intended to apply to gaming would constitute an extraordinary intrusion into the rights and authority of these sovereigns.

CFTC-sponsored sports betting through prediction markets sidesteps these debates and ignores the consequences by forcing sports gambling into the homes of every American family. Sports betting conducted pursuant to prediction markets offers no local benefits and requires none of the consumer protections or detailed gambling regulations required by Tribal and state governments.

In addition, for Indian Country, prediction markets that offer sports gambling directly violate Tribal sovereignty and IGRA. Prediction markets offer their online gambling contracts in all 50 states and on every Indian reservation in the nation. These operators conduct gaming activities on Indian lands without Tribal government consent, licensure, or regulatory oversight. This is a direct violation of IGRA, which confers exclusive authority to Tribal governments to regulate gaming activities on Indian lands.

The proponents of sports wagering through the CFTC contend that the activity is innovative financing that uses new technology, but their advertising reveals the truth. The wagering aspect can hardly be characterized as thinly disguised. To grant these proponents a path around true regulatory oversight abandons the interests of consumers and constitutes a betrayal of Tribal governments to whom the United States holds the highest duty of trust.

The CFTC's Existing Regulations Prohibit Gambling

The CFTC is a statutory agency created under the Commodity Futures Trading Commission Act of 1974, charged with the responsibility of regulating futures and derivatives markets to promote market integrity, protect market participants, and ensure the proper functioning of price discovery and risk management mechanisms.

The Commodities Exchange Act (“CEA”), codified at 7 U.S.C. § 1 et seq., provides the CFTC with jurisdiction over “contracts of sale of a commodity for future delivery” and related derivatives. Congress has consistently reaffirmed that the purpose of this jurisdiction is to regulate markets that serve *bona fide* hedging and price-discovery functions that serve an inherent economic interest, not to authorize speculative gambling on the outcomes of events unrelated to economic commodities.

The Commodity Futures Modernization Act of 2000 (“CFMA”) significantly deregulated derivatives markets, with an express goal of limiting regulation of over-the-counter swaps and energy derivatives. That law established a regulatory void that permitted the highly risky credit default swap market to flourish, which proved a key factor in the 2008 Financial Crisis.

Congress acted to fill the regulatory voids created by the CFMA when it enacted the Dodd-Frank Act of 2010, which significantly overhauled the CFTC. While Dodd-Frank did not directly restore a broad economic purpose test, it did empower the CFTC, to use public interest standards, effectively bringing back aspects of the economic purpose test for new derivatives, particularly event contracts, by requiring evaluation for hedging/commercial uses *versus* pure gambling.

Dodd-Frank amended the CEA at 7 U.S.C. § 7a-2 (“Common Provisions Applicable to Registered Entities”) to include a special rule for CFTC review and approval of event contracts and swaps. The special rule provides that the CFTC may determine that “agreements, contracts, or transactions are *contrary to the public interest* if [they] involve—activity that is unlawful under any Federal or state law; terrorism; assassination; war; gaming; **or** other similar activity determined by the Commission by rule or regulation, to be contrary to the public interest.” (emphasis added).

On July 27, 2011, the CFTC implemented this provision through a rulemaking process, which found that swaps relating to “gaming” or “activity that are unlawful under any State or Federal law” *are contrary to the public interest*. The regulation provides that “[a] registered entity shall not list for trading or accept for clearing on or through the registered entity any of the following:

- (1) An agreement, contract, transaction, or swap based upon an excluded commodity, as defined in Section 1a(19)(iv) of the Act, that involves, relates to, or references terrorism, assassination, war, gaming, or an activity that is unlawful under any State or Federal law”

See 17 CFR § 40.11 (emphasis added); 76 *Federal Register* 44786 (July 27, 2011) (noting that the new rule’s prohibition of “gaming” contracts “is consistent with Congress’s intent to ‘prevent gambling through the futures markets’”). By acknowledging the potential conflict with state laws, the CFTC arguably conceded any legal claim that the CEA preempts state-level gambling laws.

Despite this clear and longstanding prohibition, the CFTC has refused to enforce its own regulations, permitting registered entities to offer an ever-growing range of gambling contracts on the outcomes of sporting events, including moneyline bets on individual games, parlays on multiple games, and proposition bets on individual player performance.

Kalshi Repeatedly Admitted that Sports Event Contracts are Gambling

While the law and regulation are clear, prediction markets continue to profit by intentionally misleading consumers and violating Tribal and state gambling laws.

The most prolific DCM currently licensed by the CFTC that offers gambling on the outcome of sporting events is KalshiEX LLC (“Kalshi”).

In 2024, in defense of its event contracts relating to the outcomes of the 2024 Federal elections, Kalshi admitted that the CEA and CFTC regulations prohibit event contracts on the outcome of sporting events. Below is a list of examples where Kalshi admitted in court proceedings that event contracts relating to the outcome of sports contests violate the CEA and CFTC regulations:

- “Congress did not want sports betting to be conducted on derivatives markets.”—Kalshi’s Initial Brief filed in the D.C. Circuit on Nov. 15, 2024, at p. 41
- “Evidently, Congress sought to prevent exchanges from facilitating casino-style or sports gambling.”—Kalshi’s Initial Brief filed in the D.C. Circuit on Nov. 15, 2024, at p. 45

- “[C]ontracts relating to games—again, activities conducted for diversion or amusement—are unlikely to serve any ‘commercial or hedging interest.’”—Kalshi’s Initial Brief filed in the D.C. Circuit on Nov. 15, 2024, at p. 45
- “Congress was particularly concerned at the time it enacted this statute about sports betting and that was probably what they were getting at with the word ‘gaming.’”—Kalshi to the D.C. Circuit at the January 17, 2025 oral argument (at 49:50–50:08)
- “The ‘gaming’ category reaches contracts contingent on games—for example, whether a certain team will win the Super Bowl. It thus functions as a check on attempts to launder sports gambling through the derivatives markets.”—Kalshi MOL in Support of MSJ, Jan. 25, 2024, at 16
- “Football, horseracing and golf. They’re all games . . . It’s something that has no inherent economic significance.”—Kalshi’s May 30, 2024 oral argument to the district court on its motion for summary judgment, Dkt. # 40, at p. 15
- “Contracts that involve games are probably not the type of contracts that we want to be listed on an exchange, because they don’t have any real economic value to them.”—Kalshi’s 5/30/24 oral argument to the district court on its motion for summary judgment, Dkt. # 40, at p. 15.

See Daniel Wallach LinkedIn post at https://www.linkedin.com/posts/amanda-fischer-21877210_the-maryland-federal-court-is-right-to-demand-activity-7335376474855661570-uib.

In January of 2025, Kalshi reversed the legal positions listed above by self-certifying event contracts directly related to the outcomes of sporting events.

Kalshi and other prediction markets recognized regulatory and enforcement weaknesses at the CFTC and have quickly exploited them. The first sport event contracts that CFTC inaction enabled were offered by CFTC-registered prediction markets in January 2025. Prediction markets reported volume on the 2025 Super Bowl was \$2.26 billion. Inaction and active support from the CFTC helped prediction markets increase volume to \$3.1 billion on the 2026 Super Bowl.⁴ Prediction markets took in approximately \$60 billion in market volume in 2025, and they are on track to quadruple that number in 2026.⁵

Prediction Markets Target Youth and Tribal/State Prohibition Markets

Prediction markets and the CFTC claim that they are disrupters and innovators working to unrig the system by using new technology, but they have invented nothing. Prediction markets offer gambling on the outcomes of sporting events. Pull up your Kalshi app and you see the same bets that are offered in every other legal sportsbook authorized by Tribal and state governments: moneylines, totals, parlays and prop bets.

The only key differences are that: (1) prediction markets avoid the regulatory systems that we’ve established with our state partners to protect the integrity of American sports; and (2) they ignore the strict age requirements and fail to address concerns with problem gambling, and they give nothing back to the local community.

Prediction markets make their gains by targeting young people and those in Tribal and state jurisdictions that prohibit online sports gambling. They advertise on platforms like Instagram, TikTok, and X, in addition to hiring entertainers and social media influencers. We are only starting to see the devastating impact on our kids’ mental health and their finances.

An April 10, 2026 report from Fortune highlighted a young man who downloaded the Kalshi app 2 days after his 18th birthday. A resident of Indiana, where the minimum age for gambling is 21, he was able to place bets on sports on Kalshi. While he started betting on the Rotten Tomatoes score of a movie, he branched out to sports gambling, stating, “Kalshi was my entrance to gambling. Every single dime I had, I lost on [the app].”⁶

Regarding problem gambling, a Kalshi representative made clear that consumer protection is not his client’s problem. In July of 2025, speaking at the National Conference of Legislators from Gaming States’ summer meeting in Lexington, Kentucky, Josh Sterling, Kalshi’s attorney in several of its Federal cases, declared, “People are

⁴ <https://www.forbes.com/sites/boazsobrado/2026/02/07/prediction-markets-are-the-superbowls-breakout-winners/>.

⁵ <https://www.cnbc.com/2026/04/14/prediction-markets-will-grow-to-1-trillion-by-2030-bernstein-says.html>.

⁶ FORTUNE, *Prediction markets have made betting easier than ever—and young men are paying the price* (April 10, 2026) <https://fortune.com/2026/04/10/prediction-markets-gambling-addiction/>.

adults, and they're allowed to spend their money however they want it, and if they lose their shirt, that's on them."⁷

Prediction Markets on Sports are Gambling—Not Peer-to-Peer

Kalshi and other DCMs offering prediction markets claim that what they offer is not gambling, because there is no “house”—this is their claim to “innovation”.

However, Kalshi employs institutional market makers like the hedge fund Susquehanna International Group, Jump Trading (a proprietary trading firm that uses high frequency trading and algorithms), and Kalshi Trading (owned and operated by Kalshi) to juice liquidity for its own contracts. They also price bids/asks, significantly influencing odds, which is identical to the house in a regulated sports book moving the odds based. These market makers move odds to mitigate their own risk and ensure profits. Kalshi and other DCMs benefit from this “action” by taking a fee on every transaction, similar to a sports books taking a “vig” or fee from every bet.

These market makers do not participate to promote fairness. As reported in the Daily Citizen, “Kalshi does not disclose what contracts its trading arm buys and sells, or how much money it makes from it.”⁸ They have an edge and an advantage in trading, which they use against retail sports gamblers.

This is not innovation. What Kalshi offers is a mirror to traditional sports gambling authorized by state and Tribal governments, but without the guardrails, regulations, or oversight.

Litigation Driven Business Model

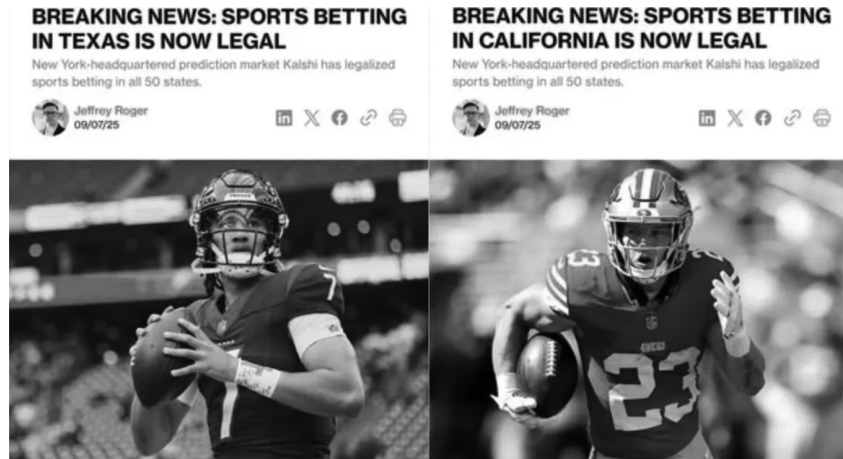
Because CFTC regulations allow prediction markets to self-certify event contracts without preclearance from the agency, companies launch gambling products, generate profits, and then litigate in court later. This litigation-driven business model has resulted in more than two dozen pending lawsuits to date, where states, Tribal governments, and individual consumers argue that the prediction markets violate Federal, state, and Tribal law and exploit consumers.

On March 17, 2026, the Arizona Attorney General filed criminal charges against Kalshi, accusing the DCM of operating an illegal gambling business in the state. The 20 count criminal information alleges that Kalshi accepted bets from Arizona residents on a wide range of events in violation of Arizona law. These events included professional and college sporting contests, proposition bets on individual player performance, and a series of wagers on state elections.

While prediction markets now argue in court that their contracts on the outcomes of sporting events are not gambling, they openly advertise their products as “betting” and “gambling”. Prediction markets have spent millions of dollars to advertise their products as legalized sports betting in all 50 states. One advertisement from January 2025 by Kalshi stated that it is “The First Nationwide Legal Sports Betting Platform”. Kalshi also ran advertisements during the 2025 NCAA basketball tournament in Texas and California, where all sports betting is illegal, which urged users to “Make \$ on March Madness” and claimed: “Legal in Texas” and “Legal in California”.

⁷<https://sbcamerica.com/2025/07/11/kalshi-nclgs-sports-contract-debate/>.

⁸Daily Citizen, *Kalshi, Prediction Markets Make it Easy for Kids to Gamble Online* (Feb. 10, 2026) <https://dailycitizen.focusonthefamily.com/kalshi-prediction-markets-kids-gamble-online/>.



CFTC Advance Notice of Proposed Rulemaking

As noted above, on July 27, 2011, a full five-member CFTC voted unanimously to adopt regulations to implement the Dodd-Frank “special rule” codified at 7 U.S.C. § 7a–2.⁹ Those regulations, set forth at 17 CFR Parts 40.1–40.12, make clear that:

“(a) **Prohibition.** A registered entity shall not list for trading or accept for clearing on or through the registered entity any of the following:

(1) An agreement, contract, transaction, or swap based upon an excluded commodity, as defined in Section 1a(19)(iv) of the Act, that involves, relates to, or references terrorism, assassination, war, *gaming*, or an activity that is unlawful under any State or Federal law; **or**

(2) An agreement, contract, transaction, or swap based upon an excluded commodity, as defined in Section 1a(19)(iv) of the Act, which involves, relates to, or references an *activity that is similar* to an activity enumerated in section 40.11(a)(1), and that the Commission determines, by rule or regulation, to be contrary to the public interest.”

See 17 CFR § 40.11(a) (emphasis added).

This regulation has stood for fifteen years and has not been challenged by a DCM or any other entity doing business with the CFTC. However, on March 16, 2026, the CFTC published an Advance Notice of Proposed Rulemaking (“ANPRM”) that, on its face, seeks to undo this now longstanding public interest determination with the implicit goal of loosening legal restrictions to accommodate DCMs acting as casino operators.

There is no urgent need to amend the CFTC regulations. To address actions by market participants to offer products that reference or relate to gambling, repackaging them as financial instruments, the agency should enhance and engage in enforcement of its existing regulations.

Regarding the concern with blurring the lines between investing and “gaming”, the Commission, in publishing its 2011 rulemaking, made clear that it was following

⁹ 7 U.S.C. § 7a–2(c)(5)(C) Special rule for review and approval of event contracts and swaps contracts.

(i) Event contracts. In connection with the listing of agreements, contracts, transactions, or swaps in excluded commodities that are based upon the occurrence, extent of an occurrence, or contingency (other than a change in the price, rate, value, or levels of a commodity described in section 1a(2)(i) of this title), by a designated contract market or swap execution facility, the Commission may determine that such agreements, contracts, or transactions are contrary to the public interest if the agreements, contracts, or transactions 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.

Congressional intent by including “gaming” as a prohibited listing for trading. The CFTC acknowledged the following:

“Finally, the Commission would like to note that 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 and other events contracts.’”

76 *Federal Register* 44786 (July 27, 2011) (citing the *Congressional Record* and the colloquy between Senate Agriculture Committee Chair Lincoln and Senator Feinstein, emphasizing that the Commission “needs the power to, and should, prevent derivatives contracts that are contrary to the public interest because they exist predominantly to enable gambling through supposed event contracts.”).

The language in the Part 40.11 mirrors the language that Congress enacted in the Dodd-Frank special rule at § 7a–2(c)(5)(C). Congress’ intent was to prohibit swaps and similar transactions that reference or relate to the five listed categories: terrorism, assassination, war, gaming or activity unlawful under any state or Federal law. In 2011, the CFTC made the public interest determination that those five categories are contrary to the public interest and are prohibited from being listed.

Congress and the CFTC acknowledged certain other swaps that involve or reference “similar activity” could be *separately* determined to be contrary to the public interest. The CFTC made that distinction crystal clear when it published the final rule for Part 40.11. “The Commission may, at some future time, adopt regulations that prohibit products that are based upon activities ‘similar to’ those enumerated in Section 745 of the Dodd-Frank Act. It has determined not to propose such regulations at this time.”¹⁰

This distinction is important because Chairman Selig and the CFTC’s attorneys ignore it. They argue in court and to this Committee that the CFTC has not yet made a public interest determination that “gaming” or the other prohibited activities are contrary to the public interest. In their misguided view, 40.11 as a two-step process where 40.11(1) lists activities that may be prohibited, but only if the CFTC makes a separate public interest determination under 40.11(2). The CFTC’s own website reflects this misreading. The following comes directly from the CFTC’s “Contracts & Products” page under the heading “Event Contracts”:

“CFTC Regulation 40.11 prohibits event contracts that reference terrorism, assassination, war, gaming, or an activity that is unlawful under any State or Federal law, or that involves, relates to, or references an activity that is similar to any of those activities **and** that the CFTC determines by rule or regulation to be contrary to the public interest.”¹¹

The CFTC’s refusal to acknowledge that it has already made a public interest determination that these categories are contrary to the public interest is on full display in its March 16th advance notice of proposed rulemaking. The first paragraph of the ANPRM states the following:

The Commodity Futures Trading Commission (Commission or CFTC) is issuing this Advance Notice of Proposed Rulemaking and seeking public comment regarding event contract derivatives traded on markets commonly referred to as “prediction markets.” In particular, the Commission is seeking information and public comment on statutory core principles and Commission regulations that apply to prediction markets, *the types of event contracts that may be prohibited as contrary to the public interest*, cost-benefit considerations related to prediction markets, and other topics.¹²

This is jaw dropping disregard for the clear language of the Commodity Exchange Act and the CFTC’s own regulations, again which were adopted unanimously by a full five-member Commission. Yet, Chairman Selig has indicated to this Committee that he is committed to plowing forward on the ANPRM, despite the fact that he is the sole Commissioner on the CFTC.

The Chairman also made clear his view that he inherited existing prediction market contracts, including contracts referencing and relating to “gaming”. He seems to indicate that it is either not his obligation to review their legality or he has deemed them legal. However, under the Commission’s own regulations, any contract that references or relates to gaming cannot be self-certified. It must go through a separate 90-day review pursuant to Part 40.11(c). That Part provides “that an agreement, contract, transaction, or swap based on an excluded commodity . . . which

¹⁰ 76 *Federal Register* 44786 (July 27, 2011).

¹¹ <https://www.cftc.gov/IndustryOversight/ContractsProducts/index.htm> (emphasis added).

¹² 91 *Fed. Reg.* 12516 (March 16, 2026).

may involve, relate to, or reference an activity enumerated in § 40.11(a)(1) or § 40.11(a)(2), be subject to a 90-day review” No DCM that has, or is offering, prohibited contracts has sought approval under this provision. They are clearly operating outside of the law and existing regulations.

However, Chairman Selig does not seem concerned with these ongoing violations. The only question going forward, in the CFTC’s point of view, is how to deal with existing contracts through new standards and guidelines. Essentially, the agency is willing to consider adding loose guardrails on certain contracts already deemed contrary to the public interest but is not willing to take them down.

The Chairman summed up view of online sports gambling through prediction markets during the Committee hearing in a question about state and Tribal government concerns with violations of their gambling laws. Chairman Selig stated the following:

“I appreciate the concern for states’ rights and all of that, but the statute is very clear that we have the exclusive regulatory authority when it comes to commodity derivatives that are offered on a designated contract market. We will continue to assert ourselves in litigation to defend that right. Of course, we’re happy to discuss policy and we’ve put out an ANPRM to make sure that we get the rules right for these products, but they are exclusively within our regulatory remit. And it’s concerning when states try to nullify Federal law. So we will continue to defend that law in court.”

Despite the agency’s determination to rewrite and loosen its existing regulations to expand and legitimize nationwide online gambling, it is unclear whether the White House supports this position. When recently questioned about bets being placed on the Iran war and whether he had concerns, President Trump stated the following:

The whole world unfortunately has become somewhat of a casino. And you look at what’s going on all over the world in Europe and every place they’re doing these betting things. I was never much in favor of it. I don’t like it conceptually. But it is what it is. No, I think that I’m not happy with any of that stuff. But they have all these different sites. They have predictive markets. It’s a crazy world.

<https://x.com/amconmag/status/2047436139145953743?s=46>.

Conclusion

It is no coincidence that the prediction market corporations selected the CFTC as the financial regulatory agency to push out their self-certified self-regulated online gambling platforms. They recognized regulatory weakness at the CFTC, and they have actively exploited the agency’s lack of capacity and lack of will to enforce its own regulations. Prediction market platforms will continue to push the limits of and blur the lines between event contracts and gambling. Sports betting is only the beginning.

For decades, state and Tribal governments have debated online gambling. They continue to weigh the pros of generating revenue for our communities that could come from legalizing online gambling, weighing those potential benefits with the risks of online gambling, including increased gambling among our youth, added risks to problem gambling, and heightens risks of addiction, mental health concerns, personal financial and other concerns. The CFTC has shut down these local government debates by proclaiming that nationwide online sports gambling is legal. The result is a deluge of sports gambling on every Indian reservation and every state.

We again respectfully urge this Committee and Congress to advance H.R. 7840, the Event Contract Enforcement Act, sponsored by Rep. Moore of Utah and cosponsored by Rep. Carbajal of California. This bill would reaffirm existing Tribal and state government authority to regulate sports betting, limit online gambling or, in some cases, continue to prohibit all forms of gambling. The bill will quiet the chaos and Federal overreach that the CFTC is fostering. Thank you again for the opportunity to submit testimony on this critical matter.

ATTACHMENT 1—IGA—AGA LETTER TO CONGRESS

January 12, 2026

Dear Members of the United States Senate and House of Representatives,

On behalf of the American Gaming Association (AGA) and the Indian Gaming Association (IGA), we write to urge timely Congressional action to address the explosion of unregulated sports event contracts being offered by prediction markets. Since these contracts, that are indistinguishable from legal sports betting, were launched

last January, they have grown exponentially in trading volume and have expanded beyond the outcome of single games to include complex parlays and even potential wagers on the collegiate transfer portal. This growth has occurred by exploiting regulatory inaction by the Commodity Futures Trading Commission (CFTC), which undermines state law and Tribal sovereignty and flies in the face of existing Federal laws and regulation intended to protect consumers and the integrity of our nation's financial markets. We firmly believe that Congressional consideration of cryptocurrency market structure legislation provides an important, bipartisan opportunity to prevent sports betting and casino gambling under the guise of "event contracts."

Together, our associations represent the legal regulated gaming industry in the United States that generates \$329 billion in annual economic impact, produces \$53 billion in tax revenue, and supports 1.8 million jobs. As one of the most highly regulated industries in the United States, licensed gaming operators work with more than 8,400 state and Tribal regulators across the country to ensure our industry has transparency, integrity, strict consumer safeguards and responsible gaming practices. It's a proven framework that ensures local control and protects players and the public while delivering billions of dollars in community benefits.

For decades, we have followed a uniquely American approach to gaming—an approach that has been the foundation of our success. This system gives the people a voice on whether and how to allow gaming, which creates a social contract between states, Tribes and our industry: when we earn the privilege to enter your community, we deliver benefits in return.

In 2018, the Supreme Court overturned the Professional and Amateur Sports Protection Act and ruled that states have the right to determine whether to legalize sports betting. Since then, 39 states and the District of Columbia have done so, which in many jurisdictions has included close coordination with Tribal authorities. Where sports betting has been legalized, states and Tribes have set strict guardrails to ensure strong protections such as:

- Minimum betting ages (21+ in most jurisdictions)
- Licensing and suitability requirements for operators
- Anti-money laundering (AML) and Know Your Customer (KYC) protocols
- Mandatory responsible gaming resources, including self-exclusion programs
- Independent integrity monitoring and compliance audits

In contrast, several CFTC registered prediction market platforms have made self-certified event contracts available to anyone 18 and over, in all 50 states, circumventing state and Tribal gaming laws and denying states and Tribes hundreds of millions of dollars of critically needed revenue for schools, roads and first responders. The CFTC has not reviewed or approved any of these contracts as more entities enter the market, and their offerings get more audacious.

The CFTC's own regulations—adopted pursuant to the Commodity Exchange Act (CEA)—prohibit event contracts regarding terrorism, assassination, war, gaming, or an activity that is unlawful under any state or Federal law.¹ According to *39 state Attorneys General*,* these contracts are contrary to their state laws. They violate the Indian Gaming Regulatory Act (IGRA) that gives Tribes exclusivity to offer gaming products on their land. Sports event contracts also violate the Federal Wire Act that makes it illegal to offer sports wagers across state lines.

And while the gaming industry has focused our efforts on stopping unregulated sports wagering, we have seen a troubling proliferation of other concerning betting categories that seek to capitalize on tragedy, invite manipulation, and undermine public trust. Most recently, questions and concerns have been raised regarding contracts tied to the capture of Venezuelan President Nicolás Maduro and ongoing armed conflicts abroad—categories that would never be permitted under state or Tribal law.

These contracts are being offered in flagrant disregard of state laws, Tribal sovereignty, the Commodity Exchange Act, and CFTC regulations. They mislead consumers into believing that a sports bet is an investment, fail to protect the young and the vulnerable, open the door to money laundering, match fixing and insider trading. They rob state budgets and Tribal finances while simultaneously forcing states and Tribes to expend massive legal resources to defend their sovereignty.

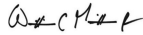
During his confirmation hearing, Chairman Selig made it clear that the CFTC would not rein in sports betting contracts under his leadership, instead deferring to the outcome of litigation that could take years to be fully resolved. However, Mr.

¹See 17 CFR Section 40.11.

*<https://docsend.com/view/bmwqiyjdn96hdb2j>.

Selig also said that the CFTC would follow Congress if they were to step in and speak on these contracts. Therefore, it is critical that Congress act swiftly to include legislative language in the cryptocurrency market structure legislation that [reinforces] existing law and prohibits gaming through CFTC-registered platforms. We stand ready to work with you on this issue and appreciate your consideration.

Sincerely,



WILLIAM C. MILLER, JR.,
President and CEO,
American Gaming Association



DAVID Z. BEAN,
Chairman,
Indian Gaming Association

ATTACHMENT 2—TRIBAL AMICUS BRIEF

Nos. 25–7187, 25–7516, and 25–7831 (Consolidated)

In The United States Court of Appeals for the Ninth Circuit

*North American Derivatives Exchange, Inc., D/B/A Crypto.com | Derivatives North America, **Plaintiff-Appellant,***

v.

*The State of Nevada, Et Al., Defendants-Appellees, Nevada Resort Association, **Intervenor-Defendant-Appellee.***

On Appeal from the United States District Court for the District of Nevada, Case No. No. 2:25–cv–00978–APG

Brief of the Indian Gaming Association, National Congress of American Indians, United South and Eastern Tribes Sovereignty Protection Fund, Arizona Indian Gaming Association, California Nations Indian Gaming Association, Oklahoma Indian Gaming Association, Washington Indian Gaming Association, San Manuel Gaming and Hospitality Authority, and 19 Federally Recognized Indian Tribes as *Amici Curiae* in Support of Defendants-Appellees in No. 25–7187

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Identity and Interests of *Amici*

The Indian Gaming Association (“IGA”), National Congress of American Indians (“NCAI”), United South and Eastern Tribes Sovereignty Protection Fund (“USET SPF”), Arizona Indian Gaming Association (“AIGA”), California Nations Indian Gaming Association (“CNIGA”), Oklahoma Indian Gaming Association (“OIGA”), Washington Indian Gaming Association (“WIGA”), San Manuel Gaming and Hospitality Authority (“SMGHA”), and 19 federally recognized Indian Tribes (“*Amici Tribes*”) ¹ (collectively, “*Tribal Amici*”) respectfully submit this brief in support of Defendants-Appellees.²

IGA is an inter-Tribal nonprofit organization comprised of 123 federally recognized Tribes that operate gaming enterprises throughout Indian Country. IGA’s mission is to advance Tribal economic, social, and political interests, and to preserve and promote Tribal sovereignty, self-sufficiency, and economic development by advocating for tribally owned governmental gaming enterprises.

NCAI is the oldest and largest national organization comprised of American Indian and Alaska Native Tribal governments and their citizens. NCAI advises and

¹ The *Amici Tribes* include: Agua Caliente Band of Cahuilla Indians; Bay Mills Indian Community; Elk Valley Rancheria; Jamestown S’Klallam Tribe; Kickapoo Traditional Tribe of Texas; Lytton Rancheria; Mashantucket Pequot Tribal Nation; Mohegan Tribe of Indians of Connecticut; Morongo Band of Mission Indians; Pechanga Band of Indians; Pokagon Band of Potawatomi; Pueblo of Acoma; Pueblo of Sandia; Rincon Band of Luiseño Mission Indians; Santa Ynez Band of Chumash Mission Indians; Seminole Tribe of Florida; Spokane Tribe of the Spokane Reservation; Tunica-Biloxi Indian Tribe; and Yuhaaviatam of San Manuel Nation.

² Counsel for each of the parties have consented to the filing of this brief. No person (including a party or party’s counsel) other than Tribal *Amici* and their counsel contributed money to fund the preparation and submission of this brief.

educates the public, Tribes, state governments, and the Federal Government on issues involving Tribal sovereignty, self-government, treaty rights, and policies affecting Tribes, including gaming issues.

USET SPF is a nonprofit, inter-Tribal organization advocating on behalf of 33 federally recognized Tribes. It is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribes and works at the regional and national level to educate Federal, state, and local governments about the unique historic and political status of its member Tribes.

AIGA, CNIGA, OIGA, and WIGA are regional nonprofit Tribal gaming organizations that educate and disseminate information to Federal and state governments as well as the general public concerning issues related to Indian gaming.

SMGHA is a governmental instrumentality of Yuhaaviatam of San Manuel Nation created to independently carry out the investment in, and ownership and management of, gaming and hospitality businesses outside of the Yuhaaviatam Reservation.

The *Amici* Tribes are 19 federally recognized Indian Tribes within the meaning of the Indian Gaming Regulatory Act (“IGRA”). See 25 U.S.C. § 2703(5). Each of the *Amici* Tribes is a separate and distinct Tribal government with the sovereign authority to conduct and regulate gaming activities on its Indian lands. The *Amici* Tribes all have a direct and immediate interest in maintaining their sovereign rights over gaming, including sports betting, on their Indian lands.

Together, all the Tribal *Amici* have a shared, strong interest in this case because of its potential to significantly impact their or their member Tribes’ sovereign rights regarding gaming on Indian lands, as well as Indian gaming and Tribal governmental revenue as a whole.

Introduction

North American Derivatives Exchange Inc. d/b/a Crypto.com | Derivatives North America (“Crypto.com”) comes before this Court and asks it to wholly abandon the national policy of state and Tribal sports-betting regulation and to turn decades of Federal law on its head. The Court should not do so and, instead, affirm the district court’s decision.

America’s history is replete with prospectors taking resources from Indian lands without permission from Tribes. But Congress put a stop to that practice long ago. Yet Crypto.com would have this Court believe that, without so much as a whisper of legislative intent, Congress gave it permission to enter Indian lands and siphon gaming revenues away from Tribes over such Tribes’ objections. Congress did no such thing.

When Congress adopted IGRA, it sought to “promot[e] Tribal economic development, self-sufficiency, and strong Tribal governments.” 25 U.S.C. § 2702(1). IGRA has been incredibly successful on that front.³ Since IGRA’s passage in 1988, Tribes across the United States have lifted entire generations out of poverty through Tribal gaming. Gaming revenue supports thousands of jobs in hundreds of communities, and provides critical funding to Tribal, state, and local governments through revenue-sharing agreements, taxes, and economic stimulus. See *Michigan v. Bay Mills Indian Cmty.*, 572 U.S. 782, 810 (2014) (Sotomayor, J., concurring) (“[T]ribal gaming operations cannot be understood as mere profit-making ventures that are wholly separate from the Tribes’ core governmental functions.”). For Tribes, gaming is not just a commercial endeavor but an existential one.

Tribes have primary jurisdiction over their lands and activities occurring thereon. Tribes, like states, also have a strong sovereign interest in determining what gaming activities may take place on their lands. Thus, Tribal jurisdiction extends to gaming, which has long been recognized by the Supreme Court. See *California v. Cabazon Band of Mission Indians*, 480 U.S. 202, 218–22 (1987); 25 U.S.C. § 2701(5). In 1988, Congress enacted IGRA “to provide a statutory basis for the regulation of gaming by an Indian Tribe . . . to ensure that the Indian Tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by both the operators and players . . .” 25 U.S.C. § 2702(2).

Crypto.com asks this Court to subvert this longstanding and comprehensive regulatory regime. The consequences of Crypto.com’s arguments are difficult to overstate. Its reading of the Commodity Exchange Act (“CEA”) would amount to a *sub silentio* reversal of Congressional policy and Supreme Court precedent; undermine existing Tribal-state gaming compacts and regulatory frameworks; allow Crypto.com to siphon gaming revenues from Tribal and state governments; and diminish Tribal self-determination.

³See, e.g., National Indian Gaming Commission, FY 2023 Gross Gaming Revenue Report 4–5 (Jul. 2024), https://www.nigc.gov/wp-content/uploads/2025/02/GGR23_Final.pdf.

Accordingly, this Court should affirm the district court's decision to deny Crypto.com's motion for judgment on the pleadings and motion for preliminary injunction.

Argument

I. Congress Did Not Impliedly Repeal IGRA.

A. IGRA's Structure

In IGRA, Congress explicitly stated that no class III gaming can occur on "Indian lands" unless it is authorized by the Tribe and is in a state that permits such gaming. 25 U.S.C. § 2710(d). Class III gaming—including sports betting—is authorized on Indian lands only where Tribes and states have entered into a compact or procedures prescribed by the Secretary of the Interior ("Secretary") to regulate that gaming. 25 U.S.C. §§ 2710(d)(1), 2710(d)(7)(B)(vii); *see also* 25 CFR § 502.4(c). The Secretary must review and approve these agreements. 25 U.S.C. § 2710(d)(8). These core provisions have remained unchanged since 1988.

Under this regime, regulation of class III gaming on Indian lands is shared between Tribes, states, and the Federal Government. Congress carefully crafted this comprehensive statutory regime to advance clearly articulated policy goals to: (1) "promot[e] Tribal economic development, self-sufficiency, and strong Tribal governments"; (2) "provide a statutory basis for regulation" that protects Tribes' ability to be the primary beneficiary of gaming on their lands; and (3) create a Federal regulatory agency to adopt Federal standards and protect Tribal gaming as a means of generating Tribal revenue. 25 U.S.C. § 2702. Congress made it abundantly clear that Tribes—not private entities—must benefit from any gaming conducted on their Indian lands. *See* 25 U.S.C. §§ 2710(b)(2)(A), (d)(2)(A). For many Tribes, gaming is not merely a commercial endeavor; rather, it is essential to their self-determination. *See Chicken Ranch Rancheria of Me-Wuk Indians v. California*, 42 F.4th 1024, 1032 (9th Cir. 2022) ("Class III gaming is not only a source of substantial revenue for Tribes, but the lifeblood on which many Tribes ha[ve] come to rely." (citation modified)).

B. Congress Did Not Repeal IGRA When It Enacted the CEA's Definition of a "Swap" in 2010

Crypto.com argues that Congress's definition of a single term—"swaps"—within a statute whose entire purpose is to address the risk, discovery, and dissemination of commodity prices, 7 U.S.C. § 5(a)–(b), preempts the field of what is unequivocally sports betting, and therefore effectively repealed core provisions of IGRA. *See* Pl.'s Opening Brief at 4–5, 39–54, Dkt. No. 12.1. Under this theory, Congress silently stripped away Tribes' and states' longstanding authority over sports betting⁴ while allowing for-profit companies like Crypto.com to run internet casinos pursuant to their own private oversight.

What's more, contrary to what Crypto.com maintains, *id.* at 60–62, if sports-betting contracts are "swaps" subject to the exclusive jurisdiction of the CFTC, then all off-market sports betting—including sports betting conducted by Tribes under IGRA—is prohibited by the CEA. As discussed further below, Crypto.com's interpretation of "swaps" is so broad that it necessarily consumes all sports betting (and potentially other kinds of class III gaming). And with one inapplicable exception, the CEA prohibits off-market swaps. *See* 7 U.S.C. § 2(e). Consequently, if all sports-betting contracts are swaps, "then all sports betting must be done on a [designated contract market ('DCM')]." ER–27.

Crypto.com's argument thus does double violence. First, by permitting Crypto.com to offer sports betting on Indian lands, its argument sweeps aside Congress's recognition that "Indian Tribes have the exclusive right to regulate gaming activity on Indian lands" 25 U.S.C. § 2701(5). Second, it would prohibit Tribes from offering sports betting that IGRA plainly authorizes. *See* 25 CFR § 502.4(c).

Moreover, if Crypto.com's position is adopted, the reach of this definition would extend beyond sports betting to encompass other forms of gaming because, as the district court correctly held, Crypto.com's preemption argument depends on an interpretation of "swap" that has "no limiting principle." *See* ER–25. Crypto.com's definition of "an event or contingency associated with a potential financial, economic, or

⁴ Crypto.com has suggested that that its sports-event contracts are not gaming because there is no betting against the "house." Pl.'s Reply Br. in Supp. of Mot. for Prelim. Inj. at 6, *Crypto.com v. Dreitzer*, No. 2:25-cv-00978 (D. Nev. Jul. 29, 2025), Dkt. No. 41. Not so. A "house" is not a necessary element of gaming. For example, pari-mutuel wagering—a type of betting system where all bets or wagers are pooled and players bet against each other rather than a "house"—is considered gaming. *See, e.g.*, NRS § 464.005(8). Additionally, IGRA regulations define class II gaming to include, among other things, non-banking card games that are necessarily played without a "house." 25 CFR § 502.3(c).

commercial consequence” is so broad that it necessarily includes betting on other casino games. This means that virtually all gaming activity across the country, including that which would otherwise be conducted pursuant to an IGRA compact, must be offered on a DCM. The irony of this result is that the gaming conducted pursuant to Tribal-state gaming compacts or state law provides significantly more consumer protection than the unregulated sports betting offered by Crypto.com, which allows users as young as 18 years old to engage in practically limitless betting with few, if any, guardrails.

This lack of responsible gaming measures and consumer protections, which are required by legal gaming operations, is dangerous and contrary to the public interest. See Opinion and Order at 21 n. 9, *KalshiEX, LLC v. Schuler*, No. 2:25-cv-1165 (Mar. 9, 2026) (Ohio “determined [18 through 20 year olds] were too young to participate in legal sports gambling, . . . but they have unrestricted access to sports-event contracts on Kalshi[.]. This population is particularly vulnerable to problem gambling and [], when trading on Kalshi, is unprotected by Ohio’s responsible gaming laws.” (citation modified)). Josh Sterling—a former CFTC employee and the lawyer representing KalshiEX, LLC (“Kalshi”) in this consolidated litigation—has unpersuasively dismissed such responsible gaming concerns, stating: “People are adults, and they’re allowed to spend their money however they want it, and if they lose their shirt, that’s on them.” Jessica Welman, *Kalshi’s Lawyer Goes Hard at State-Regulated Gambling*, SBCAmericas, (Jul. 11, 2025), <https://sbcamericas.com/2025/07/11/kalshi-nclgs-sports-contractdebate/?amp>.

Further, if the CEA governs Crypto.com’s sports-betting contracts (and potentially other forms of gaming) on Indian lands, then Congress must have intended to repeal other key provisions of IGRA that expressly grant regulatory authority over such activity to Tribes, states, the National Indian Gaming Commission, the Department of the Interior, and the Department of Justice. See 25 U.S.C. §§ 2701(5), 2710(d); 18 U.S.C. § 1166(d). Congress also must have intended to completely override the entire purpose and function of IGRA: recognizing Tribal sovereignty over conducting and regulating gaming activity occurring on Indian lands. See 25 U.S.C. § 2701(5). No amount of judicial gymnastics can turn the insertion of the term “swap” in the CEA into such a radical transformation of IGRA.

This Court should therefore reject Crypto.com’s boundless interpretation of a “swap” and give effect to both statutes by excluding sports-betting contracts, including Crypto.com’s, from the CEA’s definition of “swap” as the district court did. See ER-24–30. Such an interpretation is also more faithful to the CEA’s statutory language and legislative intent. See 156 *Cong. Rec.* S5907 (daily ed. Jul. 15, 2010) (statement of Sen. Lincoln) (“It would be quite easy to construct an ‘event contract’ around sporting events such as the Super Bowl, the Kentucky Derby, and Masters Golf Tournament. These types of contracts would . . . be used solely for gambling.”).

C. Crypto.com’s Theory Does Not Meet the Standard for Implied Repeals

Crypto.com’s preemption argument must be rejected because it would manufacture an implied repeal of IGRA where none exists. Crypto.com cannot meet the heavy burden of proving Congress intended to repeal IGRA because there is a reasonable interpretation of the CEA that gives full effect to both statutes: the CEA’s definition of “swap”—and thus the CFTC’s jurisdiction over such transactions—simply does not extend to Crypto.com’s sports bets.

Both the Supreme Court and Ninth Circuit apply the “strong presumption that repeals by implication are disfavored and that Congress will specifically address preexisting law when it wishes to suspend its normal operations in a later statute.” *Epic Sys. Corp. v. Lewis*, 584 U.S. 497, 510 (2018) (citation modified); see also *Shoshone-Bannock Tribes of Fort Hall Rsrv. v. U.S. Dep’t of the Interior*, 153 F.4th 748, 759 (9th Cir. 2025). Congress’s intent to repeal must be “clear and manifest.” *Epic Sys.*, 584 U.S. at 510. “Congress does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions—it does not, one might say, hide elephants in mouseholes.” *Id.* at 515 (citation modified).

Here, IGRA and the CEA can easily be harmonized by reading the CEA to exclude sports betting, consistent with longstanding CFTC regulations.

1. Crypto.com’s Sports-Betting Contracts Are Not “Swaps”

As relevant here, the CEA defines “swaps” as “any agreement, contract, or transaction . . . that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence.” 7 U.S.C. § 1a(47)(A)(ii). Crypto.com’s sports-betting contracts simply do not fall under this definition and Congress therefore could not have intended to repeal IGRA.

Starting with the CEA’s plain language, Crypto.com’s sports-betting contracts are not dependent on the *occurrence, nonoccurrence, or extent of the occurrence* of a sports event—*i.e.*, whether the sports event occurs—but rather on the outcome of the sports event (or parts thereof)—*i.e.*, which team wins. The court below correctly held sports bets are not swaps for precisely this reason. ER–24–25.

Moreover, there is no “financial, commercial, or economic consequence”⁵ associated with Crypto.com’s sports-betting contracts. Aside from whether the purchaser wins or loses their bet, Crypto.com’s sports-betting contracts have no direct financial consequences for the purchaser. To constitute a swap, the district court properly held that the underlying event itself “must be inherently associated with a potential financial consequence.” See Order Granting Motion to Dissolve Prelim. Inj. at 14, *KalshiEX, LLC v. Hendrick*, No. 2:25–cv–00575 (D. Nev. Nov. 24, 2025), Dkt. No. 237. “[E]xternalities like whether people bet on the event or the contingency, or whether the event’s occurrence or nonoccurrence causes downstream financial consequences, are not sufficient.” *Id.* Crypto.com’s sports-betting contracts do not satisfy this requirement and therefore do not qualify as swaps.

Alternatively, the CFTC urges the Court to hold that Crypto.com’s sports-betting contracts are swaps because they are “commodity options,” and “the swap definition . . . includes options” CFTC *Amicus Br.* at 16, Dkt. No. 37.2 (citing 17 CFR §§ 1.3, 32.2(a); then quoting 77 *Fed. Reg.* 25320, 25321 n. 6 (Apr. 27, 2012)). Not so. The CFTC has recognized that commodity options are synonymous with the definition of swaps at 7 U.S.C. § 1a(47)(A)(i), which does not contain any language suggesting that commodity options include options on event outcomes. See 77 *Fed. Reg.* at 25321 n. 6 (citing 7 U.S.C. § 1a(47)(A)(i); 7 U.S.C. § 1a(47)(A)(i) (defining swap to include options on the “purchase or sale . . . of [] rates, currencies, commodities, securities”); see also 7 U.S.C. § 1a(9) (defining “commodity” to be limited to physical goods). And even if commodity options included options on excluded commodities, Crypto.com’s sports-betting contracts still would not qualify as swaps because sporting-event outcomes do not “inherently have a financial consequence” and thus are not “excluded commodities.” See *Hendrick*, 2025 WL 3286282, at *11 (discussing 7 U.S.C. § 1a(19)(iv)).

2. Congress Did Not Manifest Clear Intent To Repeal IGRA Or To Make the CFTC a Gaming Regulator

Congress did not repeal IGRA and grant the CFTC the exclusive authority to regulate nationwide sports betting. In fact, Congress expressed the opposite intent and went out of its way to prevent event-contract markets from being used to conduct gambling. See 156 *Cong. Rec.* S5906–07 (daily ed. Jul. 15, 2010) (colloquy between Sens. Feinstein and Lincoln). Specifically, Congress enacted the “Special Rule” authorizing the CFTC to “determine that such agreements, contracts, or transactions are contrary to the public interest” and to disallow any “gaming” activity on DCMs at all. See 7 U.S.C. § 7a–2(c)(5)(C)(i)–(ii). The CFTC acted consistently with Congress’s intent by promulgating its blanket prohibition of event contracts involving gaming.⁶ 17 CFR § 40.11(a)(1). The CFTC explained that 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 and other events contracts.’” *Provisions Common to Registered Entities*, 76 *FED. REG.*

⁵ In its amicus brief, the CFTC argues that sports-betting contracts have sufficient “financial, commercial or economic consequences” because “sporting events . . . generate billions of dollars in economic activity and materially affect both regional and national markets.” CFTC *Amicus Br.* at 19, Dkt. No. 37.2. The CFTC therefore asserts there is no need to “engage in line drawing” over what distinguishes a swap from a sports bet. *Id.* at 19–20. However, the CFTC fails to articulate how wagers on particular aspects of sporting events, which are typical wagering subjects appearing on Crypto.com’s platform, have any quantifiable impact on the economy. For example, the CFTC does not explain how a wager on whether the Wizards will beat the Celtics by more than 3.5 points has any downstream economic impact, let alone a sufficient “financial, commercial or economic consequence,” except to that on the person placing the wager. See *Sports Event Trading*, Crypto.com, <https://help.crypto.com/en/articles/10208780-sports-event-trading> (last visited Mar. 9, 2026) (explaining that users can bet on point spreads).

⁶ Crypto.com argues that even if its sports-betting contracts “resemble gaming,” that is permissible because the CEA could cover some gaming-related contracts “unless and until the CFTC prohibits them.” Pl.’s Opening Br. at 61–62, Dkt. No. 12.1. But Crypto.com contradicts itself: as Crypto.com previously (and correctly) acknowledged, “the CEA gives the CFTC discretion to prohibit the trading of swaps that ‘involve . . . gaming,’ and the CFTC exercised that jurisdiction through rulemaking that prohibits a DCM from listing such contracts.” Pl.’s Reply Br. in Supp. of Mot. for Judg. On the Pleadings and Mot. to Strike at 11, *Crypto.com v. Dreitzer*, No. 2:25–cv–00978 (D. Nev. Sep. 22, 2025), Dkt. No. 87 (citing 17 CFR § 40.11(a)). Thus, in Crypto.com’s own words, “[i]f Sports Event Contracts involve gaming, and are therefore regulated by [Nevada], then they cannot be traded on a DCM without violating this rule.” *Id.*

44776, 44786 (Jul. 27, 2011) (citation modified). Thus, the CFTC recognized that the Special Rule reinforced Congress’s existing policy *against* sports betting.

Kalshi, one of Crypto.com’s competitors, even acknowledged this fact in a brief filed with the D.C. Circuit 16 months ago (and mere weeks before launching its nationwide sports betting app). *See* Appellee’s Br. at 41, *KalshiEX LLC v. CFTC*, No. 24–5205 (D.C. Cir. Nov. 15, 2024) (“An event or contract thus involves ‘gaming’ if it is contingent on a game or game-related event. The classic example is a contract on the outcome of a sporting event; as the legislative history directly confirms, ***Congress did not want sports betting to be conducted on derivatives markets.***” (emphasis added)). The Special Rule and the CFTC’s regulations undermine any claim that Congress intended to repeal IGRA and legalize sports betting. That the CEA and IGRA overlap here is due only to Crypto.com’s backdoor attempt to evade comprehensive gaming regulations.⁷

Furthermore, only Crypto.com (a private company with a direct financial interest in offering sports betting free from regulation), not Congress, claims that the CEA’s definition of “swap” displaces Tribal, state, and Federal regulation of sports betting. The text and legislative history of the 2010 CEA amendments confirm that the CFTC was not established to regulate sports betting, let alone assume the role of the nation’s sole sports-betting regulator. And, historically, the CFTC likewise did not assert such authority itself. *See Event Contracts*, 89 FED. REG. 48968, 48982–83 (June 10, 2024) (“The [CFTC] is not a gaming regulator . . . and the [CFTC] does not believe that it has the statutory mandate nor specialized experience appropriate to oversee [gambling], or that Congress intended for the [CFTC] to exercise its jurisdiction or expend its resources in this manner.”).

The CFTC’s *amicus brief* broadly defends prediction markets’ offering of sports-betting contracts subject to the CFTC’s exclusive jurisdiction. *See CFTC Amicus Br.* at 19, Dkt. No. 37.2. Strikingly, the CFTC makes no mention of the Special Rule, and for good reason: as discussed, the CFTC already promulgated regulations effecting a blanket ban of gaming contracts, like those mirroring sports bets. *See* 17 CFR § 40.11(a). Similarly, the CFTC fails to acknowledge that Crypto.com’s preemption argument necessarily means the implied repeal of IGRA and other applicable Federal laws.

Further, the CFTC’s only Commissioner, Chairman Selig, has recently made statements and issued directives that some DCMs have claimed support their positions, and by extension would support Crypto.com’s position here. *See* Michael S. Selig, Chairman, CFTC, *Remarks at the CFTC–SEC Event on Harmonization* (Jan. 29, 2026), <https://www.cftc.gov/PressRoom/SpeechesTestimony/opaselig1> [hereinafter Selig Statement] (announcing that he directed the CFTC to withdraw a 2024 proposed rule, which, if finalized, would have expressly prohibited political and sports-related event contracts and a 2025 CFTC Staff Letter suggesting that entities like Crypto.com create a contingency plan should courts—like this Court—issue a decision holding that sports-betting contracts are unlawful (citing 89 *Fed. Reg.* at 48982–83 and CFTC Staff Letter No. 25–36 at 2 n. 3, n. 4 (Sep. 30, 2025)); *see also* 91 *Fed. Reg.* 5386, 5387 (Feb. 6, 2026).

However, his recent statements are neither binding on this Court nor persuasive, and his recent directives have no bearing on the outcome of this litigation. At bottom, Mr. Selig’s recent statements do not address key legal questions at issue in this appeal, including whether the CFTC’s blanket ban on event contracts involving gaming at 17 CFR § 40.11(a)(1) extends to Crypto.com’s sports-betting contracts. And even if his statements or the positions the CFTC took in its *amicus brief* did, the power to decide what the law says ultimately belongs to the courts, not executive officials. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385–86 (2024).

This Court should therefore reject Crypto.com’s efforts to expand the CFTC’s jurisdiction to a vast new area of regulation.

⁷ Under Crypto.com’s theory, simply calling a sports wager a “swap”—regardless of whether it is actually a valid “swap”—and listing it for trade on a DCM automatically grants the CFTC exclusive jurisdiction, to the detriment of all other regulatory authorities. *See* Pl.’s Opening Br. at 4–5, 39–54, Dkt. No. 12.1. What, then, would prevent Crypto.com from calling “contracts” on other traditional forms of gaming, like roulette, “swaps” and subjecting them to the exclusive jurisdiction of the CFTC? According to Crypto.com, CFTC inaction—despite banning “gaming” contracts via 17 CFR § 40.11(a)(1)—is all that is required to bless contracts blatantly designed for no other purpose than to enable gambling.

Crypto.com’s theory would likewise strip this Court of its own jurisdiction to interpret what constitutes a “swap.” Crypto.com argues that such determination is exclusively up to the CFTC and would only be judicially reviewable under an Administrative Procedure Act challenge. *See id.* at 34, 62–63. But, as the district court properly held, “the CEA does not expressly delegate to the CFTC the exclusive power to decide what is a swap. . . . It is emphatically the province and duty of the judicial department to say what the law is.” *See* ER–19–20 (citation modified).

3. The Indian Canons of Construction Require This Court To Resolve Any Ambiguity in Favor of Tribes

Even if there were ambiguity as to whether Congress intended to repeal IGRA (there is not), the Indian Canons of Construction require courts to resolve statutory ambiguities in favor of Tribes. *Montana v. Blackfeet Tribe of Indians*, 471 U.S. 759, 766 (1985) (“[S]tatutes are to be construed liberally in favor of the Indians, with ambiguous provisions interpreted to their benefit.”); *Artichoke Joe’s California Grand Casino v. Norton*, 353 F.3d 712, 729 (9th Cir. 2003). Federal courts have consistently applied these canons over a half-century to ensure that later-enacted statutes of general applicability cannot repeal earlier-enacted legislation specifically designed to advance the United States’ special relationship with Tribes, without a clear statement from Congress. See, e.g., *Morton v. Mancari*, 417 U.S. 535, 550–51 (1974); *Swinomish Indian Tribal Cmty. v. BNSF Ry. Co.*, 951 F.3d 1142, 1159–60 (9th Cir. 2020); *Shoshone-Bannock Tribes*, 153 F.4th at 765.

This Court should therefore reject Crypto.com’s preemption argument requiring an implied repeal of IGRA.

D. IGRA Regulates Online Gaming on Tribes’ Indian Lands—including Crypto.com’s Sports-Betting Contracts.

Crypto.com has tried to argue that IGRA is not relevant because its online activity does not occur on “Indian lands.” See Pl.’s Response to Br. of *Amici Curiae et al.* at 2, *Crypto.com v. Dreitzer*, No. 2:25-cv-00978 (D. Nev. Sep. 29, 2025), Dkt. No. 92. However, this is plainly wrong. IGRA allows states and Tribes to allocate jurisdiction over the regulation of internet gaming conducted by a Tribe throughout the state, including on its Indian lands. See *W. Flagler Assocs., Ltd. v. Haaland*, 71 F.4th 1059, 1061–62, 1066 (D.C. Cir. 2023), *cert denied*, 144 S. Ct. 2671 (2024). IGRA’s implementing regulations also expressly state that Tribes can regulate online gaming under the terms of their IGRA compacts. See 25 CFR § 293.26.

Crypto.com has also argued below that the Unlawful Internet Gaming Enforcement Act (“UIGEA”), not Tribal-state IGRA agreements or state gaming law, solely governs the online gaming aspect of its sports-betting contracts, and UIGEA excludes DCM transactions from its definition of “bet or wager.” Pl.’s Response to Br. of *Amici Curiae et al.* at 2–3, *Crypto.com v. Dreitzer*, No. 2:25-cv-00978 (D. Nev. Sep. 29, 2025), Dkt. No. 92. Crypto.com claims that Congress’s exclusion of DCM transactions from the definition of “bet or wager” in 31 U.S.C. § 5362 “reflects Congressional intent” that UIGEA preempts IGRA and all Tribal-state IGRA agreements. *Id.* But this ignores UIGEA’s own language that “[n]o provision of this subchapter shall be construed as altering, limiting, or extending any Federal or State law or Tribal-State compact prohibiting, permitting, or regulating gambling within the United States.” 31 U.S.C. § 5361(b). UIGEA⁸ “prevents using the internet to circumvent existing state and Federal gambling laws, but it does not create any additional substantive prohibitions.” *California v. Iipay Nation of Santa Ysabel*, 898 F.3d 960, 965 (9th Cir. 2018).

II. The Major Questions Doctrine Forecloses Crypto.com’s Theory.

In 2010, Federal law—namely, the Professional and Amateur Sports Protection Act (“PASPA”)—largely prohibited sports betting nationwide. Crypto.com’s position thus requires interpreting the CEA not only to eradicate state and Federal gaming laws by preemption or implied repeal, but also to reverse the Federal policy that at the time prohibited sports betting—turning it instead into a nationwide authorization of such betting under the CFTC’s jurisdiction.⁹ Whether Congress did so is a major question.

Under the Major Questions Doctrine, courts have “reason to hesitate before concluding that Congress meant to confer” agency authority in cases where the agency has asserted a “breadth” of authority over matters of “economic and political significance.” *West Virginia v. EPA*, 597 U.S. 697, 721 (2022). In such cases, considering “both separation of powers principles and a practical understanding of legislative intent,” there must be “clear Congressional authorization.” *Id.* at 723 (citation modi-

⁸The CFTC raises a similar UIGEA argument. See CFTC *Amicus Br.* at 24 n. 15. Unlike Crypto.com, however, the CFTC makes no attempt to explain how the 2010 CEA amendments silently overrode other Federal gaming law with longstanding restrictions on sports betting, including IGRA. This is for good reason: Congress did not express sufficient intent to repeal key components of other Federal and state statutes regulating sports betting. See ER-26–30.

⁹Crypto.com’s sports-betting contracts also violate other Federal laws, including the Wire Act, 18 U.S.C. § 1084, the Illegal Gambling Business Act, 18 U.S.C. § 1955, and the Travel Act, 18 U.S.C. § 1952(a). If Congress authorized sports betting via the CEA in 2010, then it also effectively limited the scope of these Federal laws.

fied). Further, “Congress [does not] typically use oblique or elliptical language to empower an agency to make a ‘radical or fundamental change’ to a statutory scheme.” *Id.* (quoting *MCI Telecomms. Corp. v. Am. Telephone & Telegraph Co.*, 512 U.S. 218, 229 (1994)); *see also Learning Res. v. Trump*, No. 24–1287, 2026 WL 477534, at *2 (U.S. Feb. 20, 2026).

In effect, Crypto.com contends that the 2010 CEA amendments displaced state and Tribal gaming regulations, undermined all Tribal-state gaming compacts, legalized sports betting nationwide, and placed sports betting under the regulatory jurisdiction of the CFTC, all at a time when Federal law broadly prohibited sports betting. This is unquestionably a “radical” and “fundamental” overhaul to both PASPA and IGRA, and certainly raises concerns of “economic and political significance.” *West Virginia*, 597 U.S. at 721. This Court therefore has significant “reason to hesitate” and should require “clear Congressional authorization” before even considering Crypto.com’s preemption argument. *Id.* at 721, 724.

First, Congress must be clear when it “alters the Federal-state framework by permitting Federal encroachment upon a traditional state power.” *Solid Waste Agency v. U.S. Army Corps of Eng’rs*, 531 U.S. 159, 172–73 (2001). Here, gaming regulation, and even sports-betting regulation specifically, has been understood to be within traditional state power. *See Murphy v. NCAA*, 584 U.S. 453, 474, 481–85 (2018); *see also Artichoke Joe’s*, 353 F.3d at 737 (“The circuits that have given significant attention to equal protection challenges to state gambling laws have, by and large, held ‘the regulation of gambling lies at the heart of the state’s police power.’” (quoting *Helton v. Hunt*, 330 F.3d 242, 246 (4th Cir. 2003))). As the Supreme Court noted in *Murphy*, Congress has long structured Federal criminal law to “respect the policy choices of the people of each State on the controversial issue of gambling.” 584 U.S. at 484; *see also Chicken Ranch*, 42 F.4th at 1032 (explaining that IGRA “strike[s] a delicate balance” between Tribal and state sovereignty over gaming). And even when Congress chose to prohibit sports betting nationally, it did so *through* state regulation, rather than by directly regulating private actors. *See Murphy*, 584 U.S. at 484–85.

Similarly, courts have long recognized Tribes’ inherent sovereign authority to regulate gaming on their lands. *See Cabazon*, 480 U.S. at 207–14. Though it imposes limited restrictions on this authority, IGRA still broadly advances Tribes’ “exclusive right to regulate [and offer] gaming activity” (including sports betting) on their Indian lands as a means of promoting Tribal economic development and self-determination. *See* 25 U.S.C. §§ 2701(5), 2702(2); *W. Flagler*, 71 F.4th at 1062–63. And later-enacted statutes of general applicability—like the CEA—cannot repeal earlier-enacted legislation that is specifically designed to advance the United States’ special relationship with Tribes—like IGRA—without a clear statement from Congress. *See, e.g., Mancari*, 417 U.S. at 550–51.

Accordingly, because regulating gaming has long been a traditional state (and Tribal) power, Crypto.com must show clear Congressional language overturning Federal policy. But it cannot because no such language exists. Rather, the CEA *reinforces* the Federal policy in favor of state gambling regulation by disclaiming preemption of state gaming laws. *See* 7 U.S.C. § 16(e). And nothing in the definition of “swap” indicates that Congress meant to overturn the entire field of sports-betting regulation or Indian gaming.

Second, sports betting has a “unique place in American history and society,” and therefore its own “political history.” *See FDA v. Brown & Williamson*, 529 U.S. 120, 159–60 (2000). Given this social and political history, at the time of the 2010 CEA amendments, Congress had already “created a distinct regulatory scheme” for sports betting—namely, PASPA. *Id.* The conflict between Crypto.com’s argument and the existence of PASPA’s nationwide sports-betting prohibition in 2010 therefore indicates that Congress could not have intended to regulate sports betting in the way that Crypto.com now claims. “Given this history and the breadth of the authority that [Crypto.com] has asserted [the CFTC has],” this Court should not defer to Crypto.com’s “expansive construction” of the CEA. *Id.* at 160.

In holding PASPA unconstitutional, the Supreme Court made no suggestion that Congress had already preempted all state gaming laws 8 years earlier. *Murphy*, 584 U.S. at 479–80. To the contrary, the majority opinion concluded with an observation utterly incompatible with Crypto.com’s contention: “The legalization of sports gambling requires an important policy choice, but the choice is not ours to make. Congress can regulate sports gambling directly, but if it elects not to do so, each State is free to act on its own.” *Id.* at 486. In other words, Crypto.com’s deregulatory elephant was hidden in a statutory mousehole far too small for the Supreme Court to notice when deciding whether sports betting would be legal. Crypto.com’s position that Congress legalized sports betting in 2010 would have certainly come as a sur-

prise to the Supreme Court and litigants in *Murphy*—none of whom seemed to think that the state prohibition at issue had actually been preempted years earlier.

Ignoring history, context, and common sense, Crypto.com presents an alternate reality in which a statutory scheme whose scope is limited to addressing the risk, discovery, and dissemination of commodity pricing information, see 7 U.S.C. § 5(a)–(b), governs nationwide sports betting. Crypto.com therefore creates a world where Congress repealed the comprehensive regulatory scheme set forth in IGRA, similar structures created by state law, and the then-Federal policy requiring states to prohibit sports betting, as codified in PASPA. And Crypto.com incredibly argues all of this happened without even a whisper of legislative intent.

Crypto.com’s revisionist history cannot withstand even the slightest scrutiny. As the district court aptly stated, “It is absurd to think that Congress intended for DCMs to turn into nationwide gambling venues on every topic under the sun to the exclusion of state regulation and with no comparable Federal regulator without ever mentioning that was the goal when Congress added swaps to the CEA in 2010.” Order Granting Motion to Dissolve Preliminary Injunction at 20, *Hendrick*, No. 2:25-cv-00575, Dkt. No. 237.

III. *Crypto.com’s Preemption Argument Would Violate the Private Nondelegation Doctrine.*

Crypto.com’s preemption argument turns on the extraordinary claim that Congress delegated the power to preempt state law to an interested private party simply by self-certifying sports-betting contracts and listing them on its exchange. The private non-delegation doctrine, however, guards against precisely the type of unchecked, privately exercised powers upon which Crypto.com relies. See *Carter v. Carter Coal Co.*, 298 U.S. 238, 311 (1936).

While the Supreme Court upholds Congressional delegations of power to Federal agencies with an intelligible principle, it applies a different standard when those delegations are to private entities. “[A] law . . . violates the private nondelegation doctrine when it allows non-government entities to govern.” *FCC v. Consumers’ Rsch.*, 606 U.S. 656, 697 (2025). Recently the Supreme Court found that the permissibility of a private delegation depends on whether the agency retains oversight and ultimate decision-making authority over the private entity’s actions. *Id.* at 693. There, the Court upheld the delegation to a private entity, but only because it merely played “an advisory role” and the final decision-making authority rested with the agency. *Id.*

In contrast, under Crypto.com’s theory, the CEA’s self-certification provisions empower Crypto.com—a private, for-profit entity—to oversee its entire sports-betting enterprise, yet simultaneously fail to provide any mechanism for advance public comment, mandatory agency oversight, or standards by which the CFTC may implement its discretion. See Kristin N. Johnson, *Farewell Address of Commissioner, CFTC* (Sep. 3, 2025), <https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson25> (warning that the CFTC has “too few guardrails and too little visibility into the prediction market landscape”).

Further, according to Crypto.com, its self-certifications are not merely advisory but have the force of law. See Pl.’s Opening Br. at 63, Dkt. No. 12.1. “The result of this regulatory scheme is that [Crypto.com] can, without any [CFTC] review of its decision on the merits, effectively decide” to offer sports betting free from Tribal and state regulation. See *Alpine Sec. Corp. v. Fin. Indus. Regul. Auth.*, 121 F.4th 1314, 1328 (D.C. Cir. 2024). Consequently, construing the CEA to attribute legal effect on state law via Crypto.com’s self-certification would be unconstitutional—a construction that must be avoided. See *United States v. Metcalf*, 156 F.4th 871, 881–82 (9th Cir. 2025).

Moreover, Crypto.com has a financial interest in self-certifying its own sports-betting contracts, regardless of such certifications’ verity. And this financial interest is directly adverse to the sovereign and economic interests of the State of Nevada, *Amici* Tribes, other states, and businesses offering sports betting across the country. The effects of these self-certifications go even further; in Crypto.com’s view, it can block Tribes and states from regulating that which has long been within their sovereign authority to regulate simply by listing sports-betting contracts on its exchange. “This is legislative delegation in its most obnoxious form; for it is not even delegation to an official or an official body, presumptively disinterested, but to private persons whose interests may be and often are adverse to the interests of others in the same business.” *Carter Coal*, 298 U.S. at 311.

Conclusion

For the foregoing reasons, the Tribal *Amici* respectfully request that the Court affirm the lower court’s decision.

Dated: March 10, 2026

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Certificate of Service

I hereby certify that on March 10, 2026, a copy of the foregoing was filed with the Clerk of Court via this Court's electronic filing Appellate Case Management System, which will provide notice and service on all counsel of record for all parties.

Dated: March 10, 2026

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United States Court of Appeals For The Ninth Circuit

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Tribal *Amici* include: Indian Gaming Association; National Congress of American Indians; United South and Eastern Tribes Sovereignty Protection Fund; Arizona Indian Gaming Association; California Nations Indian Gaming Association; Oklahoma Indian Gaming Association; Washington Indian Gaming Association; San Manuel Gaming and Hospitality Authority; Agua Caliente Band of Cahuilla Indians; Bay Mills Indian Community; Elk Valley Rancheria; Jamestown S’Klallam Tribe; Kickapoo Traditional Tribe of Texas; Lytton Rancheria; Mashantucket Pequot Tribal Nation; Mohegan Tribe of Indians of Connecticut; Morongo Band of Mission Indians; Pechanga Band of Indians; Pokagon Band of Potawatomi; Pueblo of Acoma; Pueblo of Sandia; Rincon Band of Luiseno Mission Indians; Santa Ynez Band of Chumash Mission Indians; Seminole Tribe of Florida; Spokane Tribe of the Spokane Reservation; Tunica-Biloxi Indian Tribe; and Yuhaaviatam of San Manuel Nation.

ATTACHMENT 3—STATE ATTORNEYS GENERAL *AMICUS BRIEF*

Nos. 25–7187, 25–7516, 25–7831

In The United States Court of Appeals for the Ninth Circuit

*North American Derivatives Exchange, Inc., D/B/A Crypto.com v. Derivatives North America, **Plaintiff-Appellant,***

v.

The State of Nevada, Et Al., Defendants-Appellees, Nevada Resort Association, Intervenor-Defendant-Appellee.

On Appeal from the Judgment of the United States District Court for the District of Nevada (Dist. Ct. No. 2:25–cv–00978–APG–BNW)

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Statement of *Amici* Interest

Amici consist of New Jersey, Ohio, 37 other States, and the District of Columbia (“the *amici* States”). They are interested in this case because it concerns an overbroad preemption theory that threatens the States’ longstanding ability to protect their citizens. The *amici* States also respond to a recent brief from the Commodity Futures Trading Commission (“CFTC”). In that brief, the CFTC wrongly argues that Federal law displaces the States’ ability to regulate sports betting. The *amici* States submit this brief under Federal Rule of Appellate Procedure 29(a)(2).

Introduction

This brief is best read as a sequel. The original was filed in a related case, involving Nevada’s dispute with Kalshi. *See State-Amicus Br., KalshiEX LLC v. Assad, et al.*, No. 25–7516 (9th Cir.), Dkt. Entry 48.1 (“*State-Amicus Br.*”). There, thirty-nine States—along with the District of Columbia—explained why they may regulate online sports betting, regardless of whether prediction markets package such betting as so-called “events contracts.” The States relatedly explained why preemption theories to the contrary are far-fetched.

In a nutshell, here is the States’ position. Prediction-market litigants in this case and others argue that somewhere buried within subsections of subsections of complex derivatives-related statutes, Congress snuck in its intent to drastically reshape this country’s gambling laws. But when Congress makes major changes to this nation’s power structure, it speaks clearly. *Bond v. United States*, 572 U.S. 844, 857–59 (2014); *see also Learning Res., Inc. v. Trump*, 607 U.S. ___, 2026 WL 477534, at *7–*9 (2026) (Roberts, C.J., *op.*). Thus, if Congress truly meant to preempt the States’ traditional authority over sports betting, it would not be a secret. That matters here because nothing in the text of the relevant statutes displaces (much less clearly displaces) the States’ traditional authority over sports betting. In fact, even with all those statutes in place, the Supreme Court recently declared that States are “free to act” as they wish on the “controversial subject” of “sports gambling.” *Murphy v. NCAA*, 584 U.S. 453, 486 (2018).

The *amici* States, however, do not offer this brief to repeat themselves. They instead address a new development: the CFTC’s recent decision to pick a side. That decision was a sharp pivot. Prediction markets began offering online sports betting in January 2025. For roughly a year thereafter, the CFTC was careful not to endorse this behavior. Indeed, just a few months ago, the CFTC warned prediction markets that they should prepare for the prospect that state law bars such conduct. Yet in recent weeks, under new leadership, the CFTC now suggests that things have been “plain” all along. *See* CFTC Br.15. It argues that Federal law displaces the States’ power over sports betting. *See* CFTC Br. 15, 22–24.

The CFTC’s preemption theory misreads Federal statutes. The theory stems from a 2010 amendment to the Commodity Exchange Act that Congress made in response to the 2008 financial crisis. Congress gave the CFTC jurisdiction over “swaps,” a derivative sometimes associated with the financial crisis. *See* 7 U.S.C. § 2(a)(1)(A). But Congress made no mention of sports betting (at the time, such betting was still illegal in most of the country). The CFTC nonetheless argues, echoing litigants like Crypto and Kalshi, that sports bets qualify as “swaps” within its exclusive authority. CFTC Br.14–20. That endorsement does not make the argument any more likely. The argument still rests on a dubious foundation: that Congress, in response to the financial crisis, quietly removed the States’ traditional power over sports gambling without anyone noticing for years—including the Supreme Court in *Murphy*. *See State-Amicus Br.* 1–2.

The CFTC’s implausible theory—which trumpets the CFTC’s own authority—warrants skepticism rather than deference. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412–13 (2024). After all, courts are wary of Federal agencies using established statutory law to claim new and exceptional authority over significant topics. *See West Virginia v. EPA*, 597 U.S. 697, 723 (2022); *NFIB v. OSHA*, 595 U.S. 109, 119 (2022) (*per curiam*). The CFTC’s new claim of authority is exactly that: in effect, the Commission asks to be declared this country’s sole regulator of sports betting. *See* CFTC Br. 4, 13, 23. In our system of divided sovereignty, that type of power grab requires “clear Congressional authorization.” *West Virginia*, 597 U.S. at 723 (quotation omitted). None exists here.

Background

I. Our country’s division of power has long distinguished between gambling and financial derivatives. Through their police powers, the States have traditionally regulated gambling, including gambling on sports. *See State-Amicus Br.* 3–7 (discussing

that tradition, including the experiences of Ohio and New Jersey). For much of this country's history, the States simply outlawed sports betting. See *Murphy*, 584 U.S. at 458–62. But in *Murphy*, the Supreme Court made clear that the States are “free to act” as they choose on the subject. *Id.* at 486. Since then, the States have made different choices. Today, some States continue to bar sports betting, while other States allow sports betting but heavily regulate the activity. See Am. Gaming Ass'n, State of the States 2025: *The AGA Analysis of the Commercial Casino Industry*, at 12–13 (May 13, 2025), perma.cc/J27S-WLSB.

For about a century, the States' regulation of gambling has co-existed with Federal regulation of derivatives markets. The Federal Government began regulating futures markets in 1921. *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Curran*, 456 U.S. 353, 360 (1982). Then, in 1936, Congress expanded Federal regulation through the Commodity Exchange Act. *Id.* at 362. And, in 1974, Congress created the CFTC and gave it “exclusive jurisdiction” over certain enumerated derivatives. Pub. L. 93–463, § 201(b), 88 Stat. 1389 (1974) (amending 7 U.S.C. § 2(a)).

In response to the 2008 financial crisis, Congress increased Federal oversight of derivatives markets. Specifically, in 2010, Congress expanded the CFTC's “exclusive jurisdiction” to cover “swaps”—a form of derivative that contributed to the crisis. See 7 U.S.C. § 2(a)(1)(A); *State-Amicus Br.* 9–10. As part of this financial reform, Congress offered a complex, six-part definition outlining which agreements, contracts, or transactions qualify as “swap[s].” See 7 U.S.C. § 1a(47)(A). And, in a corresponding move, Congress made it generally “unlawful” for people to enter into swaps outside of a CFTC-regulated contract market. 7 U.S.C. § 2(e); see also CFTC Br. 4.

At the same time, Congress added statutory language empowering the CFTC to prohibit certain contracts if they “involve,” among other topics, “gaming.” 7 U.S.C. § 7a–2(c)(5)(C)(i). In discussing this change, lawmakers noted their desire to prevent “gambling through supposed ‘event contracts,’” including “gaming contract[s],” which are “used predominantly by speculators or participants not having a commercial or hedging interest.” See 156 *Cong. Rec.* S5902, S5906–07 (daily ed. July 15, 2010) (emphasis added) (statements of Sen. Blanche Lincoln and Sen. Dianne Feinstein).

II. Since receiving authority over swaps in 2010, the CFTC has taken a constrained view of what fits within that category. For example, shortly after its jurisdiction increased, the CFTC promulgated a rule prohibiting designated contract markets from listing any contract “that involves, relates to, or references . . . gaming.” 17 CFR § 40.11(a). This prohibition, the CFTC explained, matched “Congress's intent to prevent gambling through the futures markets.” 76 *Fed. Reg.* 44776, 44786 (July 27, 2011). The prohibition remains on the books today. See 17 CFR § 40.11(a).

The CFTC exercised similar caution in later rulemakings. In 2012, as part of a rule jointly promulgated with the SEC, the CFTC refused to read the term “swaps” in a way that would disrupt “customary business arrangements” that “historically have not been considered to involve swaps.” 77 *Fed. Reg.* 48208, 48247 (Aug. 13, 2012). Swaps, the CFTC explained, “involve risk-shifting arrangements with financial entities.” *Id.* at 48248. As a result, the CFTC did not read the term “swaps” to capture transactions or arrangements involving “personal or family activities” that ordinary “consumers” regularly engage in. *Id.* at 48247.

Just 2 years ago, the CFTC issued a proposed rule that directly confronted the relationship between state-gambling regulation and Federal-derivatives regulation. The CFTC acknowledged that “gambling is overseen by state regulators with particular expertise” and that Federal-derivatives law is “not aimed at protecting against gambling-specific risks and concerns.” 89 *Fed. Reg.* 48968, 48982–83 (June 10, 2024). The CFTC further disclaimed having the “statutory mandate” or “specialized experience” necessary to exercise jurisdiction over the “rapidly evolving field” of gambling. *Id.* at 48983.

III. The dispute here concerns sports betting on designated contract markets. (For ease of reading, this brief calls the relevant platforms “prediction markets.”) These markets began offering sports-related events contracts at the beginning of last year. And they actively advertised such contracts as sports betting. Dustin Gouker, *Ten Times Kalshi Said People Could Bet On Things*, Event Horizon (April 3, 2025), perma.cc/CWK2-TZCV. This form of sports betting has quickly taken hold with the public. See, e.g., Lev Akabas, *Kalshi's Volume Has Been 90% Sports During Football Season*, Sportico (Oct. 3, 2025), perma.cc/X5WL-8LGM. Prediction markets, in turn, have quickly expanded the types of sports bets they offer. Dustin Gouker, *Kalshi Rolls Out Same-Game Parlays For Monday Night Football Games*, Event Horizon (Sept. 30, 2025), perma.cc/V3M9-L59R. Today, people can make all types of sports bets on these platforms—ranging from who will win a game, to whether a team will cover a point spread, to more obscure wagers about how a given athlete will per-

form. See, e.g., Kalshi Website, *Sports*, <https://kalshi.com/sports/all-sports> (last accessed March 2, 2026).

Until recent weeks, the CFTC was careful not to endorse this activity. Most notably, in September, the CFTC issued a staff advisory directed at platforms offering sports-related events contracts. CFTC Letter No. 25–36, *Advisories* (Sept. 20, 2025), <https://www.cftc.gov/PressRoom/PressReleases/9137-25>. The advisory warned that the CFTC had never “taken any official action to approve” the listing of such contracts. *Id.* at 2 n. 4. The advisory further explained that the CFTC “has not, to date, made a determination regarding whether any such contracts involve an activity enumerated or prohibited under” the Commodity Exchange Act. *Id.* Those offering sports-related events contracts, the advisory thus cautioned, must be prepared for the possibility that state law will “result in the termination” of such contracts. *Id.* at 2.

The CFTC has since changed its tune. At the end of last year, the Commission swore in a new Chairman. Fresh on the job, and without public input or comment, the Chairman soon broadcast his view that all events contracts—including those about sports—are “swaps” within the CFTC’s exclusive power. See, e.g., Michael S. Selig, *States Encroach on Prediction Markets*, WALL STREET JOURNAL (Feb 16, 2026), <https://web.archive.org/web/20260218182304/https://www.cftc.gov/PressRoom/SpeechesTestimony/seligstatement021726>.

A few days later, the CFTC filed an *amicus brief* here embracing this new position. The CFTC now argues that its exclusive jurisdiction over swaps is broad enough to cover contracts involving any uncertain outcome that can be loosely tied to potential economic consequences. CFTC Br. 15, 19. Taking that “broad” reading, the argument goes, bets on the “final score” of games (or other comparable wagers) qualify as swaps. CFTC Br. 15. In the CFTC’s view, moreover, the States have no “concurrent jurisdiction” over this activity. See CFTC Br. 13.

Summary of Argument

The *amici* States offer four points in response to the CFTC.

I. The CFTC’s preemption theory deserves no special weight. Preemption analysis generally turns on statutory interpretation. See *Kansas v. Garcia*, 589 U.S. 191, 208 (2020); *Va. Uranium, Inc. v. Warren*, 587 U.S. 761, 767 (2019) (Gorsuch, J., op.). This case is no exception. Here, preemption depends on whether Federal statutes about derivatives contain a clear statement removing the States’ traditional authority over sports betting. The CFTC has “no special competence” to answer that question about “the scope of” its own jurisdiction. See *Loper Bright*, 603 U.S. at 400–01. Rather, because the CFTC’s fresh reading of Federal statutes exalts its own authority, this case presents a scenario where “abdication in favor of the agency is least appropriate.” See *id.* at 401.

Accounting for the surrounding circumstances, the CFTC’s new position also does not carry any “particular power to persuade.” See *id.* at 402 (quotation omitted). The position was prepared for purposes of litigation, without input from the public or the States. The position is inconsistent with the CFTC’s past guidance, including guidance offered much closer in time to the enactment of the relevant statutory text. And the position does not arise from any special expertise in the area of sports betting. Considering these features, the CFTC’s position is “inherently suspect.” See *Wyeth v. Levine*, 555 U.S. 555, 577 (2009).

II. The CFTC’s new claim of expansive power also confirms that this case implicates the major-questions doctrine. Under the doctrine, broad and novel claims of Federal-agency authority over significant topics must flow from “clear Congressional authorization.” *West Virginia v. EPA*, 597 U.S. at 723 (quotation omitted). The doctrine thus captures scenarios where an agency “claim[s] to discover in a long-extant statute an unheralded power representing a transformative expansion in its regulatory authority.” *Id.* at 724 (alterations accepted, quotation omitted).

This case fits that description. The CFTC claims to have discovered within statutory provisions about financial derivatives—all of which have been in place for fifteen years or longer—“an unheralded power” to regulate sports betting for the entire country. See *id.* (quotation omitted). Such an assertion of Federal power requires “clear Congressional authorization.” See *id.* (quotation omitted). And the CFTC identifies none.

III. The CFTC’s sudden claim of exclusive authority over sports betting also contravenes the federalism canon. As that canon teaches, courts expect Congress to speak clearly if it intends to shift the States’ historic powers to the Federal Government. *Bond*, 572 U.S. at 857–59. And the regulation of gambling falls within the States’ traditional police powers. *Ah Sin v. Wittman*, 198 U.S. 500, 505–06 (1905). The States have therefore long regulated gambling, including sports betting. The

Court should not upset this traditional balance absent a clear Congressional directive. The CFTC's position, however, would do just that.

IV. The CFTC's lack of expertise as to sports betting makes preemption even more implausible. Congress is "especially unlikely," the Supreme Court has said, to delegate broad power to a Federal agency that "has no expertise" crafting "policy" on a given topic. *King v. Burwell*, 576 U.S. 473, 486 (2015). Here, the CFTC has no expertise in regulating sports betting. The States, on the other hand, have considerable expertise on the subject. Given that discrepancy, the CFTC's reading of statutory text is "especially unlikely." *See id.*

Argument

The CFTC repeats the tale that prediction markets like Crypto and Kalshi have been telling over the last year. The Commission argues that its exclusive jurisdiction over "swaps" is so broad as to preempt the States' traditional authority over sports betting. *See* CFTC Br. 22–24. By that account, Congress quietly removed the States' traditional authority fifteen years ago—when it responded to the 2008 financial crisis—by adding the word "swaps" to a pre-existing statutory scheme aimed at financial instruments and markets. That makes no sense. Fifteen years ago, sports betting was mostly illegal. *See Murphy*, 584 U.S. at 458. Congress had tried to keep it that way. *Id.* at 461. And nobody thought that sports betting caused the mortgage crisis. Thus, applying even an ounce of common sense, the preemption tale is fanciful.

Legally speaking, the CFTC's interpretation of Federal statutes fares no better. When Congress intends major changes to the existing state of the law, it speaks clearly, not obscurely. *Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457, 468 (2001). That matters here because the CFTC's expansive preemption theory would be a seismic change to this country's gambling laws. Consequently, the CFTC's position does not work unless Congress made a clear statement of such broad preemptive intent.

No such statement exists. As Nevada aptly explains, the text of the Commodity Exchange Act does not signal an intent to displace the States' traditional authority over sports betting. And it certainly does not do so clearly. Among other things, betting on the score of a game, or the performance of an athlete, does not fit within the statutory definition of "swaps." *See* 7 U.S.C. §§ 1a(47)(A), 2(a)(1)(A); Nevada Br. 20–32. That financial-instrument descriptor simply "cannot bear" the weight that prediction markets place on it. *See Learning Res., Inc.*, 2026 WL 477534, at *6 (majority op.). In arguing otherwise, the CFTC resorts to a stilted, contextless reading of the statutory text.

To add to the discussion, the *amici* States emphasize four points. *First*, the CFTC's interpretation of Federal statutes should receive no deference or special weight. *Second*, the CFTC's new claim of expansive Federal power solidifies that the major-questions doctrine applies to this case. *Third*, the CFTC's reading of statutory law violates the federalism canon, under which courts expect Congress to speak clearly when it intends to significantly shift this country's traditional balance of power. *Fourth*, considering practical expertise, it is especially unlikely that Congress would have replaced the States (which have considerable experience regulating gambling) with the CFTC (which has no experience).

I. The CFTC's Reading of Federal Statutes Deserves No Special Weight

A. Under the Supremacy Clause, Congress may preempt state law when it acts within the boundaries of its enumerated powers. *See* U.S. Const. art. VI, cl. 2. But preemption is not a "freewheeling judicial inquiry" by which courts guess at unstated "Federal objectives." *Chamber of Commerce v. Whiting*, 563 U.S. 582, 607 (2011) (quotations omitted). Instead, "all preemption arguments," no matter the form they take, "must be grounded" in the text of Federal law—usually the text of a "statute." *Kansas*, 589 U.S. at 208 (quotation omitted). As a result, preemption analysis almost always turns on statutory interpretation. *Va. Uranium, Inc.*, 587 U.S. at 767 (Gorsuch, J., op.). And courts apply standard rules of statutory interpretation when deciding Federal law's "preemptive effect." *Id.*

The Supreme Court recently clarified one relevant rule of statutory interpretation. Specifically, in *Loper Bright*, the Court overruled the doctrine of *Chevron* deference, under which the judiciary sometimes deferred to Federal agencies' interpretation of Federal statutes. 603 U.S. at 377–80, 412–13. It is the role of judges, *Loper Bright* explained, "to determine the best reading of" Federal statutes. *Id.* at 400. This remains true in cases presenting "technical statutory questions." *Id.* at 402. Federal agencies, the decision went on, have "no special competence" when it comes to interpreting "the scope of" their "own power." *Id.* at 400–01. If anything, "abdication in favor of [an] agency is least appropriate" in such scenarios. *Id.* at 401. The Supreme

Court thus held that judges “must exercise their independent judgment in deciding whether” a matter fits within an agency’s “statutory authority.” *Id.* at 412.

For preemption purposes, *Loper Bright* built on top of an existing foundation. Even during the *Chevron* era, the Supreme Court stressed that “agencies have no special authority to pronounce on pre-emption absent delegation by Congress.” *Wyeth*, 555 U.S. at 577. Courts, therefore, were not permitted to “defer[] to an agency’s conclusion that state law is preempted.” *Id.* at 576. Separate caselaw also taught that Courts should be “reluctant to find” preemption in areas “traditionally governed by state law.” *CSX Transp., Inc. v. Easterwood*, 507 U.S. 658, 664 (1993); *accord Altria Grp., Inc. v. Good*, 555 U.S. 70, 77 (2008).

Of course, even after *Loper Bright*, there may be times when an agency’s opinion about statutory meaning carries “particular ‘power to persuade.’” 603 U.S. at 402 (quoting *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944)). But such power depends on the circumstances. The persuasiveness of an agency’s opinion involves various factors including “the thoroughness evident in its consideration, the validity of its reasoning, [and] its consistency with earlier and later pronouncements.” *Id.* at 388 (quotation omitted). Agency interpretations “issued contemporaneously with the statute at issue, and which have remained consistent over time, may be especially useful in determining the statute’s meaning.” *Id.* at 394. By contrast, agency positions “developed during the course” of litigation are naturally more questionable. *See Alaska v. Fed. Subsistence Bd.*, 544 F.3d 1089, 1095 (9th Cir. 2008). Along similar lines, when an agency opines on preemption “without offering States or other interested parties notice or opportunity for comment,” the agency’s opinion is “inherently suspect.” *Wyeth*, 555 U.S. at 577.

B. Applying this framework, the CFTC’s new position deserves no special weight. The preemption analysis in this case turns on interpreting Federal statutes, including the statutory provision giving the CFTC “exclusive jurisdiction” over certain listed derivatives. *See* 7 U.S.C. § 2(a)(1)(A). The CFTC has “no special competence” to perform this statutory analysis about the “scope of” its “own power.” *See Loper Bright*, 603 U.S. at 400–01. Rather, because the CFTC reads Federal statutes in a manner that aggrandizes its own power, this is an “occasion on which abdication in favor of the agency is *least* appropriate.” *See id.* at 401.

Delving further, the CFTC’s opinion bears many features that cut against its power to persuade. For one, the CFTC’s thoughts on preemption were formed “without offering States or other interested parties notice or opportunity for comment.” *Wyeth*, 555 U.S. at 577. For another, the CFTC’s present view of “swaps” is *inconsistent* with the CFTC’s earlier views, which the Commission offered much closer in time to the relevant statutory amendments. *See above* 6–8. Indeed, just 2 years after gaining jurisdiction over “swaps,” the CFTC refused to read the term so broadly as to capture ordinary consumer transactions—concerning “personal” activities—that did not “involve risk-shifting arrangements” and “historically have not been considered to involve swaps.” 77 *Fed. Reg.* at 48247–48. The CFTC also formed its present position for the purposes of litigation. *See Selig, States Encroach on Prediction Markets*, WALL STREET JOURNAL (indicating that the CFTC’s brief responds to “legal attacks on the CFTC’s authority”). Finally, as discussed more below (at 28–29), the CFTC has no special expertise as to sports betting.

Combining all this, the conclusion is easy. The CFTC’s opinion on preemption is “inherently suspect” and should be treated with the same caution as any argument from a self-interested party. *See Wyeth*, 555 U.S. at 577. Perhaps recognizing as much, the CFTC does not even try to argue that its position deserves special respect.

II. Under the Major-Questions Doctrine, the Court Should Reject the CFTC’s New Claim of Expansive Authority.

A. Even setting aside power-to-persuade considerations, the CFTC’s position violates the major-questions doctrine. The doctrine teaches that courts—when reading statutes empowering Federal agencies—should employ “common sense as to the manner in which Congress would have been likely to delegate” power. *West Virginia*, 597 U.S. at 722–23 (alteration accepted, quotation omitted); *see also Learning Res., Inc.*, 2026 WL 477534, at *7 (Roberts, C.J., op.) (discussing the need for context, common sense, and skepticism when the Federal Government claims “broad, expansive power on an uncertain statutory basis”). “Extraordinary grants of regulatory authority,” the Supreme Court has said, “are rarely accomplished through modest words, vague terms, or subtle devices.” *West Virginia*, 597 U.S. at 723 (alteration accepted, quotation omitted).

The major-questions doctrine thus requires a clear statement whenever a Federal agency claims broad and novel authority over matters of great economic and political significance. *See id.* at 721, 724. Courts should therefore tread cautiously when

an agency “‘claim[s] to discover in a long-extant statute an unheralded power’ representing a ‘transformative expansion in its regulatory authority.’” *Id.* at 724 (alterations accepted, quoting *Util. Air Regulatory Group v. EPA*, 573 U.S. 302, 324 (2014)). Said differently, a “lack of historical precedent,” “coupled with” a broad claim of Federal authority, makes for “a telling indication” of Federal overreach. *Learning Res., Inc.*, 2026 WL 477534, at *9 (Roberts, C.J., op.) (quoting *NFIB v. OSHA*, 595 U.S. at 119).

As the States’ earlier briefing explained, this case implicates the major-questions doctrine. *State-Amicus Br.* 21–25. Sports betting is a politically and historically significant topic. The practice has been illegal for much of this country’s history, and it remains illegal in many States. Am. Gaming Ass’n, *State of the States 2025*, at 12–13. Sports betting is also economically significant. The pastime has rapidly ballooned into a multi-billion-dollar industry, involving millions of Americans. *State-Amicus Br.* 22–23; see also King, 576 U.S. at 486. As just one illustration of this, Kalshi recently reported over a billion dollars in trading on Super Bowl Sunday alone. Laya Neelaatkandan, *Kalshi says Super Bowl trading volume surpassed \$1 billion*, CNBC (Feb. 10, 2026), <https://perma.cc/PS9A-2K76>. Sports gambling is thus clearly a matter of “economic and political significance.” See *Learning Res., Inc.*, 2026 WL 477534, at *9 (Roberts, C.J., op.) (quoting *West Virginia*, 597 U.S., at 721).

The CFTC’s new position further cements the major-questions doctrine’s application. The CFTC has had jurisdiction over swaps for more than fifteen years. And it has had jurisdiction over other derivatives for half a century. But before the last few weeks, the CFTC had never claimed that its jurisdiction was broad enough to override the States’ authority over sports betting. In fact, just 2 years ago, the CFTC recognized that “gambling is overseen by state regulators” and that there is no “statutory mandate” to the contrary. 89 *Fed. Reg.* at 48982–83. Departing from its past restraint, the Commission now claims to have discovered, within fifteen-year-old statutory text, “an unheralded power” that would drastically expand its authority. See *West Virginia*, 597 U.S. at 724 (quotation omitted). That claim warrants skepticism.

In practical effect, the breadth of the CFTC’s position is immense. If Crypto’s and Kalshi’s sports bets qualify as swaps within the CFTC’s exclusive jurisdiction, then traditional sports bets cannot be treated in any other fashion. Under the Federal definition, a swap is any type of “agreement, contract, or transaction” that satisfies certain conditions. 7 U.S.C. § 1a(47)(A). If an agreement satisfies those conditions, the Federal scheme makes it generally “unlawful for any person” to enter into such an agreement except via a CFTC-regulated contract market. 7 U.S.C. § 2(e) (emphasis added). Thus, when unpacked, the CFTC’s real argument is that all sports betting *must* occur on CFTC-regulated markets. The CFTC seems to realize these implications. See CFTC Br. 4, 13, 23. Its brief declares that “Congress did not carve out a role for” the States in this area. *Id.* at 13. Thus, in the CFTC’s view, the States possess no “concurrent jurisdiction.” *Id.* These words leave no mystery: the CFTC seeks to be crowned this country’s “sole lawful regulator” of sports betting. See CFTC Br. 23 n. 14 (quotation omitted). Candidly, “Congress would not have delegated” such “‘highly consequential power’ through ambiguous language.” See *Learning Res., Inc.*, 2026 WL 477534, at *7 (Roberts, C.J., op.) (quoting *West Virginia*, 597 U.S. at 723–24).

Because this case implicates the major-questions doctrine, the CFTC’s position works *only if* Federal statutes contain a clear statement bestowing such grand authority. See *West Virginia*, 597 U.S. at 724. The CFTC identifies no such clear statement. Instead, like the litigants it supports, the CFTC relies upon a roundabout preemption theory under which Congress—fifteen years ago, when sports betting was mostly illegal—supposedly made a subtle-but-drastic change to gambling laws by inserting the word “swaps” into a pre-existing regulatory scheme aimed at financial regulation. If that sounds wrong, it is because it is.

B. The CFTC’s contrary arguments fall flat. The CFTC no doubt appreciates that sports betting is a politically and economically significant topic. See CFTC Br. 28–29. Even so, the CFTC suggests that any backdrop “presumption” against its position fades away because the Federal provision giving it exclusive jurisdiction signals some preemptive intent. See *id.* at 27 (citing 7 U.S.C. § 2(a)(1)(A)). That argument dodges the key question. The key question here is not whether Federal statutes about derivatives *sometimes* have preemptive effect in *some* situations. The key question is instead whether those statutes clearly displace the States’ traditional authority over sports betting. And the answer to *that* question is a resounding “no.”

To sharpen the point, return to the major-questions doctrine. The doctrine, by its very nature, involves scenarios where Congress has chosen to give an agency *some* power. The doctrine, therefore, does not focus on the mere existence of agency

power. The doctrine instead focuses, more specifically, on whether Congress has clearly authorized the *breadth* of power an agency is claiming. It follows here that the CFTC cannot simply rely on the fact that its exclusive jurisdiction results in some preemption. The CFTC must instead identify a clear statement supporting the broad “power it claims.” See *West Virginia*, 597 U.S. at 723 (emphasis added). On that front, the CFTC has nothing persuasive to offer.

III. The Federalism Canon Forecloses the Expansive Authority the CFTC Now Asserts

A. The CFTC’s position also runs afoul of the federalism canon. As the States’ earlier briefing explained, *State-Amicus Br.* 17–21, the canon requires courts “to be certain of Congress’ intent before finding that Federal law overrides the usual constitutional balance of Federal and state powers.” *Bond*, 572 U.S. at 858 (quotation omitted). Courts should thus be especially “reluctant to find” preemption in an area “traditionally governed by state law.” *CSX Transp., Inc.*, 507 U.S. at 664.

Gambling is exactly such a field. The States have long exercised their police powers to regulate gambling. Or, in this Court’s words, “the regulation of gambling lies at the heart of the state’s police power.” *Artichoke Joe’s Cal. Grand Casino v. Norton*, 353 F.3d 712, 737 (9th Cir. 2003) (quotation omitted). Federal law has thus historically “defer[red] to, and even promote[d], differing gambling policies in different States.” *Greater New Orleans Broad. Ass’n, Inc. v. United States*, 527 U.S. 173, 187 (1999). The States may, as a result, act to promote the “welfare, safety, and morals” of their citizens in this field. *Artichoke Joe’s*, 353 F.3d at 737 (quotation omitted).

Applying the federalism canon, the CFTC’s position should fail unless Congress made a “clear statement” signaling that it intended “a significant change in the sensitive relation between” the Federal and state governments as to gambling. See *Bond*, 572 U.S. at 858–59 (quotation omitted); *accord Ah Sin*, 198 U.S. at 505–06. As explained above (at 14, 23), the CFTC identifies no clear statement—it offers only an attenuated theory, under which Congress hid broad preemptive intent in obscure subsections of complex statutory text.

Tellingly, the CFTC’s position looks much like proposed readings that have failed in the past. For instance, in 2000, the Supreme Court rejected the FDA’s attempt to claim authority over tobacco based on the word “drug” within the Food, Drug, and Cosmetic Act. *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 125 (2000). This Court should similarly reject the CFTC’s invitation to read the word “swaps” in an improbably broad way that would usurp the States’ traditional authority.

The CFTC’s position becomes even more improbable given the Supreme Court’s decision in *Murphy*. The Supreme Court decided *Murphy* years after the CFTC had already received jurisdiction over swaps. And the Court proclaimed in *Murphy* that the States are “free to act” as they wish on the “controversial subject” of “sports gambling.” 584 U.S. at 486. That would make no sense if, as the CFTC posits, sports bets have really been swaps under its exclusive authority all along.

B. The CFTC cannot dodge the federalism canon by staying at a high level of abstraction. It says that its position works (and no presumption against preemption applies) because Congress gave it exclusive jurisdiction provision “to provide national uniformity for derivatives trading” on “derivatives markets.” CFTC Br. 27. This argument “misunderstands” the specific focus of the federalism canon. See *Wyeth*, 555 U.S. at 565 n. 3. Because courts do not expect Congress to “cavalierly” remove traditional state authority, the canon focuses on “the historic presence of state law,” not “the absence of Federal regulation.” See *id.* (quotation omitted). That Congress granted the CFTC exclusive jurisdiction over *derivatives markets* is nowhere close to the “clear and manifest” statement required to supersede “the historic police powers of the States” to regulate *gambling*, including sports gambling. See *id.* at 565. The Court should thus reject the CFTC’s new claim of unbridled authority.

IV. The CFTC Lacks the States’ Experience in Regulating Gambling

A. As a corollary to the above clear-statement rules, Congress is “especially unlikely” to delegate broad power to a Federal agency that “has no expertise” crafting “policy” on a given subject. *King*, 576 U.S. at 486. That makes preemption especially unlikely here, given the stark difference in experience between the States and the CFTC.

Begin with the States. As the CFTC itself has previously conceded, the States have “particular expertise” addressing the “risks and concerns associated with gambling,” including sports betting. 89 *Fed. Reg.* at 48982–83. The States confront these risks in many ways. To name a few, they (1) impose front-end screening to ensure that those facilitating gambling are suitable for the task, (2) set age limits to protect

those most vulnerable to gambling addiction, (3) limit who may place bets to protect the integrity of sporting events, and (4) facilitate voluntary exclusion lists to assist problem gamblers. *See State-Amicus Br.* 25–27, 32–33 (discussing the approaches of New Jersey and Ohio).

The CFTC has no history of offering similar protections. By its own admission, the CFTC lacks “specialized experience appropriate to oversee” gambling. 89 *Fed. Reg.* at 48983. Its regulations “are focused on regulating financial instruments and markets, and do not include provisions aimed at protecting against gambling-specific risks and concerns, including customer protection concerns inherent to gambling.” *Id.* Consistent with the CFTC’s inexperience as to gambling, Congress allowed the CFTC to prohibit contracts involving “gaming” from being listed on CFTC-regulated markets. 7 U.S.C. § 7a–2(c)(5)(C). To that end, the CFTC promulgated a regulation making clear “[a] registered entity shall not list for trading” a “swap based upon an excluded commodity” that “involves, relates to, or references,” among other things, “gaming.” 17 CFR § 40.11(a)(1). Both the statutory provision and corresponding regulation are curiously absent from the CFTC’s brief.

Another feature of the Federal scheme exacerbates the problem. Federal law allows prediction markets to self-certify the contracts they list, with no pre-approval from the CFTC. *See* 7 U.S.C. § 7a–2(c)(1). That hands-off approach, combined with an inexperienced regulator, is a sure formula for irresponsible sports betting. It is improbable, to say the least, that Congress would have left such a gap.

B. The CFTC does not seriously engage with the topic of regulatory experience. Nor does it discuss, in any real detail, what it is doing (or plans to do) to confront gambling problems stemming from sports betting on prediction markets. Rather than confronting these issues, the CFTC hides behind the notion that this is all some brand new “financial innovation.” *See* CFTC Br. 17. That asks the Court to ignore reality. Risking money on the “final score of a sporting event,” CFTC Br. 15, is sports betting, no matter how it is dressed up. *See* Dustin Gouker, *Ten Times Kalshi Said People Could Bet On Things*, Event Horizon. The States have experience regulating such activity; the CFTC has none.

One final argument warrants a response. The CFTC’s briefing promises a parade of horrors if the States retain their traditional power. *See* CFTC Br. 28–29. But the CFTC’s vague consequentialism shows surprisingly little regard for this country’s first principles. The CFTC decries the fact that prediction markets offering sports betting are being subject to “a patchwork of state laws and regulations.” CFTC Br. 7. That is a strange complaint since, in our federalist system, the possibility that States will make different choices is a feature, not a bug.

Under this country’s constitutional structure, the States are *supposed* to act “as laboratories” of democracy, “devising solutions” to new and difficult problems. *Ariz. State Legis. v. Ariz. Indep. Redistricting Comm’n*, 576 U.S. 787, 817 (2015) (quotation omitted). And companies must commonly account for both state and Federal law, including in scenarios involving antitrust laws, securities laws, drug-labeling laws, and consumer-protection laws. *See, e.g., Wyeth*, 555 U.S. at 581 (drug labeling); *Cantor v. Detroit Edison Co.*, 428 U.S. 579, 596 (1976) (antitrust); *Davidson v. Sprout Foods, Inc.*, 106 F.4th 842, 852 (9th Cir. 2024) (food labeling); *Green v. Fund Asset Mgt., L.P.*, 245 F.3d 214, 227 (3d Cir. 2001) (securities); *Spectrum Ne., LLC v. Frey*, 22 F.4th 287, 301 (1st Cir. 2022) (consumer protection). A key takeaway of the federalism canon—especially coupled with the major-questions doctrine—is that *the States* are expected to be the primary regulators of health and safety. So the constitutional default is that companies like Crypto and Kalshi will have to navigate both state and Federal law.

Allowing the States freedom to make their own choices is a particularly good thing here since “Americans have never been of one mind about gambling.” *Murphy*, 584 U.S. at 458. The States are therefore “free to act” in this area until Congress clearly removes their historic authority. *Id.* at 486. Congress has not done so, and the CFTC has no special license to declare otherwise.

Conclusion

The Court should affirm.

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United States Court of Appeals for the Ninth Circuit

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Signature /s/ **Mathura J. Sridharan**

Date: March 10, 2026

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I hereby certify that on March 10, 2026, the foregoing was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ **Mathura J. Sridharan**

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JAMES SIVA, CHAIRMAN, CALIFORNIA NATIONS INDIAN GAMING ASSOCIATION

Chairman Thompson, Ranking Member Craig, and Members of the Committee:

My name is James Siva, and I serve as Chairman of the California Nations Indian Gaming Association (CNIGA), which represents 57 federally recognized Tribal governments in California. This testimony is being submitted in response to the Committee's recent hearing held on April 16, 2026, entitled *For the Purpose of Receiving Testimony from the Honorable Michael S. Selig, Chairman, U.S. Commodity Futures Trading Commission*.

This is a timely matter: Congress urgently needs to conduct oversight of the Commodity Futures Trading Commission (CFTC) and revise its authorizing statute. Why? For more than a year the CFTC has sat idly by while companies have blatantly violated the letter and spirit of the Commodity Exchange Act (CEA) and CFTC regulations by offering illegal sports betting disguised as regulated event futures contracts.

Make no mistake about it, these alleged event futures contracts on sport events are gambling activity, plain and simple. Since the Professional and Amateur Sports Protection Act was overturned by the U.S. Supreme Court in 2008, 36 states and the District of Columbia have legalized and regulated as gambling the exact activity being conducted as event futures contracts by these private prediction market companies. The rest of the states have made the policy decision not to permit sports betting in their state.

These companies and the CFTC will try to distinguish sports bets on a Designated Contract Market (DCM) from sports bets either prohibited or regulated by a state by claiming that because there is no house taking a stake in the wager on a DCM, it is distinct from the type of sports betting states regulate. This is a distinction without a difference. Many forms of state and tribally regulated gaming do not involve a "house." Tribes built their gaming industry on bingo, in which players compete against one another, not the "house." In *pari-mutuel* betting on horse races, all bets on a particular race are pooled together, odds on the race are determined by the bets placed, and the pool is shared among those that correctly predict the outcome of the race after the track takes its commission, commonly referred to as a "takeaway." Yet these private, self-regulated prediction market companies, and the CFTC that purportedly oversees and regulates them, make the extraordinary claim that if a company self-certifies that exact gambling activity and puts it on a DCM, it suddenly ceases to be gambling, and becomes something different. That is nonsensical.

These contracts are nothing more than an obvious ruse to avoid prohibitions or regulatory requirements established by states and Tribal governments. By turning a blind eye to these sports bets poorly disguised as regulated financial instruments, the CFTC is implicated in violating the sovereignty of states and Tribal nations across the country.

If the CFTC cannot or will not act to halt this illegal activity, Congress must do so.

Congress and CFTC Regulations Explicitly Rejected Sports Event Futures as Gambling

The intent of Congress in enacting the Commodity Exchange Act, and the CFTC in its implementing regulations, was to exclude gaming in CFTC-regulated markets. This was made explicitly clear during debate on the most recent modernization of the CEA in 2010, when the then-Senate Agriculture Committee Chairman stated ^{1*} the purpose of Sec. 745² of the bill, identifying “gaming”, and other contracts as not in the public interest:

“ . . . I maintained this provision in the conference report to assure that the Commission has the power to prevent the creation of futures and swaps markets that would allow citizens to profit from devastating events and also prevent gambling through futures markets.

“The Commission needs the power to, and should, prevent derivatives contracts that are contrary to the public interest because they exist predominantly to enable gambling through supposed ‘event contracts.’ It would be quite easy to construct an ‘event contract’ around sporting events such as the Super Bowl, the Kentucky Derby, and Masters Golf Tournament. These types of contracts would not serve any real commercial purpose. Rather, they would be used solely for gambling.”

The CFTC acted on this direction from Congress in developing its implementing regulations,³ which explicitly prohibit contracts involving gaming:

(a) *Prohibition.* A registered entity shall not list for trading or accept for clearing on or through the registered entity any of the following:

(1) An agreement, contract, transaction, or swap based upon an excluded commodity, as defined in Section 1a(19)(iv) of the Act, that involves, relates to, or references terrorism, assassination, war, gaming, or an activity that is unlawful under any state or Federal law;

Years ago, Congress and the CFTC itself acted to ensure that futures markets would not become a sports betting loophole, yet today prediction markets brazenly flout this law with impunity.

Prediction Markets Are Operating Illegal Online Sports Betting

Despite a clear regulatory prohibition and direction from Congress, online platforms registered with the CFTC as Designated Contract Markets (DCM) are currently offering online sports betting while asserting that sports event contracts are somehow legitimate futures. These sports event contracts are gaming in every sense of the word and are advertised as such by the operators. However, they lack the robust safeguards required by state, Tribal, and Federal law, and conceal that in these prediction markets, the platform also often acts as the house by taking the other side of consumers’ bets.

Prediction markets claim to Congress, the CFTC, and courts that sports bets are simply event futures contracts; however, their own advertising⁴ describes such contracts as legalized sports betting in all 50 states. In countless instances, these entities advertise their products to consumers as “legal betting”, including describing their offerings as legal in states which currently prohibit all forms of sports betting.

One advertisement by prediction market Kalshi claims it is “The First Nationwide Legal Sports Betting Platform”,⁵ a frequent theme in prediction market advertising:

¹ 156 *Cong. Rec.* S5[09]6 (daily ed. July 15, 2010).†

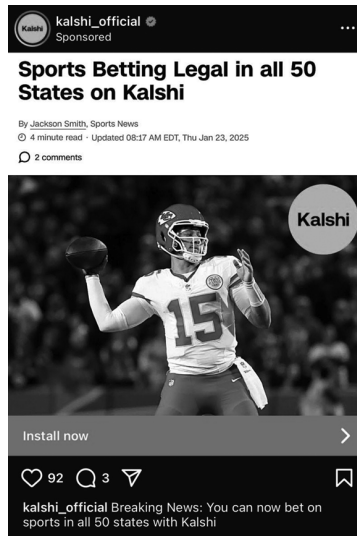
* **Editor’s note:** references annotated with † are retained in Committee file.

² 7 U.S.C. § 7a-2(c)(5)(C).†

³ 17 CFR § 40.11.†

⁴ Source: Dustin Gouker, *Ten Times Kalshi Said People Could Bet On Things*, † Event Horizon, <https://nexteventhorizon.substack.com/p/ten-times-kalshi-said-people-could> (last accessed December 16, 2025).

⁵ *Id.*



The same prediction market also ran advertisements during the annual college basketball tournament in California—where all sports betting is illegal—urging viewers to “Make \$ on March Madness” and claimed to be “Legal in California”. Prediction markets are intentionally misleading consumers to believe that they are conducting legal gaming activities. It is clear from prediction markets’ advertising that consumers are intended to view these sport event futures contracts as gaming.

The hypocrisy is stunning. While spending millions to advertise “legalized sports betting in all 50 states,” prediction markets simultaneously argue that state and Tribal gaming laws do not apply to them. Prediction market sports event futures lack virtually all of the core safeguards required by state and Tribal law. Unlike licensed sportsbooks, prediction markets actively seek to avoid compliance with state gaming laws, do not operate pursuant to Tribal-state compacts, and frequently lack mandatory age-verification, responsible-gaming programs, advertising restrictions, and problem-gaming funding requirements. Legal gaming systems also impose integrity monitoring, data-sharing with leagues and regulators, limits on bet types, and robust consumer-protection standards, including dispute resolution and enforcement mechanisms tailored to betting activity.

While prediction markets have argued that they differ from legal sports betting in that they simply facilitate peer-to-peer transactions and do not operate as the house by taking the other side of bets, recent litigation indicates that claim is false. Rather, it appears prediction markets utilize subsidiaries to conceal their role as the house:

“Kalshi Trading LLC and KalshiEX, both wholly owned subsidiaries of Kalshi, operate as highly sophisticated ‘market makers,’ which bet against consumers when their bets stray from Kalshi’s internal projected odds. A Kalshi representative called Kalshi Trading ‘one of many ‘peers’ in the peer-to-peer ecosystem.’ Kalshi Trading is not a peer; it is the House.”

Thanks to prediction markets’ intentional avoidance of the comprehensive public oversight, integrity, and consumer safeguards that states and Tribes have long deemed essential for legal gaming, it is not unreasonable to suggest that today underage children are gambling away their parents’ savings in churches, schools and other institutions that are designed to protect them.

Sports Futures on Tribal Lands Violate Federal, Tribal, & State Law

The enactment of the Indian Gaming Regulatory Act (IGRA) in 1988 created a clearly defined structure governing gaming on Tribal lands. Tribal governments may operate gaming on Tribal land in states in which gaming is legal, subject to limitations of state law and, frequently, Tribal-state gaming compacts delineating the scope of gaming which may be operated. IGRA also created the National Indian Gaming Commission (NIGC), the only Federal gaming regulatory entity. Under

IGRA, only Tribal governments may operate gaming on Tribal land, and they may only do so in compliance with state and NIGC requirements.

Tribal gaming has been one of the primary economic development tools available to Tribes. In states where Tribal gaming occurs, Tribes have been able to help address their members' health care, education, housing, and other needs. Tribal gaming has been beneficial not only for Tribal governments and their citizens, but also for surrounding communities and states. In 2021, CNIGA found that Tribal government enterprises in California supported an astounding 85,000 jobs across our state.

In California, all sports betting is prohibited. Neither Tribal governments, the state, nor commercial entities may offer sports betting on lands under Tribal or state jurisdiction. Today, however, prediction markets are offering online sports betting (as described in their own words and advertisements), on Tribal lands in California and across the country. Again, this is a crystal-clear violation of Federal law, Tribal gaming ordinances, and state gaming laws.

State Attorneys General and Regulators Agree: Sports Futures Are Illegal Sports Bets

The Tribal governments that CNIGA represents are not alone in objecting to the illegal online sports betting offered by these prediction markets. Dozens of states have taken legal action in court or regulatory action through state regulatory agencies to halt the illegal online sports betting offered by prediction markets.

CFTC regulations allowing platforms to self-certify event contracts without pre-clearance from the agency enable an ecosystem in which prediction markets are able to launch gaming products first, then litigate after developing a customer base and generating immense revenue. This business model has resulted in an incredible glut of lawsuits, many of which were brought by prediction markets companies against states that have sought to enforce their gaming laws or, in some cases, merely indicated that they objected to these companies forcing their way into the state. Regardless of the litigation posture, though, states, Tribes, classes, and individuals all argue that these companies are violating the law and exploiting consumers, including vulnerable populations. Four *amicus briefs* have been filed to date by a bipartisan group of State Attorneys General opposing sports betting by prediction markets, the most recent of which was filed in the 9th Circuit Court of Appeals by 39 states and the District of Columbia⁶ supporting Nevada in litigation against a prediction market operator. As the State Attorneys General Brief filed in the 3rd Circuit Court of Appeals notes:

“Initially, it claims that its events contracts do not count as sports gambling. As a legal matter, that depends on definitions within state law. But, as a real-world matter, the activity Kalshi facilitates is obviously sports betting.

To confirm as much, one must only peruse Kalshi's website. The website has an entire category dedicated to ‘sports’ where—through a few easy clicks—people can bet on things like the Steelers winning more than eight games this season or the Ravens winning the Super Bowl. Baseball fans can similarly play the odds on whether the Phillies or the Mets will win the National League East.”

State gaming regulators are also engaging to prevent the proliferation of this illegal online gambling, which they believe lack the safeguards, consumer protection, and oversight of legalized and regulated gambling. For example, the Pennsylvania Gambling Control Board stated in an October letter to Congress:⁷

“Sports prediction markets operating outside established regulatory frameworks raise significant integrity concerns due to their vulnerability to manipulation. Our frameworks involve mandatory data sharing between licensed operators and sports leagues, sophisticated monitoring systems to detect suspicious betting patterns, and strict rules prohibiting participation by athletes, officials, and other insiders.”

The CFTC Has Abandoned Its Statutory Duties

In the last year, the CFTC has demonstrated its unwillingness to appropriately interpret and implement its own statutory duties. After nearly 9 months of illegal sports betting conducted on prediction markets, the CFTC issued an Advisory Letter

⁶Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington and Wisconsin.

⁷Pennsylvania Gaming Control Board, Letter from Kevin F. O'Toole, Executive Director, to Members of Congress (Oct. 3, 2025).[†]

(25–36) admitting that it had not reviewed a single sports event contract posted for trade on a prediction market because the prediction markets self-certified and affirmed their products complied with the CEA. Trust, but verify. The rapid rise in sports event trading activity in such a short period of time should have been the first harbinger that something unusual was occurring and warranted investigation. And if that wasn't enough, the blatant marketing of sports event contracts as legal sports betting in states where it is unequivocally illegal should have compelled the CFTC to review at least one contract. But they didn't. In fact, they dismissed concerns voiced by Congressional Members, states and Tribes that these so-called DCMs were engaging in illegal gambling and using the CFTC for cover.

Less than 6 months later, the CFTC summarily rescinded Advisory Letter 25–36 and embarked on a pro-prediction market campaign with the very entities that are today violating the CEA. The CFTC has clearly demonstrated that it is unable to regulate its markets that offer futures event contracts. The Agency's current interests are not in ensuring compliance with the CEA or its own regulations; they are in protecting private for-profit entities in the name of "innovation" and to the detriment of anyone who should challenge them. The CFTC's recent actions, including intervening on behalf of prediction markets and affirmatively suing states that are asserting their sovereignty to decide what is in the best interests of their citizens, demonstrates a complete contradiction to what Congress intended when it last modernized the CEA in 2010.

Congress Must Hold the CFTC Accountable

Tribal government gaming was affirmed by Congress to support government services and enable our nations to address generations of broken promises and underinvestment in our communities. In California, that has resulted in Tribal governments having the exclusive right to offer casino-style gaming under the state Constitution and our Tribal-state gaming compacts entered into pursuant to the Federal Indian Gaming Regulatory Act. It is a travesty that rogue corporations are allowed to offer bets and wagers to our casino patrons that we cannot offer ourselves, and so CNIGA respectfully asks that the House of Representatives step in without delay. Congress must take immediate action to reaffirm the integrity of the CEA, restore the proper balance between Federal and Tribal-state authority, and protect consumers from predatory, unregulated online gaming that these prediction markets are offering through sport event contracts.

The CFTC's irresponsible and misguided attack on state and Tribal sovereignty suggests that it is ill-equipped or unwilling to enforce the CEA and the Agency's existing regulations, and will continue to allow illegal activity to occur on its watch. Prediction markets that offer event contracts on sport events are disregarding Federal, Tribal, and state laws to generate massive revenues at the expense of consumers and those who comply with the law.

Unless Congress reaffirms the boundary between legitimate derivatives markets (which should be insulated from state law and interference) and gambling activity, these prediction market companies will continue to expand unchecked.

Thank you for the opportunity to provide testimony. CNIGA stands ready to assist the Committee as it continues its oversight over the CFTC and considers legislative solutions to this growing problem.

WASHINGTON INDIAN GAMING ASSOCIATION

In Response to Testimony of Michael Selig, Chairman, Commodity Futures Trading Commission

Submitted to the Record

April 25, 2026

Executive Summary

This submission addresses whether sports-related event contracts fall within the scope of permissible derivative contracts under the Commodity Exchange Act ("CEA" or "Act") that are subject to the exclusive jurisdiction of the Commodity Futures Trading Commission ("CFTC"). They do not. In substance, these contracts constitute sports betting and therefore fall within the CFTC's blanket prohibition on contracts involving "gaming" under 17 CFR § 40.11(a)(1). Prediction markets' offering of these products throughout the United States—including on Indian lands—does not serve the CEA's purpose of addressing the risk, discovery, and dissemination of commodity prices,^{1*} and violates the Indian Gaming Regulatory Act

¹See 7 U.S.C. § 5(a)–(b).†

***Editor's note:** references annotated with † are retained in Committee file.

(“IGRA”).² Properly interpreted, the CEA and its implementing regulations do not authorize their listing or trading.

Supplemental Testimony

The Washington Indian Gaming Association, on behalf of its twenty-three federally recognized member Tribes, respectfully submits this supplemental testimony to address statements made during the recent hearing concerning the legality and regulatory treatment of sports-related event contracts. The testimony offered by CFTC Chairman Michael Selig characterizes these products as financial instruments that are distinguishable from gambling and appropriately governed under the CEA. That characterization cannot be reconciled with the Act’s statutory text, its legislative history, and other controlling Federal laws.

The dispositive question is whether Congress authorized the listing and trading of contracts that function as sports bets by federally regulated derivatives markets by adding a single term—“swap”—to the CEA in 2010. That inquiry is resolved by the CEA’s text. Under the CEA, a swap is defined as “any agreement, contract, or transaction . . . that provides for any purchase, sale, payment, or delivery . . . that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence.”³ However, sports-related event contracts are not dependent on the occurrence, non occurrence, or extent of the occurrence of a sports event—i.e., whether the sports event occurs—but rather on the outcome of the sports event (or parts thereof)—i.e., which team wins. In three recent decisions, the Nevada District Court held that sports bets are not swaps for precisely this reason.⁴ Further, these contracts are unconnected to any underlying commercial exposure and there otherwise is no “financial, commercial, or economic consequence” associated with them. Put simply, they are speculative wagers—particularly, sports bets—that are subject to regulation by Tribal, Federal, and state gaming laws.

Congress also expressed clear intent to prevent event contract markets from being used to conduct gambling when it enacted the [Dodd-Frank] Act in 2010, codifying the CEA’s “Special Rule” at 7 U.S.C. § 7a–2(c)(5)(C). Under the Special Rule, the CFTC is authorized to “determine that such agreements, contracts, or transactions are contrary to the public interest” and to disallow any “gaming” activity on prediction markets at all. The CFTC acted consistently with Congress’s intent by promulgating its blanket prohibition of event contracts involving gaming. 17 CFR § 40.11(a)(1). Sports event contracts fall squarely within the CFTC’s blanket ban on “gaming” contracts because, as one Federal judge aptly put it, “[t]hese are sports wagers and everyone who sees them knows it.”⁵ The argument that these contracts qualify as derivatives contracts does not alter the analysis.

The practical implications of reading the CEA to subject sports-related event contracts to the CFTC’s exclusive jurisdiction are significant. For one, if sports-related event contracts are “swaps” under the CFTC’s exclusive jurisdiction, that would mean Congress impliedly repealed key aspects of IGRA and other applicable Federal laws without any expression of intent to do so.

Under IGRA, for example, class III gaming—including sports betting⁶—is authorized on Indian lands only where Tribes and states have entered into a compact to regulate that gaming. Under Chairman Selig’s rationale, however, prediction markets like Kalshi can offer their sports across the United States—including on Indian lands—without Tribal consent because the CFTC is their sole and exclusive regulator. This is patently false.

Under the Indian Canons of Construction, the Supreme Court has ruled that statutes must be interpreted in favor of Tribes where ambiguity exists.⁷ There is no clear statement in the CEA authorizing the displacement of IGRA or the erosion of Tribal regulatory authority over gaming on their Indian lands. And even if there were ambiguity as to whether Congress intended for the CEA to repeal IGRA (it

²We have joined a number of *amicus curiae* briefs that further elaborate on the arguments made in our testimony and addresses other issues implicated by Chairman Selig’s interpretation of the CEA, including how his interpretation does not pass muster under the Major Questions and Private Non-Delegation Doctrines. See, e.g., Br. of Tribal Amici, *KalshiEX, LLC v. Johnson*, No. 2:26–cv–01715–MTL (D. Ariz. Mar. 31, 2026).†

³7 U.S.C. § 1 a(47)(A)(ii).†

⁴*KalshiEX, LLC v. Hendrick*,† No. 2:25–cv–575, 2025 WL 3286282, at *3, *8–*9 (D. Nev. Nov. 24, 2025)

⁵*Id.* at *8.

⁶See 25 CFR §§ 502.4(c).†

⁷See, e.g., *Bryan v. Itasca Cnty.*,† 426 U.S. 373, 392 (1976); see also *Swinomish Indian Tribal Cnty. v. BNSF Ry. Co.*,† 951 F.3d 1142, 1156 (9th Cir. 2020).

did not), such ambiguity must be resolved in the favor of Tribes under the Indian Canons.

Moreover, interpreting the [Dodd-Frank] Act's amendments to the CEA—a statute designed to address an economic crisis largely caused by unregulated derivative markets—to authorize nationwide sports betting also runs contrary to contemporaneous Federal policy against sports betting. In particular, at the time of the [Dodd-Frank] Act's passage in 2010, the Professional and Amateur Sports Protection Act effected a general prohibition on sports betting nationwide.

Further, sports-related event contracts raise significant integrity and consumer protection concerns, including the potential for insider information and participant influence over outcomes, which the regulated gaming industry is better equipped to mitigate. Until very recently, the CFTC has steered clear of regulating the type of sports betting activity occurring on prediction markets today because, per its own admission, it is not a gaming regulator.⁸ And the CFTC proved its incompetence to serve as a gaming regulator when it asked the public just last month whether the use of "Inside Information" on prediction markets should be permitted.⁹ Attempting to regulate sports wagering under the CEA's framework does not resolve these risks; it exacerbates them.

The sports-related event contract litigation unfolding across multiple jurisdictions also reflects the extreme regulatory instability created by attempts to rebrand sports wagering as derivatives contracts. That instability is unnecessary. The CEA's implementing regulations at 17 CFR § 40.11(a)(1) provides a clear rule: contracts that involve gaming are prohibited. When that rule is applied, sports event contracts fall within that prohibition.

The Washington Indian Gaming Association respectfully submits that sports-related event contracts are not a novel form of financial innovation but a poor attempt at disguising sports wagers as derivatives contracts. Properly interpreted, the CEA and its implementing regulation do not authorize their listing on CFTC-regulated exchanges.

SUBMITTED QUESTIONS

Response from Hon. Michael Selig, Chairman, U.S. Commodity Futures Trading Commission

Questions Submitted by Hon. Glenn Thompson, a Representative in Congress from Pennsylvania

Innovation Task Force

Question 1. Given the renaming of the Technology Advisory Committee to Innovation Advisory Committee ("IAC") and the establishment of the Innovation Task Force ("Task Force"), innovation is a priority at the CFTC.

How are the IAC and Task Force interacting as partners, and how do you view them complementing the others' efforts and avoiding duplication?

Question 1a. How is the Task Force interacting with divisions within the Commission?

Answer 1–1a. We intend for these entities to complement one another to help make the Commission's responsible innovation and fair competition mandate a reality. The Innovation Advisory Committee is an external committee that brings together thought leaders, business executives, and subject matter experts in industries and markets that the CFTC oversees, along with those with backgrounds in academia to help form a diversity of viewpoints. The Innovation Task Force is an internal unit at the CFTC, comprised of staff with deep professional expertise, that works closely with the relevant divisions at the Commission in carrying out the CFTC's work to modernize its ruleset and deliver clear rules of the road for the American people.

Question 2. Has the Task Force begun coordinating with other Federal agencies outside of the SEC?

Question 2a. If so, what does that interagency coordination look like?

Answer 2–2a. Yes. The Task Force has begun coordinating, as appropriate, based on the underlying issues, with other relevant Federal agencies and departments out-

⁸See *Event Contracts*,† 89 FED. REG. 48968, 48982–83 (Jun. 10, 2024) ("The [CFTC] is not a gaming regulator . . . and the [CFTC] does not believe that it has the statutory mandate nor specialized experience appropriate to oversee [gambling], or that Congress intended for the [CFTC] to exercise its jurisdiction or expend its resources in this manner.").

⁹See *Prediction Markets*,† 91 FED. REG. 12516, 12522 (proposed Mar. 16, 2026).

side of the SEC. In areas of overlapping policy interest, the Task Force engages with other regulators and agencies to get a better understanding of certain policies, precedents, and other relevant considerations. Further, the Commission engages in interagency coordination through the Office of Information and Regulatory Affairs (OIRA) when appropriate to ensure the viewpoints of other relevant agencies are taken into consideration when the Commission contemplates rules and regulations.

Question 3. As new financial products or innovations are considered in the markets (e.g., 27/4 trading, tokenized assets and tokenized collateral, stablecoins, perpetuals, etc.), will the focus of the Task Force expand to include those?

Answer. Yes.

Event Contracts

Question 4. On April 23, 2026, the CFTC and Department of Justice announced parallel charges against a U.S. soldier involved with the Maduro capture. The soldier used non-public information ahead of the mission in Venezuela to purchase contracts on the ouster of Maduro, making over ten times his original investment once the capture was complete. He was charged with three counts of violating the Commodity Exchange Act.

The complaint acknowledges the assistance of the exchange on which the trades were conducted. However, that exchange is domiciled in a foreign country and not registered with the CFTC. Is a foreign, unregistered exchange obligated to assist the Commission in its investigations?

Question 4a. While the exchange hosting this contract was willing to cooperate with the Commission, what assurances does the Commission have that a different unregistered exchange would be so cooperative? Are there tools available to the Commission to ensure that foreign domiciled exchanges will assist in enforcing U.S. law?

Question 4b. Has the Commission been able to determine that no other members of the armed forces were engaged in similar illegal behavior?

Answer 4-4b. While I cannot comment on ongoing litigation or investigations, as a general matter, the Commission has several means to obtain assistance from foreign entities. This includes requesting voluntary cooperation, coordinating with foreign financial regulators and other foreign agencies, using information sharing agreements with foreign agencies such as memoranda of understanding, and, where appropriate, seeking judicial assistance through means such as formal letters of request. I also note that if a foreign entity operates in the United States or uses U.S. instrumentalities, the Commission may have jurisdiction and will take action where appropriate.

Question 5. Markets on military actions pose non-financial risks, potentially providing useful information on the targets of that activity. Does the Commission have the tools to prohibit markets on military activities, no matter where those markets exist?

Answer. Without improperly disclosing information about confidential surveillance capabilities and internal deliberations, as noted in the March 12, 2026 Commission Staff Advisory entitled, "Prediction Markets Advisory," designated contract markets have specific statutory obligations to list for trading only derivative contracts that are not readily susceptible to manipulation. The advisory reminds designated contract markets that as front-line regulators, they must ensure proper surveillance and oversight of trading in all of the products that they list, accounting for the particular characteristics and attributes of each product.

Question 6. Which market surveillance tools does the Commission have, and how are they used, to detect activity like this and identify actors?

Question 6a. Is the Commission seeking additional authorities and tools from Congress to build out market surveillance operations?

Answer 6-6a. Consistent with Commission regulations, the CFTC receives regulatory data from registrants with details on trading activity on regulated derivatives markets. These data are ingested and loaded into the CFTC's data analytics platform. The CFTC utilizes multiple market surveillance tools including internally developed tools, vendor-provided surveillance tools, and ad hoc detection programs.

Further, I fully support the President's Budget Proposal for Fiscal Year 2027, which requests additional resources for the CFTC, including for market surveillance operations.

Perpetuals

Question 7. You have said perpetual derivative contracts ("perpetuals") require transparent and workable frameworks. Further, you have stated one of your goals is to bring perpetuals onshore, using tools the Commission has at its disposal.

What provisions in the existing regulatory framework prohibit the trading of perpetuals in the U.S.?

Answer. The CFTC recently announced two actions related to perpetual futures. First, the agency approved a designated contract market's listing for trading as a futures contract a cash-settled perpetual contract. Second, the Commission released a staff interpretation clarifying to market participants that certain perpetual contracts listed on a foreign government-regulated exchange may be offered by futures commission merchants to their customers and treated as foreign futures transactions, subject to part 30 of the Commission's regulations.

The Commission's long-standing, principled oversight of the commodity derivatives markets will now include a workable framework for crypto asset perpetual contracts to exist in the United States.

Question 8. As the Commission examines perpetuals, what are the potential uses of these contracts and how might they benefit customers who use them? Are there potential risks to users, intermediaries, or the wider market that the Commission is considering related to perpetuals?

Answer. These instruments can carry many uses and benefits including, but not limited to, price discovery, hedging, risk management, enhanced liquidity, and continuous price exposure without periodic expirations and associated rollover costs inherent in the traditional futures markets.

Much of the risk associated with perpetual contracts was fueled by the fact that these products flourished outside of the U.S. regulatory perimeter on exchanges subject to limited to no regulation. Now, these products can exist within the CFTC's regulatory framework—a framework that can limit excessive leverage, volatility, and systemic risk, rather than pushing those risks offshore.

Question 9. How will you be interacting with stakeholders as this is considered?

Question 9a. Does the Innovation Task Force have a role to play here?

Answer 9-9a. The Commission has interacted, and will continue to interact, closely with stakeholders across the marketplace to best understand the diversity of perspectives related to perpetuals, particularly as these products begin to trade in the U.S. market. The Innovation Task Force is charged with leading the development of clear rules of the road for market participants, including on perpetuals

Question 10. Do you intend to pursue a formal rulemaking with a public notice and comment period?

Answer. The Commission is exploring various options to provide clarity to market participants. As previously noted, I have publicly supported bringing perpetual contracts onshore, and the agency will consider all options to achieve this outcome. Should a rulemaking process begin, the CFTC will comply with all provisions of the Administrative Procedures Act, including the public notice and comment period requirement.

Decentralized Finance

Question 11. On April 13, 2026, the Securities and Exchange Commission ("SEC") issued a staff statement¹ on registration requirements of certain service providers as brokers or dealers, addressing Decentralized Finance ("DeFi"). You have previously espoused the benefits of DeFi and said the CFTC will be engaging with developers. You also said, "it is long overdue for the Commission to clarify which on-chain software systems are subject to registration and which are not."

Has the Commission been engaging with developers, and what does that interaction look like?

Answer. Commission staff have been engaging with software developers and other market participants that are looking to offer their products in a regulatorily-compliant manner in the U.S. and/or to U.S. persons. The Commission will continue to consider how DeFi components of trading or clearing services can or may satisfy the general Core Principles applicable to the DCM and DCO registration categories.

Question 12. Do you have plans for the Commission to release statements or guidance of its own pertaining to DeFi and the registration requirements of actors in that space?

Question 12a. What is your process to develop such guidance and clarify registration requirements?

¹SEC.gov, Staff Statement Regarding Broker-Dealer Registration of Certain User Interfaces Utilized to Prepare Transactions in Crypto Asset Securities (<https://www.sec.gov/newsroom/speeches-statements/staff-statement-regarding-broker-dealer-registration-certain-user-interfaces-utilized-prepare-staff-statement-regarding-broker-dealer-registration-certain-user-interfaces-utilized>).

Question 12b. Will the IAC have a role in this?

Question 12c. Will the Task Force have a role in this?

Question 12d. Have you conferred with or will you confer with the SEC?

Answer 12–12d. The Commission is exploring various options to provide clarity to market participants. As I emphasized in my first remarks as Chairman, I am committed to delivering clear rules of the road to software developers. We will continue engaging with market participants to consider ways for the CFTC to deliver greater regulatory clarity.

Should we issue Commission guidance or a rulemaking clarifying DeFi registration requirements, we will follow the processes laid out in the Administrative Procedure Act for doing so. As part of that initiative, we may engage or consult with Commission advisory committees, market participants, industry associations, inter-agency stakeholders, or others, to best understand the various perspectives surrounding the issue.

In addition, the Commission is providing technical assistance for the CLARITY Act. Within the CLARITY Act is the Blockchain Regulatory Certainty Act (“BRCA”) and as noted above, delivering clear rules of the road to software developers is essential for the United States to maintain its leadership in the crypto and innovation ecosystem.

Questions Submitted by Hon. Angie Craig, a Representative in Congress from Minnesota

Question 1. Last month, there was a *Bloomberg Law* news story,² among others, about the CFTC moving into the same building that currently houses the SEC, and there have been reports of CFTC officials checking out the space. Such talk further fuels the fears of many in the industry of an attempt by the President to effectuate a de facto, if not actual merger of the two agencies?

Question 1a. What are your thoughts on merger of the two agencies?

Question 1b. Has anyone at the Commission been looking at the SEC building as an option for relocation either under your leadership or under Acting Chair Pham?

Question 1c. What are the agency’s current plans and timelines for deciding whether to move or stay in its current location?

Answer 1–1c. There are no plans for a merger with the SEC. As to plans concerning our location, the CFTC has exercised a preexisting 1 year option on its current lease at Lafayette Square until September 30, 2027. In a Notification of Intent publicly filed on June 5, 2026, the CFTC expressed its intent to enter a new, 5 year lease at the current HQ.

Question 2. Your predecessor, Acting Chair Caroline Pham, took what was the separate Office of the Chief Economist and subsumed it under the Division of Market Oversight (DMO).

Now that you have had time to get acquainted with the CFTC organizational structure, will you continue to keep the Chief Economist under DMO or will you return that office to its previously separate status?

Question 2a. Would you support legislation that has been introduced, H.R. 7488, to statutorily establish a separate Office of the Chief Economist at the Commission?

Answer 2–2a. With the CFTC’s naming of Dr. Patrick J. Schorno as Chief Economist on June 1, 2026, the Office of the Chief Economist will function outside of the Division of Market Oversight moving forward.

Question 3. I appreciate your support for the work of the Committee on digital asset regulation. While we are still waiting on the Senate, particularly the Senate Banking Committee, to act, we can already see some differences in House and Senate approaches for the CFTC based on the bill passed by the Senate Agriculture Committee.

One of the biggest differences is funding; the Senate has a permanent fee structure so the digital asset industry pays the costs of CFTC regulation while the House bill has only a temporary fee. Which do you prefer?

Question 3a. What other differences do you see between the House and Senate approaches on digital assets for the CFTC and which do you prefer?

Answer 3–3a. The efforts in the House and Senate to pass the CLARITY Act are critical. I will defer to Congress as the policymakers to determine what legislation is most appropriate to ensure the agency can effectively carry out its mission. While not identical, the House and Senate bills are largely similar in their approach to crypto asset policy, and the bills both represent great efforts to bring clarity, cer-

² <https://news.bloomberglaw.com/securities-law/wall-street-regulators-discuss-moving-into-same-building-complex>.

tainty, and consumer protection to these markets. As always, my staff are available to provide technical assistance and answer questions so that Congress can work as efficiently as possible to pass this important legislation.

Question 4. The Trump Administration's FY 2027 budget for the agency proposes authorizing legislation to collect user fees to fund CFTC and offset (reimburse) its proposed appropriations (\$410 million).

Given that this is an official Administration proposal, can we expect the CFTC to provide the Committee with legislative language to implement this proposal so we can review it more closely?

Question 4a. Given that this is an official Administration proposal, can you explain the benefits of this idea? Do you believe that the user fee approach would allow for a more reliable source of resources to ensure effective CFTC operations?

Answer 4-4a. I fully support the President's Budget proposal for Fiscal Year 2027 and the additional resources for the CFTC. As mentioned above, I defer to Congress to determine what legislation is most appropriate to ensure the agency can effectively carry out its mission. My staff will be happy to work with you on this matter via review and technical assistance.

Question 5. In your FY27 budget proposal, it mentions that funding for your personal office and the offices of the other Commissioners is budgeted at \$18.4 million this fiscal year and you proposing increasing that by almost another million dollars for next fiscal year?

Question 5a. How much of this figure represents funding for your office *versus* funding for the other four Commissioner offices?

Question 5b. Given that there has only been one Commissioner serving at any one time during this fiscal year, what is being done with the money that isn't being spent on for Commissioners and their staffs since those offices are vacant; in other words, where are you shifting that money to?

Answer 5-5b. The budget request assumes a fully appointed Commission. The CFTC will maintain these resources for additional Commissioners and staff without operational disruption or delays. The amount requested includes four Commissioner's offices and the Chairman's Office, which includes the Commission's Office of Public Affairs, Office of Legislative and Intergovernmental Affairs, Advisory Committees, and other functions.

Question 6. During the hearing, you said "it is absolutely critical that we have the funding and resources to continue to monitor and surveil our markets." The House Appropriations Committee released its proposed budget for the CFTC for FY27 of \$355 million, a cut of \$10 million from current funding levels?

Question 6a. How will the agency's ability to monitor and surveil markets be impacted by this cut if enacted into law?

Question 6b. What functions, staffing or services would have to be reduced to meet this budget, if enacted into law?

Answer 6-6b. A \$10M reduction from our current budget would present a challenge for the CFTC to continue to operate in its current capacity and would reduce the Commission's ability to make strategic investments to improve agency technologies and tools to support market oversight capabilities. The President's budget request of \$410M for the agency is essential to the agency being able to fulfill its mission, properly staff the agency, and upgrade technology to stay current with market changes.

Question 7. In the law, under the Core Principle 3 for designated contract markets, these exchanges are not supposed to list contracts that are readily susceptible to manipulation. While exchanges can self-certify that each contract meets the core principle, the CFTC is the ultimate judge. According to your FY27 budget submission, the number of actively traded contracts on U.S. exchanges has more than doubled, driven almost entirely by the growth of event contracts.

For all the event contracts listed on the prediction market exchanges registered with the Commission, does Commission staff review every newly listed contract, or even each new type of listed contract being put out by prediction markets for compliance with this core principle?

Question 7a. Please explain the analysis that is done by staff of these contracts to determine whether they could be readily susceptible to manipulation?

Answer 7-7a. The Commodity Exchange Act (CEA) contemplates that a CFTC-registered exchange may offer a new contract for trading by submitting the contract to the Commission and certifying that the contract complies with the CEA and CFTC regulations. CFTC regulation 40.2 governs this "self-certification" process, and requires an exchange to provide, among other things, a copy of the rules that

set forth the contract's terms and conditions, a concise explanation and analysis that is complete with respect to the contract's terms and conditions, the underlying commodity, and the contract's compliance with applicable provisions of the CEA and CFTC regulations. CFTC regulation 40.2(b) requires exchanges to provide, upon the request of CFTC staff, additional evidence, information, or data that demonstrates that a contract meets the requirements of the CEA or the CFTC's regulations. Commission staff review new contracts when they are initially certified by the exchanges and evaluate whether a more detailed analysis is required.

Exchanges are required to include an analysis explaining how the contract being certified is not readily susceptible to manipulation. Commission staff review can differ depending on the nature of the contract but may include, among other things, assessing whether the contract's design and settlement methodology minimize the potential for manipulation, whether the exchange has adequately evaluated the transparency and reliability of the contract settlement sources, or whether prices are derived from active, liquid markets using sound statistical methodologies.

Questions Submitted by Hon. James R. Baird, a Representative in Congress from Indiana

Question 1. I appreciated the opportunity to hear from you before the Committee and to ask you about the status of the CFTC's lease and relocation. As we discussed, the lease on the current headquarters is to expire in June of this year, but you are working to identify a permanent location that is capable of accommodating all staff. Moving an agency headquarters is a large undertaking and time-consuming process.

In our discussion, you indicated that the Commission is able to remain in its current offices. How long will the Commission be able to remain in its current headquarters? Do you have a written agreement to extend the existing lease? If so, will you please provide me with a copy of that agreement?

Question 1a. If the current headquarters will be vacated, will the CFTC be moving into temporary space, and how will such temporary space be found?

Answer 1-1a. The CFTC has exercised a preexisting 1 year option on its current lease at Lafayette Square until September 30, 2027. In a Notification of Intent publicly filed on June 5, 2026, the CFTC expressed its intent to enter a new, 5 year lease at the current HQ.

Question 2. What is your current process of searching for and selecting a permanent location to adequately house all staff?

Question 2a. Are you looking ahead to future needs of the agency and thinking about the growth of the staff while considering a permanent location?

Answer 2-2a. See answer to Questions 1-1a.

Question 3. What is your timeline for finalizing a permanent location?

Answer. See answer to Questions 1-1a.

Question 4. Once a permanent location is determined, what will your timeline be for moving into it, and what process will you have in place to transition to the new space?

Answer. See answer to Questions 1-1a.

Questions Submitted by Hon. Monica De La Cruz, a Representative in Congress from Texas

Question 1. The March 2026 joint SEC/CFTC interpretive release classifies digital commodities as a single category, naming sixteen specific assets as examples. Does the CFTC intend to develop a more granular sub-classification framework for digital commodities or identify additional digital commodities in addition to the sixteen listed, and, if so, what criteria will the Commission use?

Answer. The category of digital commodities includes *all* crypto assets that meet the digital commodity definition. The March 2026 release defines a digital commodity as "a crypto asset that is intrinsically linked to and derives its value from the programmatic operation of a crypto system that is functional, as well as supply and demand dynamics, rather than from the expectation of profits from the essential managerial efforts of others." The Commission may consider additional rules, if needed, to continue to provide clarity to market participants.

Question 2. Further, how does the March 2026 joint SEC-CFTC interpretive guidance align with Congressional intent reflected in H.R. 3633, the Digital Asset Market Clarity (CLARITY) Act, which passed the House in July 2025 and emphasizes a clear, bright-line test to distinguish digital commodities from other digital assets? Would the SEC's treatment of secondary market transactions in digital commodities that remain subject to investment contracts as securities transactions be consistent with clear line drawing and the establishment of regulatory certainty?

Answer. The March 2026 joint SEC/CFTC interpretive guidance represents a major step forward in the agencies' efforts to provide greater clarity regarding the treatment of crypto assets. In my opinion, these efforts complement Congressional endeavors to codify a comprehensive crypto asset market structure framework into statute.

Submitted Questions by Hon. Zachary Nunn, a Representative in Congress from Iowa

Question 1. Chairman Selig, the March 17 joint interpretation acknowledges that a crypto asset's regulatory status can change over its lifecycle and notes that an asset may no longer be subject to the investment contract under which it was offered and sold, including, for example, where an associated network matures. That creates a potential ongoing monitoring problem, not a one-time classification problem.

As we've discussed, Congress is working diligently to address this issue through current digital asset market structure legislation, the CLARITY Act. While Congress continues to debate that legislation, I want to ask you two questions about how the CFTC is positioned to handle this potential issue.

The joint interpretation takes a facts-and-circumstances approach rather than a bright-line one. That's a reasonable interpretive choice, but it leaves market participants without a clear signal for when a token they're trading or listing has crossed a line. Is the Commission considering, either through its own guidance or in coordination with the SEC, identifying the specific observable factors that would indicate an asset's classification has materially changed? Or must Congress continue to take the lead on this through legislation?

Answer. The Commission is considering various options to continue to provide clarity to market participants surrounding crypto assets. Should the CLARITY Act become law, I look forward to working together with the SEC to continue to promulgate rules as part of the joint rulemaking mandates required by the Act. As always, my staff are available to provide technical assistance and answer questions so that Congress can work as efficiently as possible to pass this important legislation.

Question 2. In other markets, the Commission has, at times, allowed registrants to rely on outside expertise—credit ratings, pricing services, index methodologies—under defined conditions. Has the CFTC considered whether any analogous reliance framework would be appropriate for digital asset classification, or do you see meaningful differences between those traditional contexts and this one?

Answer. The CFTC is tasked with promoting responsible innovation and fair competition. My goal as Chairman is to deliver clear rules of the road to market participants, including to those in the digital asset industry. The Commission will continue to think through ways in which we can achieve these goals and deliver clarity to market participants, and we would be happy to work with your office on potential solutions.

Submitted Question by Hon. Robert P. Bresnahan, Jr., a Representative in Congress from Pennsylvania

Question. The CFTC has long engaged in economic research related to derivatives markets, through the Office of the Chief Economist. This research is used by Commissioners to inform policy decisions and market participants to better understand the mechanics of derivatives markets.

For that reason, I introduced the CFTC Economic Research Improvement Act (H.R. 7488) with Congresswoman McClain Delaney. This Act:

- (i) permanently establishes the Office, making the Chief Economist a statutory position, like the General Counsel and Executive Director, and
- (ii) provides for expedited hiring authority to staff the Office to ensure the agency can undertake critical, cutting-edge work.

How do you plan to utilize the Office, and how do you envision it in your broader agenda?

Answer. With the CFTC's naming of Dr. Patrick J. Schorno as Chief Economist on June 1, 2026, the Office of the Chief Economist will return to its traditional position outside of the Division of Market Oversight. I will utilize the Office to integrate rigorous economic analysis and regulatory cost-benefit analysis into the Commission's rulemakings and other work, as well as to conduct research to foster transparency in U.S. derivatives markets.

Questions Submitted by Hon. Sharice Davids, a Representative in Congress from Kansas

Question 1. Do you agree that when a platform uses CFTC registration to offer sports-betting-like products nationwide, it effectively supersedes the Tribal-State Compact system that Congress established for Class III gaming, including sports wagering?

Answer. The Commodity Exchange Act and the CFTC's regulations do not affect Tribal compacts made with states pursuant to the Indian Gaming Regulatory Act (IGRA). Congress, via IGRA, set up a system for gambling activities on Tribal land, and permitted casino-style gambling on Tribal land where a Tribe enters a compact with a state. The CEA directs the CFTC to oversee national derivatives markets subject to a complex set of regulatory and oversight requirements—that is a very different set of diverse products and a very different regulatory scheme. Nothing in the CEA affects existing Tribal-state agreements and those agreements do not affect the CFTC's "exclusive jurisdiction" to regulate commodity derivatives markets.

Question 2. Do you believe that event contracts require the same regulatory and consumer protections as are currently offered by Indian gaming entities that are subject to strict regulations regarding where, how, and who can participate in betting? Do you think there are risks associated with allowing event contracts and prediction markets to continue to operate without these regulatory measures in place?

Answer. CFTC-regulated markets are subject to rigorous regulatory and consumer protections, which I fully support. Our exchanges must adhere to our statutory "core principles" and must certify that they are in compliance with all CEA and CFTC regulatory requirements. The CEA requires that our markets be uniform, fair, and impartially accessible to participants nationwide, and that the protections that we are required to offer market participants are fair and available to anyone who participates.

Question 3. Has the CFTC conducted any Tribal consultations on prediction markets and how they may impact Indian gaming and local economies around the country? If so, what have stakeholders expressed in these consultations?

Answer. The CFTC has met with various Tribes to discuss prediction markets. We also received comments from many Tribes in response to our Advanced Notice of Proposed Rulemaking (ANPRM) relating to prediction markets. These comments are publicly available. Like all members of the public, Tribes will have the opportunity to comment on any potential future rulemaking generated from the ANPRM.

Questions Submitted by Hon. Jonathan L. Jackson, a Representative in Congress from Illinois

Question 1. Securing U.S. critical mineral supply chains remains a bipartisan priority for Congress and a key focus of the Trump Administration. In May of 2025 the Energy and Environmental Markets Advisory Committee of the CFTC released a report titled "Considerations on the Evolution and Development of Critical Minerals Markets" in which the authors recommend the CFTC continue to acquire more knowledge of the critical minerals industry, among other recommendations.

What steps have you or your predecessor, Acting Chair Caroline Pham, taken to implement the recommendations of the report?

Answer. The CFTC is actively working to implement the recommendations of this report and has expanded its workflow to include base metals to foster stronger, deeper, and more liquid markets across a wider range of products.

Question 2. How can this Committee use the CFTC reauthorization process to:

- a. Foster the development of critical minerals derivatives markets that can enable critical minerals trading and risk management, which could promote growth in this industry and;
- b. Ensure that CFTC staff have the knowledge and experience to oversee, police, and regulate the small, but growing critical minerals markets, as called for in the report?

Answer 2-2b. The CFTC has been actively working to compile a list of proposals on this front and is happy to engage and solicit feedback and additional ideas from Committee staff and Members.