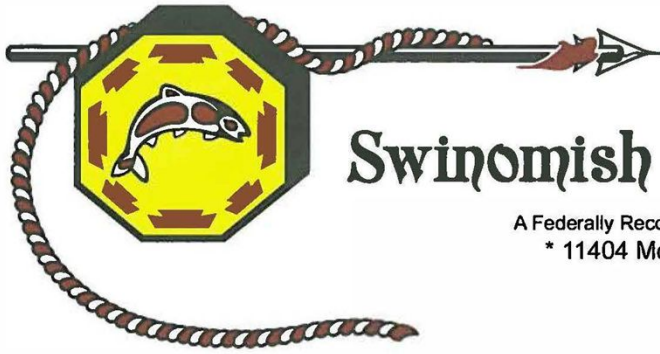




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Swinomish Indian Tribal Community

A Federally Recognized Indian Tribe Organized Pursuant to 25 U.S.C. § 5123

* 11404 Moorage Way * La Conner, Washington 98257 *

April 30, 2026

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Commodity Futures Trading Commission
Three Lafayette Centre
1151 21st Street NW
Washington, DC 20581

Re: 17 CFR Chapter 1, RIN 3083-AF65 – Advance Notice of Proposed Rulemaking;
Request for Comments

Dear Secretary Kirkpatrick,

On behalf of the Swinomish Indian Tribal Community (the “Tribe”), I respectfully submit these comments in response to the Commodity Futures Trading Commission's (“CFTC” or “Commission”) Advance Notice of Proposed Rulemaking (“ANPRM”) regarding event contract derivatives traded on prediction markets. The Tribe is a federally recognized Indian tribe within the meaning of the Indian Gaming Regulatory Act (“IGRA”), 25 USC §2701 et seq.

The Commission should enforce the Commodity Exchange Act (the “CEA”), 7 U.S.C. §§ 1–27(f) and clarify that so-called “prediction markets” that allow users to stake money on uncertain future events, such as sports outcomes, elections, and other contingencies, constitute unlawful gaming rather than permissible derivatives activity. As currently structured and marketed, these products are indistinguishable from traditional gambling and undermine federal law, state law, the Commission’s own regulations, longstanding public policy, and tribal sovereignty.

I. Prediction Markets Constitute Gaming

Prediction market platforms are online gambling sites, not financial exchanges. Although event contracts may vary in form, whether tied to sports, elections, or other contingencies, they share a common economic function, which is wagering on uncertain outcomes for speculative gain with

no economic purpose, such as hedging identifiable economic exposure or transferring risk. Across federal statutes, “gaming” is consistently defined as risking value on the outcome of a contingent event outside the participant’s control, lacking a bona fide hedging or commercial purpose, and entered into primarily for speculative or entertainment value. When those factors are present, the contract involves gaming and is contrary to the public interest.

Adopting the vocabulary of finance does not change this analysis. Event contracts are not swaps. The Commodity Exchange Act defines a swap as an agreement or contract “that is dependent on the occurrence, nonoccurrence, or 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). The definition imposes a meaningful limiting principle: the contingency must be inherently tied to an economic or commercial risk. Sports-related and similar event contracts fail that test. These contracts are not tied to economic variables such as prices, rates, or measurable risks. They are wagers on discrete, noneconomic outcomes, for purposes of entertainment. These platforms also actively ensure liquidity and act economically as the “house,” further reinforcing their gambling character. Labeling these activities as “event contracts” or “prediction markets” or financial derivatives does not alter their substance. Courts and regulators have long rejected attempts to evade gambling laws through formalistic recharacterizations. The Commission should do the same here.

II. The Commodity Exchange Act and Commission Regulations Do Not Authorize Gaming

The Commission must uphold the statute it enforces. The Commodity Exchange Act section 5c(c)(5)(C) already expressly bars the listing or trading of contracts that involve gaming or other activities contrary to the public interest. The Commission has implemented this statutory mandate through Regulation 40.11, which unequivocally provides that a registered entity “shall not list for trading or accept for clearing” any contract that “involves, relates to, or references” gaming. 17 C.F.R. § 40.11(a)(1).

Further, the Commodity Exchange Act does not override the framework of federal, state and tribal laws that do regulate gaming. Congress clearly intended the Act to prohibit – not enable – sports wagering through event contracts. Sen. Blanche Lincoln, then-Chair of the Senate Committee on Agriculture, Nutrition, and Forestry and author of the Dodd-Frank amendments, stated:

That is our intent. The [CFTC] 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.

156 Cong. Rec. S5906-07 (daily ed. Jul. 15, 2010).

The U.S. District Court for the District of Maryland recently observed that, “[i]t is highly unlikely that Congress would have overridden state gambling laws without at least some indication in the text and legislative history that it intended to do so,” further finding that “the weight of the evidence strongly confirms that Congress did not intend for Dodd-Frank to constitute legislation not only legalizing sports betting nationwide, but displacing states’ authority to regulate it.” *KalshiEX LLC v. Martin*, 793 F. Supp.3d 667, 684 (D. Md., Aug. 1, 2025).

The Commission’s own regulations expressly prohibit the listing of event contracts involving gaming. 17 C.F.R. § 40.11(a)(1), provides: “[a] registered entity shall not list for trading” any “contract” or “swap” that “involves, relates to, or references... gaming[] or an activity that is unlawful under any State or Federal law.” Two federal district courts have recently confirmed that Regulation 40.11(a) prohibits the listing of contracts involving gaming.¹

In its 2024 Notice of Proposed Rulemaking, the Commission states that: “The [CFTC] is not a gaming regulator. [...] Permitting event contracts involving gaming, as proposed to be defined, to trade on CFTC-regulated markets would in effect permit instruments commonly understood as bets or wagers on contests or games to avoid these legal regimes and protections.” *Event Contracts*, 89 Fed. Reg. 48968, 48982–83 (Jun. 10, 2024).

The Commission simply must enforce its own rules, rather than adopting new regulations to vitiate them.

III. Event Contracts Conflict with the Indian Gaming Regulatory Act

Congress enacted the Indian Gaming Regulatory Act (IGRA) to establish a comprehensive federal framework governing gaming on Indian lands, balancing tribal sovereignty, federal oversight, and state interests. IGRA reflects a careful allocation of authority over gaming activities, including sports wagering and other forms of Class III gaming. IGRA also established the National Indian Gaming Commission (“NIGC”) as an independent federal regulatory authority to oversee and enforce IGRA.

¹ See *Hendrick*, 2025 WL 3286282, at *9 (“the CFTC has prohibited DCMs from listing contracts that involve gaming”); see also *KalshiEX, LLC v. Schuler*, No. 2:25-cv-1165, 2026 WL 657004, at *9 (“the CFTC prohibits DCMs from listing any event contract ‘that involves, relates to, or references...gaming’”).

Allowing federally regulated “prediction markets” to offer what are, in substance, sports bets and other wagers outside IGRA’s framework undermines that statutory scheme. It would permit nontribal, non-state actors to offer gaming products on tribal lands and nationwide—without tribal compacts, without state authorization, and without the regulatory safeguards Congress required.

This result would directly erode tribal sovereignty and the foundation that IGRA was designed to protect. Tribal gaming revenues fund essential governmental services, including healthcare, housing, education, and public safety. The Commission should not adopt an interpretation of the Commodity Exchange Act that effectively nullifies IGRA’s carefully constructed regime.

IV. Event Contracts Violate State and Tribal Law

Washington law provides a clear example of the conflict between prediction markets and state regulated gaming. Washington broadly prohibits online gambling and allows sports wagering only on tribal lands pursuant to tribal-state compacts under IGRA.

Similarly, the Swinomish Tribe regulates gambling on its Reservation, established by the Treaty of Point Elliott of 1855, and prohibits gambling except as authorized by the Tribe pursuant to its tribal-state compact under IGRA.

Despite this framework, prediction market platforms invite Washington residents to place wagers online from anywhere in the state and anywhere on Indian lands, including the Swinomish Reservation. These activities directly contravene state and tribal law and undermine the Tribe’s sovereign authority to regulate activity on its own lands.

The Commodity Exchange Act does not and cannot preempt or displace state and tribal gambling laws—particularly where those laws are intertwined with tribal sovereignty and federally protected gaming rights. The prediction markets platform operators must comply with applicable state and tribal law, not circumvent it.

V. Event Contract Gaming Violates Public Policy

The Commission has authority to determine that a contract is “contrary to the public interest” if the contract involves (1) activity that is unlawful under any Federal or State law; (2) terrorism; (3) assassination; (4) war; (5) gaming; or (6) other similar activity determined by the CFTC, by rule or regulation, to be contrary to the public interest.

Online gambling via prediction market platforms undermines important public policy goals and violates the Commission’s own public policy mandate, for the following reasons:

First, event contract gambling poses substantial and foreseeable harms to consumers. These products are designed for retail participation and encourage gambling behavior indistinguishable from sports betting. They expose participants to addiction risks, financial loss, and target children and teenagers while operating without the responsible gaming tools, marketing restrictions, integrity monitoring, and other consumer protection mechanisms required by state and tribal gaming laws. These platforms are designed to maximize engagement and betting volume through constant wagering opportunities, mobile accessibility, and behavioral design features that encourage compulsive use. They promote continuous betting across an “almost limitless array” of topics, from sports to politics to public health events.

Second, event contract gambling is susceptible to insider trading and market manipulation. The opaque markets underlying these platforms makes them uniquely susceptible to abuse. Due to the lack of Commission enforcement and regulatory oversight, sports-related event contracts are susceptible to insider trading and the intentional dissemination of misinformation. Individuals closely connected to sporting events or contests possess significant informational advantages and outsized influence. Additionally, the integrity of these contracts is easily compromised by third-party coercion and match-fixing, again due to the fact that they are not adequately regulated by professional gaming regulators. Banning insiders from trading on an exchange is insufficient to mitigate these risks, because participants remain prime targets for outside bad actors. The Commission is functionally unequipped to properly detect or mitigate these risks.

Third, event contract gambling harms tribal communities. The Swinomish Tribe exercises sovereignty over its lands and citizens, and has the jurisdiction to conduct and regulate gaming activities on its Reservation established by treaty with the United States. The Swinomish Tribe’s exercise of its sovereignty to authorize and regulate gaming on its Reservation has been careful, highly regulated - and transformative, creating jobs and generating revenue for essential government services. Gaming under IGRA has provided revenue for college scholarships, healthcare, early childhood education, a senior center, job training, and youth prevention programs on the Swinomish Reservation.

Prediction markets disregard tribal laws and sovereignty and disrupt the regulatory balance between state and federal regulation of gaming. Vulnerable tribal youth and elders are exposed to the risks inherent in event contract gambling, and the Tribe’s authority to regulate and safeguard these risks are weakened when unlawful operators circumvent gambling laws. Furthermore, allowing unlawful gambling outside the regulatory framework erodes a critical source of governmental revenue for healthcare, social services, and employment in Indian country.

Finally, event contract gambling violates federal and state laws. Several states, including Washington State, have taken legal action to enforce their own laws against event contract gambling platforms. These platforms violate not only gambling regulations but also consumer

protection statutes. For this reason alone, the Commission should prohibit event contract gambling.

VI. The Commission Should Clarify That These Contracts Are Prohibited

The Commodity Exchange Act prohibits certain event contracts involving gaming and other activities contrary to public interest. The Commission should:

1. Enforce the existing prohibition under the Act and Commission regulations on event contracts involving gaming;
2. Issue clear guidance to reaffirm and clarify that contracts based on sports outcomes, elections, or other contingent events constitute prohibited gaming contracts;
3. Reject attempts to recharacterize gambling products as financial instruments where no legitimate hedging or price discovery function exists.

VII. Conclusion

Prediction markets, as currently structured, are not innovative financial tools. They are merely gambling products repackaged to evade existing legal frameworks. Permitting their expansion would undermine IGRA, violate tribal and state law, and conflict with longstanding public policy protections. For these reasons, the Swinomish Indian Tribal Community respectfully urges the Commission to issue clear guidance and enforcement actions against these products as prohibited gaming contracts and preserves the integrity of federal, state, and tribal gaming regimes.

Sincerely,



Steve Edwards, Chairman
Swinomish Indian Tribal Community