July 24, 2026

Chairman Michael S. Selig
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

RE: Notice of Proposed Rulemaking on Prediction Markets, 91 Fed. Reg. 12516, RIN 3038-AF65

Dear Chairman Selig:

On behalf of millions of Americans who depend on strong consumer protections, well-regulated financial markets, and the respect for Congressional intent, we submit this comment letter in response to the Commission's Notice of Proposed Rulemaking on Prediction Markets. **We oppose the proposal in its entirety.** It fails as a matter of law, as a matter of policy, and as a matter of institutional competence, and we emphatically urge the Commission to withdraw it.

When Kalshi and Polymarket launched just five years ago, they were curiosities; today Kalshi alone is valued at $22 billion and processes an annualized volume of $178 billion in trades every month.[1] This proposal should be understood for what it is: a green light for these immense and largely unregulated financial speculation platforms to offer sports betting nationwide and aggressively market it to the public, bypassing the community and mental health protections that states and tribal authorities have spent generations building to address the risks present in this type of speculative activity.

Sports-related contracts now account for 89 percent of Kalshi's total fee revenue.[2] That single fact should settle the question of whether these companies are derivatives exchanges or sportsbooks, but if we need more evidence, we can begin with the rulemaking proposal's treatment of "gaming."

The NPRM says it will block contracts that bet on the outcome of specific plays or moments — but it permits contracts that settle on official, league-verified statistics like scores and player performance numbers, on the theory that those are just measuring objective facts. By that logic, a bet on how many touchdowns a quarterback throws on Sunday is not a sports bet, because you can look it up after the game ends.

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[1] https://news.kalshi.com/p/kalshi-raises-1-billion-22-billion-valuation-institutional-demand-surges
[2] https://finance.yahoo.com/news/kalshi-fee-revenue-2025-263-145801350.html

That is not logically credible. Every licensed sportsbook in the country offers exactly these kinds of bets, and every state that regulates sports betting treats them as gambling. The CFTC's own 2024 rulemaking reached the obvious conclusion: sports betting contracts have nothing to do with managing real economic risk, the way a genuine financial instrument does. A corn farmer uses a futures contract to protect against losing money if crop prices fall, but nobody is using a bet on a quarterback's statistics to hedge against anything.

The legal framework the NPRM relies on makes this worse, not better. The provision of the Commodity Exchange Act invoked here, the "Special Rule,"[3] was designed as a backstop. It is common sense to infer that if Congress gave the CFTC the authority to *prohibit* event contracts involving gaming, terrorism, assassination, war, or illegal activity, it was because they concluded it was in the public interest for such contracts not to be permitted under ordinary circumstances. Indeed, former Senator Blanche Lincoln, one of the authors of the "Special Rule," said specifically during a discussion on the Senate floor that the purpose of the provision was to prevent event contracts that amount to gambling, and gave as examples event contracts on the Super Bowl, the Kentucky Derby, and the Masters golf tournament.[4]

But the NPRM's framing inverts the statute's logic and Congress's intent, by treating contracts as presumptively allowed unless found contrary to the public interest through a case-by-case inquiry. The Commission's existing regulations already prohibit event contracts involving gaming or activity that state law prohibits.[5] Sports betting is gaming. States like California and Texas still prohibit it. The NPRM would override those prohibitions with a semantic trick.

And if it does, ordinary people will pay the price. Expanded sports betting has increased personal bankruptcies, reduced household savings, and led to higher rates of domestic violence.[6] Prediction markets supercharge these effects: they run 24/7 in your pocket and aggressively market to young adults, who may make low bets initially but ramp up their commitment over time. Seventy percent of users lose money, and seventy percent of all profits go to 0.04% of traders.[7] Those outcomes define a casino that has figured out how to escape the regulations that casinos have to follow, like responsible gaming disclosures and financial stability protections for their customers.

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[3] Section 5c(c)(5)(C).
[4] 156 Cong. Rec. S5906–07 (daily ed. July 15, 2010) (statements of Sen. Diane Feinstein and Sen. Blanche Lincoln), available at www.congress.gov/111/crec/2010/07/15/CREC- 2010-07-15-senate.pdf.
[5] 17 C.F.R. § 40.11.
[6] https://www.theatlantic.com/ideas/archive/2024/09/legal-sports-gambling-was-mistake/679925/
[7] https://finance.yahoo.com/news/70-polymarket-traders-lost-money-192327162.html

The proposal also does almost nothing to address the insider trading problem that makes prediction markets much more easily manipulated than the structures of ordinary gambling. In the past year alone:

- Six newly created accounts made $1.2 million betting on the timing of U.S. airstrikes against Iran, some of those bets placed within hours of the first explosions in Tehran.[8]
- At least two candidates for California governor bet on Kalshi on their own odds of winning.[9]
- A Polymarket user won $400,000 wagering on the U.S. invasion of Venezuela and the capture of President Maduro — conduct that led to a federal criminal indictment of a U.S. Army soldier.[10]
- Bettors wagered $54 million on the death of Iran's Supreme Leader.[11]

The Commission's response to all of this is to say it will pursue people who trade on stolen information, which misses the point entirely. The most dangerous actors on these platforms are not stealing information — they are trading on their own knowledge, their own access, their own ability to influence the outcomes they are betting on. The candidate who bets on her own race, the White House staffer who bets on the timing of an announcement he helped draft, the sports official who can influence the outcome of the game he just wagered on: none of that conduct would be deterred by targeting stolen information. David Miller, the CFTC's own Director of Enforcement, acknowledged in recent remarks at NYU Law School that the CFTC will not pursue individuals who use their own inside information to profit on prediction markets.[12]

And the manipulation problem doesn't stop there. Researchers from Columbia University found that roughly 25 percent of Polymarket's volume could be attributed to fraudulent trades such as wash trades, where a user rapidly buys and resells the same contracts to create a false impression of activity.[13] At a peak in late 2024, an estimated 60 percent of trading volume was likely phony.[14] Incredibly, in light of documented evidence of large–scale manipulation, the Commission is asking the public to treat these venues as legitimate price-discovery markets.

There is also a more fundamental question: even if the Commission were the right institution to police all of this, it is not capable of doing so. The CFTC, which oversees

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[8] https://www.washingtonpost.com/technology/2026/03/04/kalshi-khamenei-bet-controversy/
[9] https://www.politico.com/news/2026/03/27/newsom-to-sign-order-banning-insider-prediction-market-bets-for-state-officials-00847938
[10] https://www.washingtonpost.com/politics/2026/01/07/maduro-prediction-market-scrutiny/; https://www.justice.gov/opa/pr/us-soldier-charged-using-classified-information-profit-prediction-market-bets
[11] https://www.washingtonpost.com/technology/2026/03/04/kalshi-khamenei-bet-controversy/
[12] https://www.cftc.gov/PressRoom/SpeechesTestimony/opamiller1
[13] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5714122
[14] https://gizmodo.com/study-finds-around-a-quarter-of-polymarket-trades-are-fake-2000683231

$400 trillion in U.S. derivatives markets,[15] has a budget frozen at $365 million[16] — one-sixth the size of the SEC's.[17] Adding nationwide responsibility for sports betting, entertainment wagering, and political gambling on top of that is not a proper expansion of the agency's mission, and it would mean that the farmers, manufacturers, and energy companies who depend on well-functioning commodity markets will pay the price.

The Commission's litigation posture makes all of this harder to ignore. Rather than working with the states that have spent decades building consumer safeguards, the CFTC is suing Arizona, Connecticut, Illinois, New York, Wisconsin, Minnesota, Rhode Island, New Mexico, and Kentucky for trying to protect their residents from an industry that comes with well-documented costs to consumers, families, and communities even where it operates legally.[18]

Before the English Parliament passed the Life Assurance Act of 1774,[19] anyone could insure a stranger's life with no stake in their survival — creating grim incentives. The U.S. Supreme Court established the same principle in 1881,[20] ruling that agreements that let you profit from bad outcomes you yourself can further are inimical to the public interest.

Prediction markets threaten to throw the insurable interest doctrine out the window, recreate the pre-1774 structure at scale, and invite people to generate chaos in order to profit from it. The NPRM does nothing meaningful to mitigate that, and the Commission is proposing to ignore or dismiss three centuries of hard-won legal wisdom for the benefit of a handful of technology platforms.

We urge the Commission to withdraw this proposal, enforce the rules already on the books, and return its attention to the derivatives markets it was created to protect — and which genuinely need its attention. The regulation of gambling and gaming belongs with the states and tribal authorities that have the experience, the tools, and the democratic accountability to do the job.

Sincerely,

Demand Progress Education Fund

Better Markets

Open Markets Institute

Revolving Door Project

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15 https://www.cftc.gov/LawRegulation/CommodityExchangeAct/index.htm
16 https://rollcall.com/2026/02/24/lawmakers-seek-to-boost-cftc-budget-to-take-on-crypto-oversight/
17 https://www.sec.gov/files/fy-2026-congressional-budget-justification.pdf
18 https://www.sheppard.com/insights/blogs/cftc-sues-minnesota-bringing-prediction-markets-preemption-fight-to-six-states
19 https://www.legislation.gov.uk/apgb/Geo3/14/48/contents
20 *Warnock v. Davis*, 104 U.S. 775, https://supreme.justia.com/cases/federal/us/104/775/

Americans for Financial Reform Education Fund
Center for Digital Democracy
Oregon Consumer Justice
Protect Borrowers
Oregon Consumer League
Public Good Law Center
New Jersey Appleseed Public Interest Law Center