Dear Chairman Selig and Commissioners,

My name is Owen Voutsinas-Klose, and I serve as Vice President of Policy & Government Affairs at Viohl & Associates, a government relations firm based in Washington, DC. I write in my personal capacity to comment on the Commission's Advance Notice of Proposed Rulemaking on Prediction Markets, 91 FR 12516, RIN 3038-AF65. I am both an active retail trader on CFTC-registered prediction markets and a public policy professional who incorporates prediction market data into client analyses. I support the Commission's stated objective of grounding any future rulemaking "in a rational and coherent interpretation of the Commodity Exchange Act", and I write to offer constructive feedback that I hope will help the Commission build a defensible administrative record, particularly given the active litigation environment surrounding event contracts.

I. Personal Interest and Use Case

In my professional work advising clients on healthcare policy, state government affairs, and federal regulatory matters, I regularly include prediction market odds in client bulletins and analytical memoranda. When clients need to assess the likelihood of a particular election outcome, the probability of major regulatory action, or the trajectory of pending legislation, the ability to observe prices set by traders with capital at risk produces signals that are demonstrably sharper than polls, punditry, or conventional Beltway analysis. The price discovery function is especially robust for high-volume contracts on events with little realistic susceptibility to manipulation, such as presidential and gubernatorial election outcomes, where deep liquidity and broad participation aggregate dispersed information in ways no single forecaster can replicate.

I also want to be transparent about a normative principle informing my views. I do not believe the federal government should restrict what consenting adults choose to do with their own money, particularly when the underlying activity is already permitted in less efficient form elsewhere in our financial markets. Sophisticated investors routinely express political and policy views through equity positions, sector ETFs, currency trades, and commodity contracts. A retail participant who wishes to take a directional view on the same outcome through a transparent binary contract is engaging in a more efficient version of the same economic activity, with cleaner pricing and lower transaction costs. Drawing a regulatory line that permits the indirect bet but forbids the direct one privileges sophisticated market participants and is difficult to defend on consumer protection grounds.

II. Topic A: Core Principles and Commission Regulations (Questions 1-6)

On Question 2(c) regarding Core Principle 3 and susceptibility to manipulation, I urge the Commission to adopt a graduated framework that distinguishes among contract categories based on objectively observable characteristics: open interest, depth of book, the number of independent reporting sources for the underlying event, and whether resolution depends on a discrete decisionmaker versus an aggregate outcome. A contract on a presidential election with millions in open interest, multiple independent media calls, and tens of thousands of independent participants presents fundamentally different manipulation risk than a thinly-traded contract on the action of a single named individual. Treating these the same would be arbitrary.

On Question 2(f) regarding margin, I urge caution. Full collateralization is one of the most important consumer protections in the current prediction market structure. Any move toward retail margin trading should be preceded by a separate notice-and-comment rulemaking with its own cost-benefit analysis, rather than folded into a broader prediction markets rulemaking, both for substantive reasons and to insulate other portions of any final rule from challenge.

III. Topic B: Public Interest (Questions 7-14)

Question 10 asks how event contracts serve the purposes articulated in CEA section 3(a), namely "managing and assuming price risks, discovering prices, or disseminating pricing information". The price discovery function alone is dispositive. Academic literature dating back to the Iowa Electronic Markets has consistently found that prediction markets outperform polls and expert forecasts for political and economic events, and the Commission has acknowledged this informational utility since at least the 2008 Concept Release. Any final rule should expressly find, with citation to peer-reviewed studies in the record, that event contracts serve the price discovery purposes of section 3(a). Such a finding would substantially strengthen the rule against arbitrary and capricious challenge.

Question 12 asks whether event contracts function as insurance substitutes. They often do. A small business owner who anticipates regulatory exposure from a particular policy outcome, a farmer concerned about weather contingencies, or a contractor whose pipeline depends on appropriations decisions can hedge those risks through event contracts at lower cost and with greater precision than through indirect proxies. The Commission should solicit and incorporate concrete hedging case studies into the record, including from small businesses, to ground any final rule in documented economic utility.

IV. Topic C: Activities Listed in CEA Section 5c(c)(5)(C) (Questions 15-22)

This is where I urge the Commission to exercise the most caution, because this is where the prior administration's 2024 proposed rule was most vulnerable, and where any new rule will face the closest scrutiny.

On Question 16 regarding "activity that is unlawful under any Federal or State law," the Commission should construe this provision narrowly, consistent with its statutory text. The clause is most naturally read to address contracts whose performance or settlement would itself require unlawful conduct (for example, a contract that pays out based on the success of a criminal enterprise), not contracts that merely reference events touching on activities regulated by some states. A broader reading would render the provision unworkable given the patchwork of state law and would invite the kind of preemption conflicts now being litigated in the Third Circuit and elsewhere. The Commission's exclusive jurisdiction under 7 U.S.C. § 2(a)(1)(A) is undermined, not strengthened, by an interpretation that effectively delegates the public interest determination to the most restrictive state legislature.

On Question 19 regarding "gaming," the Commission should adopt an interpretation that distinguishes derivative contracts from gambling based on principled criteria grounded in the CEA's text and structure: whether the contract serves the price discovery and risk management

purposes of section 3(a), whether it is traded on an order book with continuous two-sided pricing rather than against a house, whether positions are transferable prior to resolution, and whether the underlying event has economic or commercial consequence beyond the contract itself. These criteria distinguish event contracts from casino games in ways that are administrable and defensible, rather than relying on intuitive labels that courts have already shown skepticism toward.

On Question 20 regarding the Commission's residual authority to identify "other similar activity" contrary to the public interest, I urge that any exercise of this authority proceed through full notice-and-comment rulemaking with a developed record specific to the category at issue. Categorical prohibitions adopted through this clause without careful public interest findings will face significant Major Questions Doctrine and arbitrary-and-capricious risk, particularly after *West Virginia v. EPA* and *Loper Bright*.

V. Topic E: Inside Information (Questions 29-32)

Question 29 raises whether informed trading serves the public interest. It does. A foundational insight of market microstructure economics is that informed trading is precisely what makes prices informative. A prediction market populated only by uninformed traders would produce noise, not signal. The relevant question for the Commission is not whether to permit informed trading, but how to address specific categories of information asymmetry that present discrete harms.

Questions 31 and 32 highlight the existing statutory framework. CEA sections 6(c)(1), 4c(a)(3), and 4c(a)(4) already prohibit the most concerning forms of information misuse, including by federal officials and congressional employees. The appropriate Commission response is rigorous enforcement of these existing provisions, supported by enhanced surveillance and reporting requirements for prediction markets, rather than categorical prohibitions on contracts because someone, somewhere, might possess material nonpublic information. Securities markets operate every day on the same premise.

VI. Constructive Suggestions for a Defensible Administrative Record

To assist the Commission in crafting a final rule that will withstand judicial review, I offer the following process-oriented recommendations:

First, the Commission should solicit and place in the record empirical evidence of the price discovery and hedging utility of event contracts, including academic literature and concrete case studies from market participants. The 2024 withdrawn proposal was thin on this evidence, which would have been a vulnerability under section 15(a) cost-benefit review.

Second, any categorical prohibition adopted under section 5c(c)(5)(C) should be supported by category-specific findings demonstrating both that the contracts at issue involve a listed activity and that the public interest factors weigh against listing. Conclusory statements will not survive arbitrary-and-capricious review.

Third, the Commission should expressly address its preemption authority under 7 U.S.C. § 2(a)(1)(A) and explain how its regulatory framework provides a complete substitute for state regulation of these contracts. The Third Circuit's reasoning in the New Jersey Kalshi matter provides a useful template, and the Commission should fortify that reasoning rather than leave it to litigation.

Fourth, the Commission should adopt a tiered approach that calibrates regulatory burden to actual risk: lighter-touch oversight for high-volume, broadly-participated contracts on objectively-resolved events; enhanced surveillance and disclosure for contracts with concentrated information access; and case-by-case public interest review for genuinely novel categories. A one-size-fits-all approach will be both overinclusive and underinclusive, which is the hallmark of an arbitrary rule.

Finally, on cost-benefit analysis under CEA section 15(a), the Commission should expressly weigh the consumer protection costs of pushing demand to unregulated offshore platforms against the marginal benefits of restrictive domestic rules. The relevant counterfactual is not a world without prediction markets but a world in which Americans access them through Polymarket-style offshore venues, encrypted wallets, and no recourse for fraud or manipulation. A robust domestic regulatory framework is the consumer-protective option.

VII. Conclusion

I urge the Commission to craft a regulatory framework that affirms the legitimacy of event contracts as derivatives serving genuine price discovery and risk management functions, addresses specific risks through targeted rules grounded in empirical findings, and exercises the section 5c(c)(5)(C) authority narrowly and with category-specific support. Such an approach will best serve the public interest, fulfill the Commission's exclusive jurisdiction, and produce a rule capable of withstanding the inevitable judicial challenge.

Thank you for the opportunity to comment.

Sincerely,

Owen Voutsinas-Klose
Washington, DC