The Grand Traverse Band of
Ottawa and Chippewa Indians

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April 30, 2026

The Hon. Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st St. NW
Washington, D.C. 20581

Via CFTC Comments Portal

Re: Prediction Markets, RIN 3038-AF65

Dear Secretary Kirkpatrick:

On behalf of the Grand Traverse Band of Ottawa and Chippewa Indians (Tribe), I am writing to provide comments in response to the Commodity Futures Trading Commission's (Commission or CFTC) Advance Notice of Proposed Rulemaking seeking comments on prediction markets.

The Grand Traverse Band

Our Reservation is in northwest Michigan on the Leelanau Peninsula, located within the historic territory in which we have lived since time immemorial. Through treaties in 1836 and 1855, we ceded large portions of land to the United States that largely enabled Michigan to become a state in 1837. After a century of being wrongfully treated as "terminated," we finally were able to restore our federal recognition and government-to-government relationship with the United States in 1980. Ever since then, we have been rebuilding our land base, rebuilding our economy, and working to provide governmental services and economic opportunities for our citizens.

Revenue from Tribal Gaming is Crucial to Our Government and Our Economy

The governmental services and economic opportunities we provide our citizens are primarily funded by the revenue of our three tribal gaming facilities. Indian gaming has been a federally protected and regulated source of revenue for tribal governments, and for state and local governments through revenue and cost sharing agreements since Congress enacted the Indian Gaming Regulatory Act (IGRA) in 1988. IGRA in turn reflects the Supreme Court's earlier holding in *California v. Cabazon Band of Missions Indians,* 480 U.S. 202 (1987), confirming that tribes have a sovereign right to conduct gaming on their lands. Moreover, our casinos provide jobs and economic

opportunity not only for tribal citizens, but for all residents in the rural communities that surround our facilities.

The Tribe urges the CFTC to recognize in any forthcoming proposed rule that event contracts that provide for a bet on the outcome of a sporting event constitute gaming that is specifically prohibited as contrary to the public interest under the Commodity Exchange Act (CEA) and existing CFTC regulations, and that federal, state, and tribal gaming laws govern such contracts. The CFTC must comply with CEA and federal, state, and tribal regulatory frameworks that govern gaming. Compliance with federal, state, and tribal regulatory requirements ensures that CFTC registered entities are not operating unlawful gaming that significantly negatively impacts tribal sovereignty, state governments' interests, and gaming consumers.

The CEA Prohibits Gaming and the Prohibition Must Remain

In the CEA, Section 5c(c)(5)(c)(i) (the "Special Rule for review and approval of event contracts and swap contracts"), Congress made clear that some event contracts should be prohibited as contrary to the public interest, and it instructed the Commission that there are five categories of event contracts that the Commission should act to determine are contrary to the public interest.[1] These categories include: "*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." 7 U.S.C. § 7a-2(c)(5)(c). If a contract is deemed contrary to the public interest by the Commission, then it may not be available for trading through a CFTC-registered entity. *Id.* at (c)(5)(c)(ii).

In 2024, the Commission realized that self-certifying private companies were offering event contracts in areas that fall into the five categories contrary to the public interest and issued a Notice of Proposed Rulemaking to specify the types of contracts that are contrary to the public interest. The Proposed Rule would have removed CFTC discretion and amended CFTC regulations to specify what constitutes gaming in the prediction markets context, understanding that gaming is prohibited under the CEA.[2] Rather than moving forward to publish this rule, the CFTC instead arbitrarily withdrew the Notice of Proposed Rulemaking, indicating that it has no intention of finding that event contracts and other contracts that resemble sports betting constitute gaming. This inexplicable policy shift by the CFTC has created the current chaotic, unregulated landscape in which prediction markets are offering products that are both *gaming* and that *are illegal under other federal and state* (as well as tribal laws). This is exactly contrary to what Congress intended in the CEA.

When the CEA was enacted, its primary function was to federally regulate certain agricultural commodities, such as cotton, grains, and eggs. In 2000, Congress enacted the Commodity Futures Modernization Act of 2000, Pub. L. 106-554, 114 Stat. 2763 (2000), which generally deregulated

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[1] These are also reflected in the CFTC's regulations at 17 C.F.R. § 40.11(a)(1).

[2] *See* 89 F.R. 112 at 48975 (June 10, 2024) available at https://www.govinfo.gov/content/pkg/FR-2024-06-10/pdf/FR-2024-06-10.pdf.

futures trading and exempted "swaps" and other derivatives from regulation. This led to the 2008 financial crisis where risky swaps—such as credit default swaps—were unregulated and contributed to the financial crisis. In response to the financial crisis, Congress enacted the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Pub. L. No. 111-203; 124 Stat. 1376 (2010), to amend the CEA to grant the CFTC comprehensive authority to regulate the swaps market and create a corresponding regulatory framework.[3] At the time of the Dodd-Frank Act, Congress was aware that swaps had morphed from agricultural commodities to financial tools being used in other sectors. Rather than allow for blanket regulation of any type of swaps or event contracts, instead, the Dodd-Frank Act explicitly worked to avoid allowing event contracts to be taken too far. Congress added in the five categories—including gaming and activity prohibited by other federal and state law—that are contrary to public interest and empowered the Commission with the authority to prohibit such contracts.

In fact, during floor debate on the Dodd-Frank Act, Senator Blanche Lincoln (then Chair of the Senate Committee on Agriculture, Nutrition and Forestry) discussed why she and Senator Dodd maintained section 745 in the final version of the bill, which included the provision enumerating categories that are contrary to the public interest.[4] She discussed the importance of the provision to ensure that the CFTC had "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."[5] (Emphasis added.) She further explained:

> *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.*[6]

It is absolutely clear that Congress never intended that CFTC registered entities should be able to use prediction markets for anything that remotely resembles commercial gambling, and that language in the CEA was specifically included to ensure that the CEA would not authorize and the CFTC would not regulate any type of gaming. The role of the CFTC 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 prohibition of gaming—provided for in both federal law and the CFTC's existing regulations—must remain in any forthcoming proposed rule, and the CFTC must adhere to Congress' intent to prohibit gaming through CEA by expressly prohibiting sports event contracts.

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[3] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Title VII, P.L. 111-203 (111th Cong. July 21, 2010).

[4] *See* 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] *Id.*

[6] *Id.*

Using Prediction Markets for Sports Betting Violates IGRA, Tribal Law, State Law, and Tribal-State Compacts

IGRA was enacted to provide a comprehensive regulatory framework for gaming by tribal governments on Indian lands that carefully balances, tribal, federal, and state interests. The primary goal of IGRA is to advance tribal self-determination through economic self-sufficiency.[7] Pursuant to IGRA, all gaming revenues earned by tribes are used to fund critical tribal government services, including education, healthcare, public safety, and other essential services.[8] Moreover, tribal gaming revenues not only benefit tribal governments, but they also contribute to funding essential services for local communities through revenue sharing agreements.

Under IGRA, Class III gaming on Indian lands is only lawful if it is (1) authorized by a tribal ordinance or resolution (i.e., a tribal law) that has been reviewed and approved by the National Indian Gaming Commission, (2) located in a state that permits such gaming, and (3) is conducted in compliance with a tribal-state gaming compact that is entered into by the tribe and state where the gaming is taking place and that is approved by the Department of the Interior.[9] Furthermore, IGRA's implementing regulations define "Class III Gaming" to specifically include "sports betting".[10] At their core, sports event contracts offered by private companies, registered as Designated Contract Markets under the oversight of the CFTC, fundamentally are bets on the outcome of a sports event and constitute unlawfully conducted Class III gaming under IGRA and its implementing regulations. By issuing sports event contracts that provide for an opportunity to bet on the outcome of a sports event, these private companies are illegally acting to offer such bets on Indian lands without authorization from a tribal-state compact or licenses under tribal law in direct violation of IGRA.

This ongoing violation of the federal IGRA, tribal law, state law, and the tribal-state compacts that are entered into pursuant to all three, is extremely detrimental to tribal sovereignty and directly encroaches upon tribal gaming revenue that is used to fund vital government services. If the CFTC fails to prevent this prediction market activity, it illegally acts to preempt the federally protected "exclusive right" of tribes to regulate gaming on Indian lands through negotiated compacts with states.[11] By offering bets on prediction markets to patrons across the United States on tribal lands these companies directly violate gaming exclusivity provisions in tribal-state compacts negotiated pursuant to IGRA. Tribal-state compacts are critical and carefully negotiated agreements to regulate gaming that benefits both tribal and state governments. These CFTC registered entities

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[7] 25 U.S.C. § 2702(1).

[8] 25 U.S.C. § 2710(b)(2)(B).

[9] *See* 25 U.S.C. § 2710(d)(1),(8).

[10] 25 C.F.R. § 502.4(c).

[11] 25 U.S.C. § 2701(5)(" Indian tribes have the exclusive right to regulate gaming activity on Indian lands if the gaming activity is not specifically prohibited by Federal law and is conducted within a State which does not, as a matter of criminal law and public policy, prohibit such gaming activity.").

offering sports betting significantly undermine the ability of tribes to effectively negotiate gaming compacts with states. By side stepping IGRA's compacting process and illegally offering gaming on tribal lands, these companies significantly diminish tribes' bargained-for and hard earned gaming exclusivity and other exclusive benefits derived from tribal-state compacts.

Furthermore, within IGRA's regulatory framework, the twelve federally recognized Tribes in Michigan, including the Grand Traverse Band, have developed a regulatory model specifically for sports betting in Michigan. Michigan's Lawful Sports Betting Act of 2019 provides that a license to operate sports betting in Michigan may only be issued to either: "A person that holds a casino license under the Michigan Gaming Control and Revenue Act," or "[a]n Indian tribe that lawfully conducts class III gaming in a casino located in [Michigan] under a facility license" provided in accordance with IGRA.[12] The Grand Traverse Band currently offers sports betting in Michigan in accordance with the Lawful Sports Betting Act, tribal law, IGRA, and the Tribe's compact with the State. This comprehensive state, tribal, and federal regulatory structure ensures that sports betting is offered in such a way that benefits the public good and is safe for consumers. Pursuant to IGRA, the Grand Traverse Band and all of the Tribes in Michigan use their sport betting revenue to fund tribal, state, and local government services.[13] As of November 2025, the federally recognized tribes in Michigan have contributed over $680 million in gaming revenue to local governments throughout the State, and over $1 billion in gaming revenue to the State as part of the Michigan Strategic Fund or the Michigan Economic Development Corporation.[14] Additionally, the Tribal and State regulatory structure in place in Michigan provides protections for consumers, including prohibiting any person under the age of 21 from engaging in sports betting.[15]

In contrast, these CFTC registered companies' unregulated offering of sports betting on tribal land occurs with no oversight to protect consumers, ensure gaming fairness, mitigate the negative impacts of gaming, or provide for the public good. These companies seek to have all of the benefits of gaming outside of federal, tribal, and state regulatory frameworks and without the obligations that come with regulatory compliance. IGRA's regulatory structure was designed to ensure protections for gaming consumers while also providing vital government revenues for critical government services that have significantly uplifted not only tribal communities but also many rural communities across the United States through job creation and community investments. These companies' ongoing violation of IGRA, tribal law, state law, and tribal-state compacts cannot continue to go entirely unchecked. The Tribe urges the CFTC to expressly recognize in any forthcoming proposed rule that sports event contracts constitute gaming that is specifically

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[12] MCL § 432.406(1).

[13] 25 U.S.C. § 2710(b)(2)(B).

[14] *Tribal Casino Revenue Sharing Payments*, Mich. Gaming Control Bd., https://www.michigan.gov/mgcb/tribal-casinos/tribal-casino-revenue-sharing-payments.

[15] *See* MCL § 432.403(e).

prohibited as contrary to the public interest under the CEA and existing CFTC regulations, and that federal, state, and tribal gaming laws govern such contracts.

Conclusion

The Tribe strongly opposes any proposed rule that purports to provide the CFTC with the authority to regulate sports event contracts (or any other contract that effectively is a vehicle for gaming) as any such rule would be illegal under the CEA. We strongly urge the CFTC to maintain and enforce the CEA and existing CFTC regulations to affirm that sports events contracts are gaming that is contrary to the public interest, and such contracts are therefore expressly prohibited from listing on prediction markets pursuant to the CEA. Moreover, the offering of sports betting disguised as sports event contracts on Indian lands is violative of federal, state, and tribal gaming laws and cannot continue. The Tribe appreciates the opportunity to comment on this urgent issue that is having a profoundly negative impact on tribal gaming revenues that support essential government services.

Sincerely,

Donna Sue for

Sandra Witherspoon
Chairwoman
Grand Traverse Band of Ottawa and Chippewa Indians