RSBIX

April 28, 2026 ***Submitted Electronically***

Mr. Christopher Kirkpatrick
Secretary
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st St., N.W.
Washington, DC 20581

Re: ANPRM on Prediction Markets (RIN 3038-AF65)

Dear Mr. Kirkpatrick:

RSBIX LLC ("RSBIX") appreciates the opportunity to submit these comments on the Commodity Futures Trading Commission's ("CFTC" or the "Commission") advanced notice of proposed rulemaking ("ANPRM") seeking public comment on the need to amend or issue new regulations concerning event contracts traded on prediction markets.

Since 2018, RSBIX has been at the forefront of developments regarding sports event contracts regulated by the CFTC; led by its founder Jeff Ifrah. In partnership with Matchbook, one of the world's leading sports exchange operators, and through close collaboration with stakeholders across multiple sectors, RSBIX's vision is to become the most trusted sports event trading platform in the United States. RSBIX has submitted an application to the CFTC to be an approved Designated Contracts Market.

We appreciate the Commission's willingness to revisit existing statutory core principles and Commission regulations to ensure that they keep pace with evolving legal developments, industry standards and practices. We provide below specific answers to the Commission's questions as they relate to why sports event contracts are not the types of event contracts that may be prohibited as contrary to the public interest.

CFTC Questions & RSBIXs' Answers

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

As a foundational matter, sports event contracts are distinguishable from gaming contracts as, for example, in sports betting users bet against the providers — a model known as "betting against the house", whereas with sports event contracts an exchange acts as a type of intermediary between two parties who wish to take opposing positions on the same future outcome, in the form of binary event contract. Should sports event contracts ever be characterized as gaming, then in response to Questions 7-10, RSBIX recommends that the Commission consider the following factors in making a public interest determination with respect to sports event contracts traded on designated contract markets: Whether or not the activity: (a) is legally permissible under US law, and (b) serves as a means for managing

and assuming price risks including hedging, discovering prices, or disseminating pricing information through trading in liquid, fair and financially secure trading facilities.

Sports Event Contracts are Legal Under US Law.

The premise behind the legalization of the sports betting industry is that doing so promotes the public interest.

In the time since the Supreme Court overturned the Professional and Amateur Sports Protection Act (PASPA) in Murphy v. National Collegiate Athletic Association, 39 states plus the District of Columbia have legalized sports betting in some capacity. In some cases, legalization efforts were determined directly by voters or required state constitutions to be amended. More than two-thirds of Americans at the age of majority have access to legalized sports betting in their state of residence at the time of writing. We expect that number to grow to above 95% by 2030.[1]

By including gaming as an enumerated activity in CEA Section 5c(c)(5)(C), Congress intended to make its concerns clear regarding gaming-involved contracts *qua* a broadly illegal and federally banned activity at the time Dodd-Frank Act was passed. The legislative history of this provision supports this interpretation as can be found in the Commission's Proposed Rule on Event Contracts proposed in June 2024:

"In a short colloquy with the late Senator Diane Feinstein on the Senate floor regarding the proposed Dodd-Frank Act provision that ultimately was enacted as CEA section 5c(c)(5)(C) (the ''2010 Colloquy''), Senator Blanche Lincoln, then-Chair of the Senate Committee on Agriculture, Nutrition, and Forestry—who is identified in the 2010 Colloquy as one of the authors of CEA section 5c(c)(5)(C)—stated that the provision was intended 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.'' [2]In the 2010 Colloquy, Senator Feinstein asked Senator Lincoln whether, with respect to CEA section 5c(c)(5)(C), the intent was to ''define 'public interest' broadly so that the CFTC may consider the extent to which a proposed derivative contract would be used predominantly by speculators or participants not having a commercial or hedging interest.''[3] Senator Feinstein further asked whether the Commission would ''have the power to determine that a contract is a gaming contract if the predominant use of the contract is speculative as opposed to a hedging or economic use.''[4] Senator Lincoln replied, ''That is our intent."[5] Senator Lincoln also stated that ''[t]he Commission needs the power to, and should, prevent derivatives contracts that are contrary to the public interest because they exist predominantly to enable gambling...''[6]"

[1] Proprietary RSBIX estimations based on internal legalization projections and the 2020 census.
[2] Proposed Rule on Event Contracts, 89 Fed. Reg. 48968 (proposed June 10, 2024), 48970 n.19.
[3] Id. at 48979 n.97.
[4] Id. at 48979 n. 98.
[5] Id. at 48979 n. 99.
[6] Id. at 48981 n. 114.

As a matter of substance, Congress mandated the Commission to exercise discretion to evaluate gaming-related contracts according to the public interest standard, rather than mandating blanket prohibition, because such contracts could predominantly function to inappropriately enable gaming when gaming was broadly illegal and sports betting was banned from being legalized in any state where it was not already legal, i.e. in 46 out of 50 states. But that context is no longer present. Indeed, the 2010 Colloquy occurred in a vastly different legal landscape with respect to gaming and sports betting, when PASPA banned states from legalizing sports betting, with Nevada being the primary exception. In this context, the capacity for derivatives contracts to "predominantly function as a means to enable gaming," rather than as legitimate hedging tools, was significantly heightened due to the extremely limited legal sports betting industry. This was so in two immediate respects. First, the want of a legal hedging mechanism for the sports betting industry was minor relative to today precisely because of the limited nature of sportsbook operations, which were confined to Nevada. As a result, sportsbook operators, which themselves were casinos, faced less absolute exposure and risk from the outcomes of sporting events. Second, that only Nevada held legal sports betting markets meant that most prospective bettors were unable to place legal bets in their resident states, leaving them wanting for some legal means to do so, like a derivatives market existent only "predominantly to enable gaming."

The use of the phrase "predominantly to enable gaming" is especially noteworthy in the 2010 Colloquy. It implies facilitating an activity that faces substantial barriers or impediments — in this case, PASPA. Now, the premise underlying the 2010 statement has been fundamentally altered. Such impediments are no longer. The sports betting industry, now in its eighth year of legal existence, has evolved into a robust economic sector with legitimate risk management needs and a wealth of consumers across nearly 40 states. On this latter point, we cite an illustrative example by the American Gaming Association ("AGA") who reported that a record 67.8 million American adults (26%) were expected to bet on Super Bowl LVIII, a 35 percent increase from 2023. Further statistics show that 42.7 million American adults plan to place a traditional sports wager online, at a retail sportsbook or with a bookie, up 41 percent from 2023, and that 28.7 million adults, or 11 percent, intend to place online wagers using a legal U.S. sportsbook.[7] In this new context, there is scant functional need for derivatives markets that exist "predominantly to enable gaming," because gaming, or sports betting, is now widespread and legally accessible in most states. Even still, those who do not have access to legal markets in their resident state readily find illegal, offshore online platforms through which they can wager on sports, but which do not offer them or their state any of the protections or benefits of a regulated platform.

Crucially, the causal relationship expressed in the statement — that potential contracts may exist "contrary to the public interest because they exist predominantly to enable gambling" — warrants careful examination. The function of "predominantly enabling gaming" was the very reason these contracts were deemed contrary to the public interest. However, today this potential function is completely vestigial: if the primary reason for these contracts being contrary to the public interest is no longer relevant — with broad legalization and regulation of sports betting in most states and illegal, offshore online platforms illicitly enabling

[7] https://www.americangaming.org/record-68-million-americans-to-wager-23-1b-on-super-bowl-lviii/

gaming in the others to the detriments of those states and their residents — it follows that the event contracts are no longer contrary to the public interest on these grounds. The entire gaming landscape has changed. There is no need for event contracts to exist to predominantly enable gaming because gaming is already broadly accessible, legally or not. Now, such event contracts may serve legitimate hedging purposes for the sports betting industry such that they can better manage their financial risks and stay competitive with the illegal, offshore bookmakers who predate on American citizens. Both purposes protect the interests of American citizens and the states in which they live, and therefore the public interest.

We cite former SEC General Counsel, CFTC General Counsel, and former CFTC Commissioner Dan Berkovitz's Statement Related to Review of ErisX Certification of NFL Futures Contracts, in which he states the following:

"Notably, however, the CEA gaming provision does not require the Commission to prohibit contracts involving gaming or to prohibit a contract simply because it involves gaming; it provides the Commission with the discretion to prohibit them. In my view, the Commission should recognize the significant growth of sports betting as a legalized activity in recent years with significant underlying commercial activity. The Commission should permit a DCM to list contracts involving sports events where a DCM demonstrates that such contracts have an economic purpose and hedging utility related to such commercial activity... Because in many states sports betting is now legal under both state and federal law, it would not be 'contrary to the public interest' for the Commission to permit the listing of sports event contracts if an exchange can demonstrate that the contracts will be used to hedge commercial risks arising from lawful commercial activity related to sports betting."[8]

It should be noted that Commissioner Berkovitz's comments were published in April 2021, when only 25 states plus the District of Columbia had legalized sports betting, many of which were in only their first or second year of having operational markets. The industry has significantly matured in the meantime, much of which we touch upon through this comment letter.

Sports Event Contracts Are a Means for Managing and Assuming Price Risks Through Trading in Liquid, Fair, and Financially Secure Trading Facilities.

The need for a legitimate hedging tool is inherent to how sportsbooks conduct operations and is quantifiably foreseen for each event. In addition, other commercial businesses with exposure to the sports industry have a bona fide requirement for hedging tools.

Sportsbooks do not themselves engage in wagers or bets on the outcome of sporting events. Operators instead aim to create a "balanced book" where the money wagered on both sides of a sporting event outcome are equal, usually by incentivizing or disincentivizing prospective bettors one way or the other through more attractive or less favorable odds, respectively. This means that on an event

[8] https://www.cftc.gov/PressRoom/SpeechesTestimony/berkovitzstatement040721.

where the money on each side is equal, the money from the loser goes toward paying the winner, no matter which group is which. In this ideal scenario, the sportsbook's revenue is captured in minor odds disparities. This revenue, known in the industry as the "vigorish" or "vig," is essentially the sportsbook's commission for facilitating the wager. For example, in a typical point spread bet with -110 odds on both sides, a bettor must wager $110 to win $100. If the book is perfectly balanced and $1,100 is bet on each side, the sportsbook collects $2,200 total. When paying out $1,100 to the winning side, the sportsbook retains $100 as its vig, or commission, representing a theoretical "hold" of about 4.55% of the total amount wagered. In this example, the winning side will receive a total of $2,100 representing its winnings of $1,000 plus its initial $1,100 bet. This commission structure allows sportsbooks to generate revenue regardless of the event's outcome, provided they maintain a balanced book.

But there is a reason this situation is only an ideal one. Sportsbooks frequently encounter situations where there's a disproportionate amount of money wagered on one side of an event. When such an imbalance occurs, the sportsbook adjusts its odds. They typically respond by making odds more attractive for the less popular side and less favorable for the heavily backed side, to encourage a more balanced distribution of wagers. This may mean losing bettors to other sportsbooks or offshore operators as a result. The state-by-state regulatory scheme of the sports betting industry amplifies this issue.

Consider the following example: New York-licensed sportsbooks are prohibited from accepting out-of-state wagers, creating a natural imbalance in the book on any given game involving a home team. Bills fans, the majority of whom are presumably in New York, would rarely consider betting against their team, especially on a home game, and the same could be said for fans of the Giants or Jets. For these games, the sportsbook must either operate with an imbalanced book or offer unattractive odds in an attempt to artificially balance it; attempts which are rarely successful as fans are more likely to turn to another platform or forego the bet altogether. This imbalance is readily perceptible and easily identified as exposure to the outcome of the sporting event because, if the Bills win, the sportsbook may not have enough money on the other side to cover the winnings. Less attractive odds are generally insufficient to induce fans to overcome hometown sentiments at a cost to such fans.

This scenario demonstrates why sportsbooks need effective risk management tools. The exposure is quantifiable, foreseeable, and directly linked to specific sporting event outcomes. Sportsbook operations strive to be outcome-indifferent by design, but aspects of the current regulatory landscape and consumer tendencies often prevents them from achieving this goal.

Other entities in the sports industry, such as stadium owners and other vendors, necessarily have a vested interest in their home team's performance and which they have no means to attempt to mitigate or offset like sportsbooks. Their economic success is inherently tied to how well a team does, creating a different kind of exposure that could also benefit from risk management tools. For instance, potential playoff prospects, especially deep ones, energize a fanbase into higher attendance, ticket prices, and merchandise sales, among other things, for regular

season games. Home playoff games are themselves boons to revenue in like manner.

These effects are also present downstream for businesses like hotels and restaurants within radius of the stadium and the home team's city, as individuals from within the state or fans from out-of-state travel to watch games in person.

As Ari Rubenstein, Co-Founder and CEO of GTS Securities, put so appropriately in his comments concerning CFTC Review of Proposed RSBIX NFL Futures Contracts:

"In this way, these businesses are like any other commercial user of the commodities market: they must invest capital upfront for facilities upkeep, staffing, purchasing inventory, marketing, and the like in order to secure a future profit that is uncertain, and the success of which depends on factors beyond their control. Their team's collapse is the sporting equivalent of a drought-induced crop failure – an event that may undo even the most diligently-executed business plan. Sports event contracts are a mechanism for the venue owners and vendors to hedge their risk exposure, in the same way that farmers use the commodities markets to protect the prices for their crops."[9]

Exposure to the outcome of sporting events is not isolated to the quality of performance of a relevant home team, however. There is also a general tendency for an imbalance to exist on the basis of which team is favored to win, no matter the states or sportsbooks in question. Aggregated data shows that these imbalances are the rule rather than the exception to the rule. For instance, according to proprietary estimates using aggregated data collected and provided by Sports Insights on NFL games covering the first 170 games of the 2021 football season from around 50 participating large and small sportsbook operators, none of the games had wagers that were completely balanced across all the different kinds of wagers (i.e., moneyline, point spread, or total points) at the same time. Additionally, around 98% (or virtually all the games) had significant wager imbalances with 60% or more of the total amount wagered on an individual game was wagered on one team and 20% of the games had 90% or more of the total amount wagered on one team for at least one type of bet.

Public statements and operational strategies adopted by a leading sportsbook operator illustrate the necessity of instruments to manage commercial risk. In 2024, DraftKings announced the implementation of a "winnings surcharge" in high-tax states. This move, as explained by CEO Jason Robins, was a direct response to the growing challenge of state-imposed revenue taxes exceeding 20%.[10] The surcharge is designed to offset the substantial tax burden in states like New York, where the tax rate is 51%, and Illinois, where a recent tax hike could cost the company an estimated $100 million in incremental taxes next year. According to Legal Sports Report analysis, the "change is the practical equivalent of moving the odds to -114, moving the standard breakeven win rate from 52.4% to 53.3%."[11] In this context, legitimate hedging tools are crucial for the sports betting industry. They

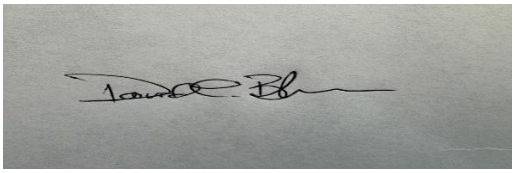
[9] Comment No: 64793
[10] https://www.legalsportsreport.com/194653/analysis-how-draftkings-surcharge-will-affect-sports-betting-customers
[11] https://www.legalsportsreport.com/194653/analysis-how-draftkings-surcharge-will-affect-sports-betting-customers

not only bolster operational efficiency by allowing sportsbooks to mitigate risk exposure from event outcomes, but also benefit the public by enabling operators to offer better odds or forego surcharges on winning bets. Without access to such risk management instruments, operators face a critical dilemma: choosing between maintaining profitability and offering competitive products to the public. The introduction of hedging tools could alleviate this tension, supporting a healthier and more sustainable regulated sports betting market that balances operator profitability with the public availability of attractive services.

Taken as a whole, we respectfully believe that the above discussions, comments, and representations establish that the economic impact of an occurrence or non-occurrence in connection with a sports event is quantifiable, predictable, and directly correlated to financial outcomes for sportsbooks and other commercial businesses with exposures to sports. Furthermore, we contend that sports event contracts serve a legitimate hedging purpose, being used primarily by entities with genuine commercial interests. The evidence presented demonstrates that such contracts would be consistently utilized for hedging and price basing as well as for addressing real and ongoing risk management needs in the sports industry.

We appreciate the opportunity to submit our comments in response to the ANPRM and hope that the Commission will consider our suggestions.

Sincerely,



David T. Bloom

Head of Legal

RSBIX LLC