TABLE MOUNTAIN RANCHERIA
TRIBAL GOVERNMENT OFFICE

April 29, 2026

Christopher J. Kirkpatrick, Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Submitted via https://comments.cftc.gov

Michelle Heredia-Cordova
Tribal Chairperson

Richard L. Jones
Tribal Vice-Chairperson

Jenna Gosselaar
Tribal Secretary/Treasurer

Samantha Toles-Rodriguez
Tribal Council Member-At-Large

Mark Martinez
Tribal Council Member-At-Large

Re: Prediction Markets (RIN 3038-AF65)
Comments on Advance Notice of Proposed Rulemaking

Dear Secretary Kirkpatrick:

On behalf of the Table Mountain Rancheria, a sovereign Indian Tribe located in California's Central Valley, we begin by observing that the Commodity Futures Trading Commission's ("CFTC") recent submission of amicus briefs in several ongoing litigation cases on prediction markets suggests that the Commission is already asserting exclusive jurisdiction over any event contract actions involving "gaming" activity - effectively bypassing the questions posed in the Advanced Notice of Proposed Rulemaking ("ANPRM"). The CFTC's actions create a perception of a preordained process in an attempt to legitimize a predetermined outcome, rendering the Tribe's comments as performative rather than complying with the law to ensure meaningful and timely input. As an agency of the United States federal government, the CFTC has a federal trust relationship with Indian Tribes, with a duty to consult and coordinate with Indian Tribes on matters affecting them. Here, the CFTC publication of the ANPRM is prologue to a farce where the public is given the illusion of influence and input. Given the amicus briefs, it appears that CFTC is intending to support their interpretation and decision making both substantively and procedurally.

Therefore, Table Mountain Rancheria's comments focus on the unlawful sports betting and gaming activity currently taking place and do not address every question published in the CFTC's ANPRM. Again, Table Mountain Rancheria maintains that the CFTC should not engage in a perfunctory rulemaking exercise that seeks to legitimize this unlawful activity. Instead, the CFTC must fulfill its

23736
Sky Harbour Road
Post Office
Box 410
Friant
California
93626
(559) 822-2587
Fax
(559) 822-2693

statutory responsibilities and enforce its existing regulations against event contracts involving gaming.

- **CFTC Exclusive Jurisdiction Assertions over nationwide Gaming "Transactions" is a Farce under the Law**

In 1988, Congress enacted the Indian Gaming Regulatory Act ("IGRA") (25 U.S.C. §2701) "to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments." Congress was clear that tribal gaming was intended as an economic development tool for Tribes, and clear about the goal of Tribal self-sufficiency. And Congress was right – Tribal gaming has allowed Tribes across the United States to achieve a level of self-reliance not previously seen under other federal policies and initiatives.

As a result of IGRA and self-determination policies, many Tribes are no longer solely dependent upon federal budget appropriations and other sources of federal funding. Today, Tribes provide housing, education, law enforcement, Elder care and nutrition programs, cultural training and language preservation, college tuition, utility bill reimbursements, services for disabled individuals, and a host of Tribal governmental services that were out of reach for previous generations of Native Americans. It is no exaggeration to describe Indian gaming as the most successful tribal economic development initiative in this nation's history, accomplishing a "key goal of the Federal Government [...] to render Tribes more self-sufficient, and better positioned to fund their own sovereign functions, rather than relying on federal funding."

This progress was achieved within the constraints of federal law, not by the exploitation of loopholes. Under IGRA, each Tribe is the primary regulator of the gaming that takes place on its land, and in the 38 years since IGRA was enacted, there have been very few reports of crime, corruption, or manipulation of gaming conducted by Tribes.

- **Perception of Undue Influence Regarding CFTC's Policy Assertions**

Today, this progress is threatened by CTFC's interpretations that seek to exploit a different federal law, the Commodities Exchange Act ("CEA"), to facilitate illegal schemes to offer unregulated sports betting to anyone in the United States, regardless of location, and regardless of any established State or Tribal gaming laws or regulations.

Proponents of prediction market platforms argue that the CEA somehow overrides IGRA, and therefore the restrictions on gaming in Indian Country do

not apply to the online sports wagering offered by Kalshi, Polymarket, and others. As an extension of this argument, they contend the CFTC suddenly has "exclusive" jurisdiction over the "event contracts" that have been used to reap millions from online wagers placed during the Superbowl, the March Madness NCAA basketball tournament, and other high-profile sports events. The CFTC has worked diligently to whitewash this latest form of unregulated gambling, claiming the wagers are "swaps" and "financial instruments." The CFTC has also gone to bat in court filings on behalf of prediction market operators. But to quote Judge Ryan D. Nelson of the Ninth Circuit Court of Appeals:

"This can't be a serious argument."

Judge Nelson's remarks came during a hearing held April 16, 2026, in a discussion of the Court's questions about CFTC Rule 40.11. Adopted in 2011, Rule 40.11 implements Section 5c(c)(5)(C) of the CEA, and requires the CFTC to determine that certain contracts are contrary to the public interest if they involve any of the following:

1. An 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 to be contrary to the public interest.

In June of 2024, the CFTC proposed amendments to its rules that would clarify and reinforce these excluded categories of contracts. However, the CFTC recently withdrew the 2024 proposed rules and has instead become an active proponent of sports betting via prediction markets, filing amicus briefs opposing the enforcement by states of their long-established gambling laws. All of this is occurring in the context of the explosive growth of prediction market platforms. Kalshi, for example, has reached a market valuation of approximately $22 billion over the past eighteen months.

As we watch the CFTC embrace and promote prediction markets, it is impossible to ignore certain facts that create the perception of undue influence. For example, the Trump family has a direct financial interest in the burgeoning prediction market industry. On October 28, 2025, Trump Media announced it was launching its own prediction market platform called "Truth Predict," while

Donald Trump Jr. advises and has financial interests in Kalshi and Polymarket, two of the largest prediction markets.

- **CFTC assertions of Exclusive Authority over "gaming" undermines the traditional balance of Tribal-State Regulatory Regime without any Expressed Congressional Intent to preempt the IGRA**

Although undeniably lucrative, this new industry lacks the legal and regulatory framework necessary to protect the public interest. The State of Nevada has been developing and refining effective methods of gaming regulation and licensing since its first casino opened in the 1940's. For their part, Tribal Governments have worked before and after the enactment of IGRA to establish highly-qualified independent regulatory agencies to safeguard the integrity of Tribal gaming.

The regulatory expertise demonstrated by States and Tribes stands in stark contrast to that of the prediction markets, which seem to generate a new headline every week about insiders who have exploited the obvious lack of regulation by placing bets based on inside information, such as plans for the invasion of Venezuela. Similar headlines involve candidates for political office who purchased "contracts" allowing them to wager on their own campaigns, and a Special Forces soldier who was indicted barely one week after Judge Nelson made his observations about the categories of contracts (including war) that are expressly prohibited by the CEA. The soldier reportedly won $400,000 by "predicting" the capture of Nicolas Maduro, an event he was personally involved in planning and executing.

The CFTC is charged with prohibiting event contracts involving any activity that is unlawful under any Federal or State law. As noted above, the federal law that governs what forms of gaming can be offered within the boundaries of each Tribe's sovereign territory is IGRA. The CFTC should prohibit the listing of event contracts that violate IGRA. The same principle applies to state law – to the extent the State of Nevada has developed a legal and regulatory structure for gaming, it should be respected. In the same way, if the voters of the State of Utah have determined by majority vote that gaming should be prohibited, the decision of those voters must be respected.

Rather then support CFTC's assertions of exclusive jurisdiction under a strained, convoluted reading of the language "all commodities" and "contracts of sale of a commodity for future delivery, traded or executed on a contract market …",

the Tribe suggests looking to the CEA's legislative history. The record clearly shows the intent of the Congress to prevent gambling. When Senator Dianne Feinstein asked if the intent of the legislation was to empower the CFTC "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," Senator Lincoln, who drafted the 2010 amendments to the CEA, responded:

> "That is our intent . . . [to] 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."

Tribes understand that gambling is susceptible to abusive and wrongful practices by unscrupulous actors. This is precisely why Congress sought to exclude gaming under the CEA as a matter of public interest. In balancing the costs and benefits of gaming, a key consideration is the public interest and how best to protect the public from the acknowledged harms and vulnerabilities associated with gambling.

Under the IGRA, Tribal governments, like many state governments, have invested heavily in regulatory systems to monitor, audit, and enforce compliance with laws, regulations, and internal control systems as a means not only of safeguarding tribal gaming revenues, but also to prevent unlawful practices harmful to the public interest, including safeguards designed to protect consumers. Gaming regulations go beyond operational procedures, they address gambling addiction, problem gaming, the adjudication of patron complaints, and the prevention of cheating and money laundering. These regulations are designed to guarantee integrity in the conduct of gaming, mitigate potential threats and harms, and protect the public interest through the deployment of robust regulation.

Indian Country has invested heavily in building a Tribal gaming industry that is not only prosperous, but plays by the rules, protects the public interest, and actively shields itself from criminal activity through robust regulation. On the other hand, sports betting via the prediction markets is vulnerable to the harms commonly associated with gambling, while offering none of the protections available under Tribal, federal (IGRA), and state regulatory frameworks.

Proponents of the prediction markets seek to conduct sports betting free of the costs and responsibilities of a well-regulated legal framework. Sports betting presented as "swaps" or "investments" on the prediction markets under the CEA is a fiction promoted by commercial interests seeking to circumvent public policies that restrict, regulate, or prohibit sports betting. Congress never expressly preempted the IGRA as the only federally authorized gaming to be undertaken in Indian country. Therefore, Table Mountain Rancheria asserts that sports event contracts not only directly violate the CEA and CFTC regulations, but because they involve gaming, they violate State, Tribal, and federal laws - including the IGRA, and are contrary to the public interest.

- **Summary**

Trading of sports event contracts is gambling. It violates state, tribal, and federal law and is contrary to public policy. Allowing sports event wagering interferes with the sovereign right of Tribal and State governments to exercise their inherent authority to regulate gaming within their respective jurisdictions. The Table Mountain Rancheria strongly urges the CFTC to affirm its current interpretation of the CEA, and to clarify that sports event contracts are prohibited.

Respectfully submitted,



Michelle Heredia-Cordova
Tribal Chairperson
Table Mountain Rancheria