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Public Comment

Advanced Notice of Proposed Rulemaking

Prediction Markets — Question 19: Gaming

Submitted to the Commodity Futures Trading Commission

March 2026

Submitted by:

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Disclosure of Interest: The author is the founder of Powerhouse Prediction Ventures, which is in process to submit its applications before the CFTC for a Designated Contract Market license (365Prediction) and a Derivatives Clearing Organization license (NextGen Clearing). The views expressed in this comment are submitted in the author's individual capacity as a legal scholar and industry practitioner, and represent her independent assessment of sound regulatory policy. The author's financial interest in the outcome of this rulemaking is disclosed in the interest of full transparency.

This comment is submitted in response to the Commodity Futures Trading Commission's Advanced Notice of Proposed Rulemaking on Prediction Markets, addressing Question 19 concerning the treatment of "gaming" in the context of event contracts. Dr. Mintas's perspective is grounded in a uniquely comprehensive vantage point: she has practiced sports betting law, represented major sports organizations on integrity matters related to sports betting, built and sold technology platforms, operated licensed B2C and B2B wagering companies, and is now in the process of establishing a federally regulated prediction market exchange and clearing house.

A central thesis of this submission is that the fragmented, state-by-state framework that has governed U.S. sports betting since the repeal of PASPA in 2018 has produced a

deeply suboptimal regulatory environment – one that constrained market variety, incentivized offshore participation, and disproportionately protected incumbent land-based casino interests at the expense of consumer choice and innovation.

This submission draws on empirical market data from the Campaign for Fairer Gambling (CFG) and Yield Sec (2024/2025 USA Online Gambling Marketplace reports), which represent the most comprehensive audience-focused analysis of the U.S. online gambling marketplace to date. The data makes the case clearly: the current regulatory framework has not channelized demand toward legal markets—it has driven the majority of it offshore.

U.S. Online Gambling Gross Gaming Revenue (GGR) — 2024

Total Market: $90.1 billion

Legal: $23.0 billion (26%) | Illegal: $67.1 billion (74%)

Illegal GGR grew 64% year-on-year; legal GGR grew 36%

Source: Yield Sec / Campaign for Fairer Gambling, CFG USA National 2024

Statutory and Regulatory Framework: The CFTC's Exclusive Jurisdiction Over Event Contracts

Before turning to Question 19, it is useful to fix the legal architecture within which a Designated Contract Market ("DCM") and Derivatives Clearing Organization ("DCO") operate. Section 2(a)(1)(A) of the Commodity Exchange Act ("CEA"), 7 U.S.C. § 2(a)(1)(A), grants the Commission "exclusive jurisdiction … with respect to accounts, agreements … and transactions involving swaps or contracts of sale of a commodity for future delivery … traded or executed on a contract market designated pursuant to section 7 of [the CEA] … or any other board of trade, exchange, or market." Event contracts that satisfy the "excluded commodity" definition in CEA § 1a(19), 7 U.S.C. § 1a(19) – most relevantly, contracts settling on "an occurrence, extent of an occurrence, or contingency … that is … beyond the control of the parties … and … associated with a financial, commercial, or economic consequence"—fall squarely within that grant of exclusive federal jurisdiction when listed on a CFTC-designated contract market and cleared through a registered DCO.

The Commission's authority to act on event contracts is supplied by CEA § 5c(c), 7 U.S.C. § 7a–2(c), and operationalized through Part 40 of the Commission's regulations, including 17 C.F.R. § 40.2 (self-certification), § 40.3 (voluntary prior approval), and § 40.11 (event-contract review). Under § 5c(c)(5)(C)(i), the Commission may determine that a listed contract is contrary to the public interest only if the contract involves one of six enumerated activities (unlawful conduct, terrorism, assassination, war, gaming, or a similar activity designated by rule). Outside those categories, listing of an event contract on a DCM is governed by the ordinary self-certification regime: a DCM's certification that

the contract complies with the CEA and the Commission's regulations is sufficient to list, subject to the Commission's § 40.11(c) special-call authority. The DCM and DCO Core Principles—CEA §§ 5(d) and 5b(c)(2), 7 U.S.C. §§ 7(d) and 7a–1(c)(2)—separately impose substantive duties addressing the very risks (manipulation, position concentration, financial integrity, customer protection) that animate the public-interest inquiry under § 5c(c)(5)(C).

This architecture is consequential for two reasons that recur throughout this comment. First, "gaming" in § 5c(c)(5)(C)(i)(V) is a federal term of art whose scope is for the Commission—not state gaming regulators—to determine. Second, the CEA's exclusive-jurisdiction clause forecloses parallel state regulation of CFTC-jurisdictional event contracts as "sports betting" or "gambling" under state gaming statutes, regardless of how those statutes label the underlying economic activity. Recent federal court actions enjoining state cease-and-desist orders directed at CFTC-regulated event-contract platforms have begun to confirm this preemptive effect. The Commission's rulemaking should make this division of authority explicit, both to provide certainty to the growing population of DCM and DCO applicants now committing capital under the federal regime and to prevent the proliferation of inconsistent state interpretations that would fragment a market Congress has expressly placed within federal jurisdiction.

Question 19(a): Defining the Scope of "Gaming"

The Commission should resist the temptation to map "gaming" directly onto the patchwork of state and federal gambling statutes, which were designed for an earlier era of brick-and-mortar gaming and carry significant jurisdictional inconsistencies. Instead, the Commission should develop a functional definition anchored in the characteristics of the activity itself.

We suggest that "gaming," for purposes of event contracts, be understood as any contract whose payoff is determined by the outcome of an event that: (i) is not exclusively within the control of the contract holder; and (ii) involves a meaningful element of chance or uncertain outcome at the time of contract entry. This definition is broader than traditional gambling statutes yet more precise than an all-encompassing reading that would capture ordinary financial derivatives.

Entertainment purpose can serve as a useful but non-determinative indicator. The critical distinction from pure gambling is the presence of a publicly verifiable, objectively determinable underlying event, which enables price discovery, supports market integrity, and makes manipulation detectable.

As a matter of statutory construction, "gaming" in CEA § 5c(c)(5)(C)(i)(V) should be read *in pari materia* with the activities Congress placed alongside it: "activity that is unlawful under any Federal or State law," "terrorism," "assassination," and "war." Under the canon of *ejusdem generis*, those neighboring categories denote activities whose harm to the public is direct and intrinsic. Reading "gaming" through that lens identifies as suspect those event contracts whose payoff structure operates as a wager on a house-banked or

pari-mutuel game of chance – the conduct of which Congress and the States have historically regarded as harmful in itself – not multilateral, exchange-traded derivatives that happen to settle on the outcome of a publicly observable real-world event. The legislative history of § 5c(c)(5)(C), enacted as part of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010), is consistent with that narrower reading: Congress was concerned about contracts whose function is purely entertainment-oriented gambling, not about price-discovery instruments listed on a registered DCM and centrally cleared through a registered DCO.

The Commission should also expressly distinguish CEA "gaming" from state-law "sports betting" or "gambling." State sports-betting regimes regulate a bilateral, house-banked transaction between an operator and a retail bettor, with the operator carrying counterparty risk and a structural informational and pricing advantage over the bettor. A CFTC-regulated event contract listed on a DCM and cleared through a DCO is, by contrast, a multilateral, anonymous, peer-to-peer derivative: the exchange operates as a neutral matching venue, not as a counterparty taking the other side of customer trades; the DCO interposes itself as central counterparty under CEA § 5b and 17 C.F.R. Part 39, applying margining, default-management, and risk-mutualization protocols of the kind that govern cleared futures generally; and pricing is determined by aggregated order flow, producing publicly observable price-discovery signals. Treating those instruments as "sports betting" conflates two materially different activities and disregards the architecture Congress designed in Title VII of the Dodd-Frank Act.

Question 19(b): Distinguishing Types of Contests

Not all contests warrant identical treatment, and the Commission should develop a principled taxonomy. We propose the following distinctions:

- Sports Competitions: Professional sporting events with transparent, independently verified outcomes. These should be treated as the foundational and most permissive category, subject to standard CFTC oversight and exchange-level integrity requirements.
- eSports Competitions: Share most characteristics of traditional sports but operate through digital platforms with additional manipulation vectors. DCMs and game publishers/tournament organizers should maintain mutual open communication and data exchange.
- Award and Entertainment Competitions: Carry elevated insider trading risk rather than event manipulation risk. Should be permitted with enhanced surveillance requirements around information barriers.
- Political and Civic Events: International experience in Australia, Ireland, and the United Kingdom demonstrates that well-regulated political prediction markets enhance forecasting accuracy without materially increasing interference risk. Should be permitted with robust position limits and transparency requirements.

- Social and Novelty Events: Limited systemic risk. Should be permitted with lighter-touch oversight, provided the underlying event is objectively verifiable.

Why a Sports Event Contract Is Not Sports Betting

The taxonomy above presupposes a more fundamental legal point that the Commission's rulemaking should resolve. Several state attorneys general and state gaming regulators have asserted that sports event contracts listed on DCMs are merely "sports betting" in a different wrapper, and therefore subject to state licensure under PASPA-successor statutes, the Wire Act, 18 U.S.C. § 1084, or state-specific gaming codes. That position is mistaken on the law for at least four independent reasons:

- Excluded-commodity status. The contracts are derivatives that satisfy the "excluded commodity" definition in CEA § 1a(19), placing them within the Commission's exclusive jurisdiction under § 2(a)(1)(A).
- Neutral matching venue. The DCM operates as a neutral execution venue, takes no counterparty position against customers, and earns transaction fees on matched volume rather than "hold" against losing wagers—distinguishing the activity from the bookmaker-bettor relationship that defines "sports betting" under virtually every state gambling code.
- Central counterparty clearing. All open positions are interposed by a registered DCO that performs central counterparty, margining, and default-management functions under CEA § 5b and 17 C.F.R. Part 39—an arrangement unknown to state-licensed sportsbooks.
- Public price discovery. The resulting prices are publicly disseminated and serve a price-discovery and risk-transfer function characteristic of a derivatives market, not a wagering venue.

The Commission should make clear in its public-interest determination under § 5c(c)(5)(C) that contracts exhibiting these structural features—DCM listing, DCO clearing, neutral matching, multilateral price discovery, position limits or position accountability, and Core Principle 4 surveillance—are not "gaming" for CEA purposes merely because the underlying reference event happens to be a sporting contest. To hold otherwise would defeat the carefully calibrated federal architecture Congress put in place in Title VII of the Dodd-Frank Act, and would, in the author's view, also exceed the textual reach of the "gaming" category as that term has historically been understood at common law and in federal gambling statutes such as the Illegal Gambling Business Act, 18 U.S.C. § 1955, and the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. §§ 5361–5367.

Question 19(c): Public Interest, Manipulation, and Responsible Innovation

The Offshore Market Is the Counterfactual

The offshore demand is not hypothetical – it is documented and large. Yield Sec data identifies 917 illegal sports betting and casino operators actively targeting U.S. consumers in 2024, supported by 668 affiliates promoting illegal platforms – compared to only 95 legal operators and 106 legal-only affiliates. Audience exposure analysis shows 88% of gambling-related audience exposure flows to illegal operators versus only 12% to legal ones.

Legal vs. Illegal Operator Landscape — USA 2024

Legal operators: 95 | Legal affiliates: 106

Illegal operators: 917 | Illegal affiliates: 668

Audience exposure: 88% illegal / 12% legal

Source: Yield Sec, CFG USA National 2024

In states with no legal online gambling, consumers still generate enormous illegal GGR. California's total illegal GGR in 2024 was $5.49 billion (100% illegal); Texas's was $4.50 billion (100% illegal). These represent two of the top five markets by total size in the country, entirely captured by unregulated offshore operators.

Top U.S. States with No Legal Online Gambling — 2024

California: $5.49B total GGR | 0% legal | 100% illegal

Texas: $4.50B total GGR | 0% legal | 100% illegal

Both rank in the Top 10 U.S. markets by total GGR

Source: Yield Sec, CFG USA National 2024

The CFG/Yield Sec data makes clear that legalization alone—without a coherent strategy to channel demand into regulated markets—does not reduce illegal activity. From 2023 to 2024, **illegal GGR grew by 64%, outpacing legal GGR growth of 36%**. The illegal share of the total market increased from 71% to 74% despite continued state-by-state legalization. New Jersey, which has both legal online sports betting and casino, achieved total GGR per capita of $654 in 2024. California, with no legal online gambling, recorded only $141 per capita—flowing entirely to illegal offshore operators.

GGR Per Capita Comparison — 2024

New Jersey (legal sports + casino): $654 per capita | 58% legal

Ohio (legal sports only): $523 per capita | 15% legal, 85% illegal

California (no legal gambling): $141 per capita | 100% illegal

Source: Yield Sec, CFG USA 2024 State Supplement

Manipulation Risks and Mitigants

Event contracts carry manipulation risk, particularly where contract value is large relative to the financial incentives facing event participants. Based on her direct experience operating integrity programs at FIFA, CONCACAF, and Sportradar, the author recommends the Commission encourage DCMs to implement: (a) information-sharing agreements with event organizers and leagues; (b) position limits calibrated to event size; and (c) real-time surveillance of unusual order flow proximate to events.

Critically, the Commission already possesses, and DCMs and DCOs are already obligated to apply, a robust legal toolkit for these risks. CEA § 6(c)(1), 7 U.S.C. § 9(1), and Commission Regulation 180.1, 17 C.F.R. § 180.1, prohibit the use of manipulative or deceptive devices in connection with any swap or contract of sale of a commodity, including event contracts; CEA §§ 6(c)(3) and 9(a)(2), 7 U.S.C. §§ 9(3) and 13(a)(2), prohibit price manipulation and attempted manipulation; and Commission Regulation 180.2 codifies those prohibitions. DCM Core Principle 2 (terms and conditions not readily susceptible to manipulation), Core Principle 3 (contracts not readily susceptible to manipulation), Core Principle 4 (monitoring of trading and trade processing), Core Principle 5 (position limitations or accountability), and Core Principle 12 (protection of market participants), CEA § 5(d), 7 U.S.C. § 7(d), each independently impose duties on the exchange. DCO Core Principles B (financial resources), D (risk management), G (default rules and procedures), and L (public information), CEA § 5b(c)(2), 7 U.S.C. § 7a–1(c)(2), do the same for the clearing organization. None of these federal statutory protections apply to wagers placed with offshore operators, and only a subset apply—under inconsistent state regimes—to state-licensed sportsbooks. The Commission's public-interest analysis under § 5c(c)(5)(C) should therefore weigh the existence of this comprehensive federal regulatory infrastructure as a factor strongly favoring a determination that properly designed sports event contracts are *not* contrary to the public interest, particularly where the relevant DCM and DCO have demonstrated, as part of their designation and registration applications, that their surveillance, position-limit, and integrity programs are operationally adequate to the contract class.

The Competitive Distortion of the Existing "Skin" Framework

The current sports betting state licensing framework requires online operators to secure a "skin" sub-license through a land-based casino partner, pay significant upfront fees, commit to revenue-sharing arrangements, and satisfy specific marketing expenditure minimums. This is not neutral regulatory design. It structurally advantages incumbent casinos and imposes barriers to entry that disfavor innovative online-native operators—precisely the type of operator Dr. Mintas has built and led throughout her career. Federal CFTC oversight would offer a single licensing pathway applicable across all states, substantially reducing duplications of compliance costs and enabling a broader, more competitive operator landscape.

The Illegal Streaming Nexus

Yield Sec data documents a nexus between illegal sports streaming and illegal gambling with direct implications for event contracts. **4.2 billion illegal sports stream views** of 90+ seconds were recorded in the U.S. in 2024 across the top 10 sports. Illegal gambling

advertising was present on **82% of those illegal streams**—by far the largest advertising category on illegal streaming platforms. Illegal gambling operators are actively generating new demand through the illegal streaming ecosystem. A CFTC-regulated event contract framework that brings this activity onshore would sever this recruitment pipeline.

Question 19(d): Characteristics of Market Participants

The Commission correctly identifies that participants in gaming event contracts may skew younger than participants in traditional financial derivatives markets. This demographic reality has several regulatory implications.

Financial sophistication of participants cannot be assumed. Platform design, disclosure standards, and onboarding requirements should reflect that many participants are engaging with these markets primarily as an entertainment activity.

The author's prior operational experience – as Chief Executive Officer of a licensed multi-state B2C operator, as Deputy President of sports betting data company Sportradar, and through governance roles at FIFA and CONCACAF – informs two specific recommendations the Commission may wish to consider as part of its public-interest analysis: (i) identity-verification, age-verification, and source-of-funds requirements implemented at the DCM and intermediary levels should be at least as rigorous as those imposed under state-licensed sports betting regimes (e.g. Nevada Gaming Control Board, NJDGE, or New Jersey Division of Gaming Enforcement), with KYC/AML standards calibrated to the elevated retail-participant profile; and (ii) onboarding flows and risk disclosures should be drafted in plain language and tested for comprehension among non-professional traders, recognizing that retail event-contract participants are not held to the "eligible contract participant" sophistication threshold of CEA § 1a(18), 7 U.S.C. § 1a(18), and so warrant heightened disclosure of payoff structure, position-loss exposure, and settlement methodology.

However, the Commission should be cautious about overly paternalistic restrictions that would simply redirect this demographic to less-regulated offshore alternatives. **The Yield Sec audience exposure data – showing 88% of gambling-related audience exposure flows to illegal operators –** indicates that younger consumers are already engaging with gambling content, overwhelmingly through unregulated channels. The regulatory choice is not between exposure and non-exposure; it is between regulated and unregulated exposure.

Notably, the Yield Sec methodology uses total population figures including minors for per capita calculations, precisely because illegal operators do not enforce age verification. This is perhaps the most compelling argument for a regulated CFTC framework: only regulated operators have the legal obligation and commercial incentive to implement and enforce robust age verification and Know Your Customer processes.

Question 19(e): Responsible Gaming Standards

The Commission should adopt a comprehensive responsible gaming framework as a condition of DCM authorization for sports event contracts. The CFG data confirms that legalization expands total market size: states with both legal online sports betting and casino show an average GGR per capita as a percentage of income of 1.12%, compared to 0.31% for states with no legal online gambling. This market expansion makes robust harm minimization standards non-negotiable.

The framework summarized below draws on the author's direct exposure to the more mature responsible-gaming regimes of the United Kingdom (Gambling Commission), Australia (state-level frameworks coordinated under the National Consumer Protection Framework), and Germany (post-2021 Interstate Treaty on Gambling). Each of those jurisdictions has, over the past decade, codified self-exclusion infrastructure, deposit and loss limits, mandatory affordability checks, and dedicated funding for problem-gambling research and treatment. The author's doctoral research, which analyzed the German sports-betting monopoly and was subsequently vindicated by the Court of Justice of the European Union, also gives reason to caution the Commission against the use of categorical prohibition as a substitute for harm-minimization standards: prohibition tends to produce illegal-market substitution rather than reduced consumption, with the documented U.S. offshore data set out above echoing the European experience.

At minimum, the responsible gaming framework should include:

- Self-exclusion programs with a path toward a national registry, honoring exclusions across platforms with technical barriers to re-registration.
- Deposit and loss limits: opt-in and, for high-risk participants, mandatory monetary limits, technically enforced and not bypassable by switching payment methods.
- Time and session controls: session reminders, cooling-off periods, and mandatory breaks, prominently accessible within the platform interface.
- Reality checks and activity statements: regular net profit/loss notifications and monthly plain-language account statements.
- Advertising standards: prohibition on targeting minors or self-excluded individuals; mandatory responsible gaming messaging; consideration of pre-watershed broadcast restrictions consistent with more mature regulated markets.
- Problem gambling fund contributions: mandatory levies to a federally administered problem gambling treatment and research fund, modeled on frameworks in the UK and Australia.

Question 19(f): Differences Among Types of Gaming Event Contracts

The Commission should resist a one-size-fits-all approach. The following dimensions of difference are relevant to a differentiated public interest determination:

- Outcome verifiability: Sports and eSports outcomes are publicly verifiable in near-real-time. Political and social event outcomes may involve delays or disputes. DCMs should establish clear settlement rules and dispute resolution processes tailored to each contract category.
- Manipulation surface area: A professional sporting event involves hundreds of athletes and officials; a political election involves millions of voters. Integrity requirements should be calibrated accordingly.
- Information asymmetry: Entertainment and award contracts carry elevated insider trading risk. The Commission should consider whether information barrier requirements are necessary for participants with material non-public information.
- **The illegal predictor problem:** Yield Sec's data includes illegal predictors within its illegal online sports betting figures, reflecting that this category already has a substantial illegal market. The Commission's regulatory framework will enter a space in which competitors—operating illegally—already exist at scale and have established consumer relationships.
- Cross-border considerations: Political event contracts may attract foreign participation with implications for foreign interference. The Commission should consult with national security and election integrity stakeholders before finalizing any framework for political event contracts.

State-Level Context: Legal Operator Count vs. Market Outcomes

States with sports betting + casino: avg. 14 legal operators | avg. 1.12% GGR/income

States with sports betting only: avg. 9 legal operators | avg. 0.77% GGR/income

States with no legal gambling: 0 legal operators | avg. 0.31% GGR/income (100% illegal)

Legalization expands total market size. Federal oversight with sensible guardrails is preferable to state-level prohibition.

Source: Yield Sec, CFG USA 2024 State Supplement #2

Federal Preemption and the State Sports-Betting Mischaracterization

Question 19 cannot be answered without addressing the increasing willingness of certain state regulators and state courts to characterize CFTC-jurisdictional event contracts as "sports betting" or "gambling" subject to state licensure. The author respectfully submits that this characterization is incorrect as a matter of federal supremacy, and that the Commission's final rule should say so directly. Three doctrines independently support that conclusion.

First, express preemption. CEA § 2(a)(1)(A), 7 U.S.C. § 2(a)(1)(A), grants the Commission "exclusive jurisdiction … with respect to accounts, agreements … and transactions involving swaps or contracts of sale of a commodity for future delivery …

traded or executed on a contract market designated pursuant to section 7 of [the CEA]." The Supreme Court has long recognized the comprehensive character of that grant. *See, e.g., Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Curran*, 456 U.S. 353 (1982) (recognizing the comprehensive federal regulatory scheme established by the CEA). State efforts to relabel CFTC-listed event contracts as "sports betting," in order to assert state licensure or prohibition jurisdiction over them, collide directly with that exclusive grant.

Second, conflict and field preemption. Even where the express clause is not dispositive, parallel state gaming regimes obstruct "the accomplishment and execution of the full purposes and objectives of Congress." *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941). A single, federally certified contract should not be exposed to fifty potentially incompatible state determinations as to its lawfulness. Congress's decision to vest the Commission – and only the Commission – with authority to determine whether an event contract is "contrary to the public interest" on grounds including "gaming" reflects a deliberate choice that one regulator, not fifty, make that determination, and that the determination be made through the rulemaking and special-call procedures Congress prescribed in § 5c(c)(5)(C) and Regulation 40.11. State cease-and-desist orders, civil-investigative demands, and license-application denials directed at registered DCM activity intrude into precisely that federal occupation of the field.

Third, the Commerce Clause. Event contracts traded on national DCMs are inherently interstate and, increasingly, international. State efforts to extraterritorially regulate the listing of contracts on a federally registered exchange – or to prohibit the State's own residents from transacting on such an exchange – raise substantial dormant Commerce Clause concerns of a kind the Supreme Court has repeatedly rejected outside the gambling context. The dormant Commerce Clause does not permit a State to project its gaming policy onto a federal derivatives venue accessible nationally.

Federal courts have begun to confirm these principles in litigation arising out of state attempts to apply gaming statutes to CFTC-registered event-contract platforms, with preliminary injunctions issued against state regulators in multiple jurisdictions on essentially preemption grounds. The Commission's March 2026 Advance Notice itself acknowledged that the rulemaking is being reconsidered in light of "various forms of state regulatory actions and litigation concerning the Commission's exclusive jurisdiction over event contract derivatives listed on [DCMs] and the proper application of the swap and excluded commodity definitions under the [CEA]." The author respectfully urges the Commission to use this rulemaking to resolve that uncertainty in favor of clarity: a contract properly self-certified under 17 C.F.R. § 40.2, listed on a designated contract market, and cleared through a registered DCO is a federal derivative subject to the Commission's exclusive jurisdiction, and is not "sports betting" within the meaning of any state gambling code. That holding would not displace state authority over genuinely state-law gambling activities—casino gaming, state-licensed sportsbooks, lottery, and pari-mutuel wagering. It would, however, restore the boundary Congress drew when it enacted § 2(a)(1)(A) and § 5c(c).

A comparative-law observation may also assist the Commission. The author's doctoral dissertation analyzed the German Sports Betting Monopoly and concluded that it was

incompatible with European Union internal-market law—a position subsequently confirmed by the Court of Justice of the European Union in *Carmen Media Group* (Case C-46/08) and the related *Markus Stoss* line of decisions. The European experience is instructive here for two reasons. First, it demonstrates that fragmented sub-national gaming regulation, when applied to an inherently cross-border activity, produces both consumer-protection failures and unlawful market protectionism. Second, it confirms that the appropriate response is not deregulation, but a coherent supra-state regulatory architecture with clearly defined jurisdictional boundaries. The CEA's allocation of exclusive federal jurisdiction over derivative event contracts to the Commission, while preserving state authority over traditional state-law gambling, is precisely such an architecture. The Commission should resist any interpretive path that would replicate, within the United States, the fragmentation problem the European Union spent two decades unwinding.

This boundary is consequential to the author personally and to similarly situated applicants. Powerhouse Prediction Ventures, through 365Prediction (DCM) and NextGen Clearing (DCO), is committing the capital, governance infrastructure, surveillance technology, and risk-management resources required to comply with the federal regime. Like other applicants now in queue with the Commission, the company makes those investments in reliance on the integrity of the federal scheme. A regulatory environment in which a federally registered DCM's self-certified product can be unilaterally re-characterized as state-illegal "sports betting" would not simply unsettle this single applicant's business plan; it would unsettle the entire federally registered prediction-market sector and chill the very capital formation Congress invited when it enacted Title VII of the Dodd-Frank Act.

Conclusion

The CFTC's proposed rulemaking arrives at a moment when the inadequacy of the existing state-based gaming regulatory architecture is documented with unprecedented precision. The CFG/Yield Sec data shows a $90.1 billion U.S. online gambling market in 2024—of which $67.1 billion, or 74%, flows to illegal offshore operators with no consumer protections, no tax remittance, and no accountability to U.S. law. The illegal sector grew faster than the legal sector, and the trend is accelerating.

The Commission should draw three clear lessons from this data. First, demand for event contracts—including on sports, entertainment, politics, and social events—exists at scale and cannot be suppressed by prohibition; it needs to be channeled to legal operators. Second, a federal single-license framework will produce better outcomes than the current 50-state patchwork, which has served incumbent casino interests at the expense of consumer choice, protection and innovation. Third, responsible gaming standards must be non-negotiable components of any framework, given that legalization expands total market size and therefore total exposure to gambling-related harm.

Dr. Mintas submits this comment from the unique position of a legal scholar, a practitioner who has operated at every level of the global sports betting ecosystem, and an entrepreneur who is actively building 365Prediction and NextGen Clearing as prediction market exchange and clearing house to seek full federal authorization under the CEA. She does so in the conviction that a well-designed CFTC framework is not only preferable to the state-based status quo—it is **the only regulatory architecture capable of closing the $67.1 billion offshore gap** that currently operates beyond the reach of U.S. consumer protection law.

For the reasons set out in this comment, the author respectfully urges the Commission, in any final rule or interpretive guidance issued pursuant to this rulemaking, to: (1) interpret "gaming" in CEA § 5c(c)(5)(C)(i)(V), 7 U.S.C. § 7a–2(c)(5)(C)(i)(V), as a federal term of art whose scope is for the Commission alone to determine, and which does not encompass exchange-traded, centrally cleared event contracts that satisfy the "excluded commodity" definition in § 1a(19); (2) confirm that contracts properly self-certified under 17 C.F.R. § 40.2 and listed on a registered DCM are subject to the Commission's exclusive jurisdiction under CEA § 2(a)(1)(A) and are not "sports betting" or "gambling" for purposes of any state gaming code; (3) preserve the established § 5c(c)(5)(C) public-interest framework, with public-interest determinations made by the Commission through notice-and-comment rulemaking or particularized special-call review under Regulation 40.11(c), rather than by post-hoc state characterization; and (4) integrate the responsible-gaming, anti-manipulation, and surveillance standards described in this comment into the DCM and DCO Core Principle compliance regime, so that participant protection and market integrity are advanced through the federal regulatory architecture, not through prohibition.

The author appreciates the Commission's attention to these issues and stands ready to provide additional information, data, or technical assistance, including a private discussion of the operational design choices made for 365Prediction (DCM) and NextGen Clearing (DCO), should it assist the Commission's deliberations.

Respectfully submitted,

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Appendix A: Statement of Qualifications

The author's relevant background is summarized below as background to the substantive comments above.

Dr. Laila Mintas is one of the most recognized practitioners in the global sports betting markets industry, with more than 20 years of executive, legal, and academic experience spanning four continents.

She is the Founder & CEO of Powerhouse Prediction Ventures Inc, which is in process of applying before the CFTC for a Designated Contract Market license (365Prediction) and a Derivatives Clearing Organization license (NextGen Clearing). She therefore submits this comment not only as a legal scholar and seasoned industry practitioner, but as an active market participant who is committing capital and institutional resources to building a business under the very regulatory framework she advocates for in these pages.

Her qualifications are directly relevant to the matters addressed in this comment:

- Ph.D. in Law (2006), dissertation on sports betting regulation and the German Sports Betting Monopoly; her legal analysis that the monopoly violated European Law was subsequently confirmed by the European Court of Justice.
- Legal counsel at White & Case LLP (Germany), advising sports betting and iGaming companies on market entry, regulatory frameworks, and strategic positioning.
- Head of Legal & Betting, FIFA´s Detection System; Director of Sports Integrity, CONCACAF — managing betting sponsorship, data exchange, and integrity programs across major global sports organizations.
- Deputy President, Sportradar — grew U.S. operations from 3 employees to 500+ across 4 offices; built U.S. market share to over 85%; managed investors including the NFL, Michael Jordan, Ted Leonsis, and Mark Cuban. Company valued at $2.4 billion during her tenure.
- Chairwoman & Investor, Bet.Works — innovative B2B sports betting platform, founded and sold to Bally's for $125 million within 24 months.
- CEO, PlayUp USA — built from scratch to a $450 million valuation (2021); licensed B2C sports betting and iGaming operator.
- CEO, PlayEngine — award-winning Silicon Valley-based B2B sports betting and iGaming software provider.
- Non-Executive Director, SIS Ltd (London, UK) and RulesX (European T20 Cricket League)
- Guest Professor: Columbia University (NYC), St. John's University (NYC), University of New Hampshire, Humboldt University Berlin — teaching Sports Betting Law, Sports Law, and Sports Integrity.
- 100+ publications in academic and professional journals on sports betting, iGaming, and sports integrity.
- Awards include: SBJ Game Changers (2018), International Award for Women in Gaming - Inspiration of the Year (2018), Leaders in Sports U40 (2018), SBJ Power Player Sports Betting (2019), Business Insider Leaders of the Sports Betting Industry (2019), GGB Emerging Leaders of Gaming 40 Under 40 (2021), GGB Emerging Leaders of Gaming 40 Under 40 Award (2021). Because of her extensive experience and knowledge, she was selected as Judge since 2020 for the Global Gaming Awards, for the SBC Awards and the Sports Pro OTT Awards. She also serves as Judge for the GGB Gaming & Technology Awards and the iGB Most Influential Women Awards.

Data sources: Campaign for Fairer Gambling / Yield Sec, “CFG USA National 2024”; “CFG USA State Supplement #1: State Groups”; “CFG USA State Supplement #2: All States”; “CFG USA Illegal Streaming of Sports Events and Illegal Gambling 2024” (published April–August 2025).