COMMENTS OF THE MOHEGAN TRIBE ON COMMODITY FUTURES TRADING COMMISSION ADVANCE NOTICE OF PROPOSED RULEMAKING
April 29, 2026
Prediction Markets | RIN 3038-AF65

The Mohegan Tribe ("Mohegan" or the "Tribe") submits this response to the Commodity Futures Trading Commission's (the "CFTC") Advance Notice of Proposed Rulemaking (the "ANPR") to express deep concerns regarding the rapid proliferation of entities operating sports betting or sports wagering businesses on CFTC-registered exchanges.

I. EXECUTIVE SUMMARY

The CFTC issued an ANPR on March 16, 2026 to solicit comments from the public regarding "contract derivatives traded on markets commonly referred to as 'prediction markets.'" These activities are broadly regulated under the framework Congress established in the Commodity Exchange Act, 7 U.S.C. §§ 1 et seq. (the "CEA").

The Tribe is concerned with the infringement on its sovereign regulatory powers, and its ability to generate government revenues, due to the proliferation of prediction markets on CFTC-regulated exchanges. We are also concerned about the CFTC's failure to take enforcement action to stop this encroachment upon tribal sovereignty and the CFTC's consequent failure to fulfill the United States' trust obligations to protect tribal regulatory authority over gaming on tribal lands, as expressed in the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 et seq; Pub. L. 100-497 (1988)("IGRA"). As a Tribe that also operates commercial casinos within State jurisdictions, we are deeply concerned with entities operating sports betting businesses on CFTC-registered exchanges in violation of CFTC's regulations and state laws.

Any regulation or guidance issued by the CFTC regarding prediction markets must:

1. Affirm that sports wagering has been regulated as "gaming" under other federal law for decades, including under the Indian Gaming Regulatory Act of 1988;
2. Preserve the distinct regulatory regime for gaming on Indian lands, including sports wagering;
3. Prohibit private companies from authorizing, conducting, and regulating

4. sports wagering and other forms of gaming on Indian lands in violation of tribal and federal law;
5. Prohibit private companies from authorizing, conducting, and regulating sports wagering and other forms of gaming within States in violation of State law; [1]
6. Prohibit private companies from engaging in gaming, as defined in IGRA and associated regulations, on CFTC-regulated exchanges; and,
7. Prevent private companies from impairing and disregarding tribal-state gaming compacts entered into pursuant to IGRA.

Lastly, Mohegan requests the CFTC to engage in government-to-government consultations with Indian tribes consistent with E.O. 13175 ***prior*** to the issuance of any proposed rule. As an agency of the Federal Government, the CFTC shares the United States' trust obligation to protect and advance the interests of Indian tribes and to engage tribal governments directly on matters that affect their interests.

II. Background

The Mohegan Tribe is a federally recognized Indian tribe located in southeastern Connecticut. The Tribe is comprised of thousands of enrolled tribal citizens, with a federally recognized reservation. Mohegan citizens elect a nine-member Council, which enacts tribal laws regulating activities on the Mohegan Reservation.

The Mohegan Tribe has inhabited Connecticut since time immemorial. In recognizing the Mohegan Tribe, the Federal Government confirmed the Tribe has consistently been identified as living in this area since 1614, when Dutch traders visited the region. In the centuries that followed, pressure from non-Indian settlement repeatedly stripped the Tribe's aboriginal lands. The Connecticut General Assembly sanctioned this pressure by "approving" the repeated alienation of Mohegan land. An 1860 State Commission concluded that the General Assembly process resulted in the best land being taken from the Tribe and described the process as "evil." Forced to petition the Federal Government for federal acknowledgment despite a long-standing government-to-government relationship, on March 7, 1994, the Federal Government acknowledged the Tribe as a federally recognized tribe.

Following federal recognition, the Mohegan Tribe adopted an ordinance (the "Tribal Gaming Ordinance") to provide for the licensing and regulation of gaming on our lands. Section 2 of the Tribal Gaming Ordinance states, "[t]hat all Gaming Operations on Tribal Lands shall be conducted by the Tribe, through employees of the Tribal Council or its Management Contractors only[.]" Mohegan Tribal Ordinance No.

[1] In addition to on-line gaming in Connecticut, Mohegan entities are licensed on-line sports betting operators in Pennsylvania, and Canada.

94-1 § 2(b). The Tribal Gaming Ordinance also states that all gaming activities conducted on the Tribe's lands must be carried out in conformance with the federal Indian Gaming Regulatory Act. *Id*. at § 2(d). The National Indian Gaming Commission (the "NIGC") approved the Tribal Gaming Ordinance on November 8, 1994, pursuant to its authority under the Indian Gaming Regulatory Act. Letter from NIGC Chairman Harold Monteau to Mohegan Tribal Chief Ralph Sturges (November 8, 1994).[2]

That same year, Mohegan and the State of Connecticut agreed to a tribal-state gaming compact to regulate the conduct of class III gaming on the Tribe's lands, and that agreement was approved by the Assistant Secretary – Indian Affairs on behalf of the Secretary of the Interior on December 5, 1994. Letter from Assistant Secretary – Indian Affairs Ada Deer to Mohegan Tribal Chief Ralph Sturges (December 5, 1994).[3]

Following these steps, the Tribe opened the Mohegan Sun Casino in 1996 on our reservation to generate revenues to support the tribal government, employ tribal members and community members, and promote further investments in community and economic development. For three decades, the Tribe's gaming operations have contributed billions to the State of Connecticut and local units of government and have facilitated many other benefits and opportunities for tribal citizens and members of the local community alike. Mohegan is also recognized as a leader in both gaming innovation and regulation, and its Gaming Disputes Court was established to resolve disputes relating to gaming on its reservation.

In 2021, the Tribe and the State of Connecticut agreed to amend their tribal-state gaming compact, and that agreement was approved by the Department of the Interior pursuant to IGRA on September 10, 2021. Letter from Assistant Secretary – Indian Affairs Bryan Newland to Mohegan Tribal Chairman James Gessner, Jr. (September 10, 2021)(the "2021 Amendment").[4] The 2021 Amendment explicitly authorized the Tribe to engage in retail and mobile sports wagering on its reservation, and statewide mobile sports wagering and casino gaming. *Id*. In exchange for the exclusive ability to operate these types of games, the Tribe agreed to make substantial payments to the State each year. *Id*. The meaningful consideration of this exchange was predicated on the mutual understanding that State law (and thus exclusivity) determines whether additional parties may operate sports wagering in the State. *Id*. at 3 ("…the Mohegan Tribe and the State agree that, so long as no change in State law is enacted to permit [such gaming]…").

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[2] Available at: https://www.nigc.gov/wp-content/uploads/2025/03/mohegantribe-moheganord110894.pdf.
[3] Available at: https://www.bia.gov/sites/default/files/dup/assets/as-ia/oig/pdf/508_compliant_1994.12.16_mohegan_tribe_of_indians_tribal_state_gaming_compact_0.pdf.
[4] Available at: https://www.bia.gov/sites/default/files/dup/assets/as-ia/oig/pdf/508%20Compliant%202021.09.15%20Mohegan%20Compact%20Amendment_0.pdf

Where the Tribe accepts mobile casino wagers within Connecticut, but outside of its reservation, it pays the State 18% (increasing to 20% during the sixth year) of gross gaming revenue and 13.75% of gross gaming revenue from online sports wagering pursuant to State law. *See generally* Connecticut Public Act 21-23, An Act Concerning the Authorization, Licensing and Regulation of Online Casino Gaming, Retail and Online Sports Wagering, Fantasy Contests, Keno and Online Sate of Lottery Tickets.

This agreement was one of the first of its kind in the United States and reflects an understanding between two sovereigns – the Mohegan Tribe and the State of Connecticut – that this manner of regulating sports wagering was in our mutual best interest. Importantly, the United States sanctioned this agreement when it approved the 2021 Amendment pursuant to its statutory authority. Letter from Assistant Secretary – Indian Affairs Bryan Newland to Mohegan Tribal Chairman James Gessner, Jr. at (September 10, 2021).

In 2025, several companies launched nationwide internet sports betting businesses on CFTC-regulated exchanges. The explosion of these unlawful nationwide sports betting operations upsets and disrupts the mutual expectations and understanding of the Tribe and the State of Connecticut as well as our expectations for our commercial operations in other localities. It also poses a threat to our sovereign authority to regulate gaming on our own lands, and to provide vital resources for our tribal government.

III. QUESTIONS AND REQUEST FOR COMMENT

The CFTC posed forty categories of questions, many of which contain multiple sub-questions. Mohegan has elected to respond to those questions that are most relevant to our interests as a gaming regulator and a gaming operator. The absence of a response to any particular question should not be understood as a waiver of any rights by the Tribe, and the CFTC should not construe the absence of a response to any particular question as assent to a rulemaking that impairs the Tribe's rights or scope of our governing authority.

A. Questions on Core Principles and Commission Regulations

The ANPR contains five categories of questions regarding the DCM Core Principles set forth at 7. U.S.C. § 7(d), and each of those categories include multiple sub-questions. Mohegan's comments in this section will correspond to the numbered categories of questions.

1. **Factors the CFTC should consider in determining whether to provide guidance or amend its regulations regarding how DCM Core Principles in CEA section 5(d) apply to prediction markets.**

As an initial matter, the CFTC must consider the nature and scope of its statutory authority to regulate activities on exchanges. This includes examining whether and how its statutory authority conflicts with, or is limited by, other federal statutes. The ANPR includes questions about potential conflicts with State laws, but does not attempt to examine potential conflict with other federal laws relating to Indian tribes and tribal gaming.

There is an entire title of the United States Code devoted to matters involving Indian tribes, Indian lands, and Indian people; and, there is a well-established body of corresponding case law interpreting these laws (including conflicts with other federal statutes).[5] That body of law includes the Indian Gaming Regulatory Act, and other statutory provisions that protect tribal governing authority over tribal lands. *See, e.g.*, 25 U.S.C. § 3651(2)(finding that "Indian tribes are sovereign entities and are responsible for exercising governmental authority over Indian lands").

As an agency of the Federal Government, the CFTC must ensure that it is fulfilling the United States' trust and treaty obligations to all federally recognized Indian tribes and advancing (or avoiding the impairment) of Congress' policies on matters of Indian affairs.

Congress's power to regulate the matters of interstate and international commerce described in the CEA at 7 U.S.C. § 5 originates in the Commerce Clause of the Constitution. The Commerce Clause is also the source of Congress's authority to act in matters of affecting Indian tribes: "The Congress shall have the power…[t]o regulate commerce with foreign nations, and among the several states, ***and with the Indian tribes***[.]" U.S. Const. Art. I § 8, cl. 3 (emphasis added); *see also Haaland v. Brackeen*, 599 U.S. 255, 273 (2023)("virtually all authority over Indian commerce and Indian tribes lies with the Federal Government.")(internal quotation and citation omitted). Congress has broad authority to shape the United States' relationship with Indian tribes. See, *United States v. Jicarilla Apache Nation*, 564 U.S. 162, 175 (2011)("…the Government has a real and direct interest in the guardianship it exercises over the Indian tribes; the interest is one which is vested in it as a sovereign.")(internal quotations omitted).

While the CFTC has both the charge and statutorily limited authority to advance interstate and international commerce, it is not free to do so at the expense of Indian tribes and Congress's declared Indian policies. As explained later in our comments,

[5] Title 25 of the United States Code.

Congress has expressly created a federal regulatory framework for gaming on Indian lands. *See* 25 U.S.C. §§ 2701 et. seq. In adopting IGRA, Congress made its intent clear:

> The purpose of this chapter is—
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> (1) 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***;
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> ***
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> (3) to declare that the establishment of independent Federal regulatory authority for gaming on Indian lands, the establishment of Federal standards for gaming on Indian lands, and the establishment of a National Indian Gaming Commission are necessary to meet congressional concerns regarding gaming and ***to protect such gaming as a means of generating tribal revenue***.

25 U.S.C. § 2702 (emphasis added).

Congress has charged the Federal Government with the responsibility to protect the ability of Indian tribes to generate gaming revenues to strengthen tribal governments and promote economic development. The CFTC is not exempt from this charge, and cannot ignore it either when considering congressional intent under the CEA or the adoption of regulations. With respect to "gaming," the CFTC cannot interpret broad statements in the CEA to effectively repeal IGRA, which was enacted explicitly to benefit Indian tribes and Indian people. *See Morton v. Mancari*, 417 U.S. 535, 550-51 (1974)(holding that courts cannot infer congressional intent to repeal statutes that abandon its policy of tribal self-government without a clear statement); and *Swinomish Indian Tribal Community v. BNSF Ry.*, 951 F.3d 1142, 1156-60 (9th Cir. 2020)(explaining that, in the absence of a clear statement repealing an earlier specific statute protecting tribal sovereign authority, courts must resolve ambiguities in favor of tribes).

More specifically, under the direction of Congress as expressed in IGRA, the CFTC cannot authorize private companies to operate and regulate sports betting businesses on Indian lands or authorize those companies to engage in actions that violate tribal-state agreements approved by the Secretary of the Interior. We discuss this matter in more detail later in our comments.

2. Factors relevant to prediction markets under Core Principles listed in the ANPR.[6]

As an initial matter, the ANPR does not request any feedback regarding the applicability of Core Principle 16 to the operation and regulation of prediction markets. Core Principle 16 requires a board of trade to establish and enforce rules to minimize conflicts of interest in the decision-making process of the market. 7 U.S.C. § 7(d)(16).

Sports wagering carries with it an inherent risk of manipulation, which also implicates Core Principle 3. This isn't our view alone; it is a view that the CFTC previously expressed:

> The Commission further notes that most contracts falling within the proposed definition of "gaming" would have no underlying cash market with bona fide economic transactions to provide directly correlated price forming information. Rather, price forming information is either nonexistent, or driven by informational sources that are unregulated, have opaque underlying processes and procedures, and may not follow scientifically reliable methodologies. This differs from the informational sources used for pricing the vast majority of commodities underlying Commission-regulated derivatives contracts (e.g., government issued crop forecasts, weather forecasts, federal government economic data, market-derived supply and demand metrics for commodities, market-based interest rate curves). The lack of price forming information for contracts involving "gaming," or the availability of only opaque and unregulated sources of price forming information, ***may increase the risk of manipulative activity relating to the trading and pricing of such contracts***, while decreasing the ability of the offering exchange, or the Commission, to detect such activity.

89 Fed. Reg. 48968, 48982 (June 10, 2024)(emphasis added).

Experienced gaming regulators like Mohegan and the State of Connecticut understand this and have crafted gaming regulations specifically intended to protect the integrity of wagering and prevent fraud and money laundering.

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[6] This category included eight separate sub-questions in the ANPR. In this section, the Tribe provides comments on relevant questions contained in this category.

Prediction market companies run afoul of the CFTC's Core Principles in other important ways. Some of these companies also own or operate entities that serve as "market makers" to ensure that there is someone on the other side of the wager to fulfill transactions made on less popular propositions. In other words, many of these companies effectively act as the "house" to finance the wager on the opposite side of the transaction versus people who believe they are wagering against other customers in the market. When a so-called prediction market company engages in this non-transparent activity, this is less transparent than classic casino gaming, where patrons knowingly bet against the "house." [7] Indeed, when any entity engages another party as a participant to take a position involving a market or a wager, such entity becomes, by any ordinary definition, a gambling operator. To do so by way of engaging a third-party agent does not change the fundamental facts that such transactions are no longer party-to-party; they are instead reduced to an unsuspecting or ill-informed party versus the "house."

In the context of most casino gaming, patrons expect to wager against the house. They also understand that sportsbooks set odds to maximize the operator's profits and minimize the operator's losses. These facts highlight the entertainment and recreational nature of the gaming industry.

With CFTC-regulated entities, users have an expectation that they are trading with other users – not wagering against the "house" – to hedge risks on commodities and discover prices that are optimally determined by competitive markets. CFTC-regulated companies are expected to serve as neutral marketplace operators, and there is no expectation that they will profit from bettors' losses. Allowing prediction market companies to have a vested interest in the opposite side of wagers runs afoul of Core Principles 3, 4 and 16, because the board of trade has a stake in the outcome of trades, rather than serving as a neutral operator of the market. This increases the risk of manipulation and price distortion (Core Principles 3 and 4), and creates a conflict of interest in the decision-making process of the market (Core Principle 16). These risks increase for wagers offered to users where there is a limited number of users available to make the opposite bet, such as for parlays and sporting events that garner less interest.[8]

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[7] It is worth noting here that betting against a "house" is not a required element of "gaming." *See, e.g.*, 25 C.F.R. § 501.4(c)(stating that parimutuel wagering is a form of class III gaming).

[8] A number of prediction market companies offer users the opportunity to make parlay bets. Kalshi labels these bets "combos." It defies logic that there are enough betters on these platforms to take the ***exact*** opposite position on these parlay bets. Financing the opposing bet does nothing to hedge risk or discover prices that are optimally set in a competitive market; instead, it simply mirrors the "house" in a traditional casino.

Without a clear separation between the operators of so-called prediction markets and the people making trades in those markets, it is difficult for operators to fulfill their obligations under the Core Principles.

3. Comments pertaining to Institutional traders participating in prediction markets.

The ANPR includes questions about participation by institutional traders on prediction markets.

With respect to a gaming activity like sports betting, institutional traders present several risks. First, their larger positions can materially influence prices, particularly in low liquidity markets, like parlay bets on very specific propositions. This influence distorts price discovery. Second, institutional traders benefit from superior data, analytics, and relationships that create information irregularities and disadvantage retail bettors. As discussed below, many of the retail sports bettors on CFTC-regulated exchanges are teenagers. This asymmetry creates an environment where institutional traders simply prey upon those teenagers.

These risks amplify concerns around manipulation, conflicts of interest, and the need for enhanced surveillance and enforceable position limits. The average sports bettor on a CFTC-regulated exchange does not understand that they are competing against institutional traders that leverage enormous advantages.

4. Mohegan's recommendations and requests for the CFTC regarding potential rulemaking.

Based upon the foregoing, the Tribe makes the following recommendations and requests of the CFTC:

i. The CFTC must engage in formal, government-to-government consultations with federally recognized Indian tribes prior to issuing any proposed rule related to prediction markets. There should be multiple consultation sessions, with in-person and virtual options to ensure broad participation. This would facilitate a clearer understanding of what factors the CFTC should consider in deciding whether to provide guidance or amend its regulations.

ii. CFTC legal counsel should engage attorneys from the office of the Solicitor of the Department of the Interior and the National Indian Gaming Commission General Counsel to gain an understanding of the full scope of the Indian Gaming Regulatory Act and its applicability to sports wagering occurring on Indian lands.

iii. The CFTC must not amend its regulations to authorize sports wagering on CFTC-regulated exchanges. To the extent the CFTC believes further guidance or regulations are necessary, it must clarify that sports wagering is prohibited on regulated exchanges.

iv. The CFTC must prohibit companies from financing bettors or otherwise serving as the "house" on prediction markets to maintain the integrity of these markets and comply with Core Principles.

v. The CFTC must prohibit parlay-style sports wagering.

B. Questions Regarding "Public Interest" and "Activities Listed in CEA Section 5c(c)(5)(C)."

The ANPR includes a series of questions relating to the "Public Interest" and "Activities Listed in CEA Section 5c(c)(5)(C)," which are codified at 7 U.S.C. § 7a-2. See, 91 Fed. Reg. 12516, 12520-22. Rather than address each question, the Tribe offers its comment as a more comprehensive discussion on existing federal law regulating "gaming," and the absence of authority for the CFTC to authorize and regulate sports wagering and other forms of gaming in light of that law.[9]

Congress has already established a comprehensive and preemptive regulatory regime for "gaming" on Indian lands, which includes sports wagering. Indian tribes, federal agencies, states, and the public have understood "gaming" to encompass sports wagering for nearly 40 years, and nothing in the CEA has changed that understanding.[10] The CFTC does not have the authority to alter that understanding, or to diminish the sovereign powers of Indian tribes or States to authorize, operate, and regulate gaming within their respective sovereign borders.

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[9] Despite the use of terms like "trade," "swap," "prediction market," or "event contract," many registered entities understand they are engaging in the operation of sports betting or sports wagering businesses on their CFTC-registered exchanges. In fact, CFTC lawyers Dave Aron and Matt Jones published an article in the UNLV Law Journal in 2021 asserting that the CFTC has jurisdiction over some "traditional sports bets," and that it "can permit sports betting…." *See generally* Dave Aron & Matt Jones, *States' Big Gamble on Sports Betting*, 12 UNLV L.J. 53, 54, 86 (2021). The article conflates the terms, and uses the terms "wager," "bet," or "betting" more than 150 times to describe the relevant activity.

[10] In fact, federal statute prohibited expanded sports wagering throughout the United States at the time the CEA was amended in 2010 to include the definition of "swap." *See* Professional and Amateur Sports Protection Act, Pub. L. 102-559, 28 U.S.C. §§ 3701-3704 ("PASPA") (held unconstitutional in unconstitutional in *Murphy v. Nat'l Collegiate Athletic Ass'n.*, 584 U.S. 453 (2018)).

1. **Sports wagering has always been regulated as gambling or gaming, despite sharing similar traits with insurance contracts and financial derivatives.**

Under longstanding common law, gambling was understood to contain three essential elements: 1) the distribution of a prize; 2) according to chance; 3) in exchange for consideration. *See, e.g.*, *FCC v. American Broadcasting Corp*., 347 U.S. 284, 290 (1954). But these elements are found in a broad range of activities beyond those the general public considers to be "gambling." For example, many state courts have wrestled with questions regarding whether pinball machines constituted illegal gambling devices. *See, e.g.*, *Oatman v. Davidson*, 310 Mich. 57, 59, 16 N.W.2d 665, 666 (Mich. 1944)(noting that the use of pinball machines involved elements of prize, chance, and consideration); and, *Farina v. Kelly*, 147 Conn. 444, 450, 162 A.2d 517, 520 (Conn. 1960)("A coin operated pinball machine which is designed to provide free plays upon the scoring of certain numbers or combinations of numbers is a gaming device").

Other activities, like entering into contracts to insure property or trading on the future price of a commodity, also involve elements of consideration, chance, and prize. The law has long distinguished between gambling and insurance contracts, while early state laws regulating gambling applied to speculative trading in commodity futures. *See Bd. of Trade of City of Chicago v. Christie Grain & Stock Co*., 198 U.S. 236, 247–48, (1905); and, Brian M. McCall, *Gambling on Our Financial Future: How the Federal Government Fiddles While State Common Law Is A Safer Bet to Prevent Another Financial Collapse*, 46 Ariz. St. L.J. 1347, 1371-76 (2014).

Over the last century, the federal government and states have developed regulatory regimes that distinguish between "gambling" (or "gaming"), insurance contracts, and financial derivatives. The laws governing these different activities have evolved separately, despite sharing similar characteristics involving the payment of consideration for the chance to receive a prize (i.e. something of value). *See*, Timothy E. Lynch, *Coming Up Short: The United States' Second-Best Strategies for Corralling Purely Speculative Derivatives*, 36 Cardozo L. Rev. 545, 580–82 (2014). Insurance contracts are largely regulated pursuant to state law, whereas financial derivatives have come to be regulated under laws like the CEA and the Securities Exchange Act.

Gaming activities have historically been regulated by the states as well. To the extent that Congress and the Federal Government have chosen to regulate gaming, it has often based enforcement of federal law on the application of state gaming laws. *See, e.g.*, 18 U.S.C. § 1084(b)(stating that criminal prohibitions do not apply to wagering transmissions from one state to another where such wagers are legal); and, 31 U.S.C. § 5362(10)(prohibiting wagers over the internet based upon prohibitions in state law where the bet is initiated and received)("UIGEA"). Even IGRA relies on state gaming laws for its regulatory regime. IGRA states that tribes may only authorize,

operate, and regulate gaming on their lands if "such Indian gaming is located within a State that permits such gaming...." 25 U.S.C. § 2710(b)(1)(A).

The Federal Government has long understood that wagering on sports events – including the outcome, performance of athletes, point spreads, etc. – constituted gaming, and was not regulated as a financial derivative. *See, e.g.*, 28 U.S.C. § 3702 (prohibiting wagers on "one or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on one or more performances of such athletes in such games.").[11] The Federal Government also has a long history of prosecuting people involved in illegal sports wagering under federal gambling statutes. *See, e.g., United States v. Kaczowski*, 114 F. Supp.2d 143 (W.D.N.Y. 2000); and *United States v. Giovanelli*, 747 F.Supp. 897 (S.D.N.Y. 1989).

UIGEA is a particularly notable statute, because many companies operating sports wagering businesses on CFTC-regulated exchanges point to UIGEA as a tacit authorization to offer sports wagering. In defining the term "bet or wager" in UIGEA, Congress created 9 different exemptions from the term. 31 U.S.C. § 5362(1)(E). UIGEA does, in fact, expressly exempt transactions that are "excluded or exempt from regulation under the Commodity Exchange Act[.]" 31 U.S.C. § 5362(1)(E)(iv)(I). Nevertheless, three other provisions in the same section of UIGEA make it clear that Congress took steps to ensure that UIGEA could not be used to authorize sports wagering in jurisdictions that prohibit it.

For example, 31 U.S.C. § 5362(1)(E) exempts certain fantasy sports contests from its scope. But that exemption is conditioned on the winning outcome of a fantasy sports contest not being based:

> (aa) on the score, point-spread, or any performance or performances of any single real-world team or any combination of such teams; or
>
> (bb) solely on any single performance of an individual athlete in any single real-world sporting or other event.

31 U.S.C. § 5362(1)(E)(ix)(III).

Section 5362 also states that intrastate wagers would not constitute unlawful internet gaming, provided that they comply with state law *and do not violate any provision of PASPA or IGRA*. See, 31 U.S.C. § 5362(10)(B) (emphasis added). UIGEA also exempts the activities of financial institutions but expressly states that the term

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[11] In *Murphy*, the Supreme Court acknowledged the authority of states to regulate sports wagering. See *Murphy* at 486 ("Congress can regulate sports gambling directly, but if it elects not to do so, each State is free to act on its own.").

"financial institution…does not include a casino, sports book, or other business at or through which bets or wagers may be placed or received." 31 U.S.C. § 5362(11)(C). It strains credulity to read UIGEA as a tacit authorization for sports wagering on a CFTC-regulated exchange when Congress inserted multiple provisions to ensure that UIGEA did not authorize sports wagering where tribes and states prohibit it.

Nothing in the CEA references any other federal statute governing gambling or modifies the longstanding view of the Federal Government that sports wagering is governed under laws and regulations applicable to gaming.

The CFTC has not been delegated any authority to alter the longstanding regulatory regime governing gaming or sports wagering in the United States. It simply may not assert authority to promulgate regulations that attempt to regulate sports wagering as a financial derivative.

2. Indian Tribes and Federal Agencies have been regulating sports wagering as "gaming" under statute for nearly 40 years.

Congress amended the CEA in 2010 to include the "Special Rule" for event contracts. *See* Pub. L. 111-203, 7 U.S.C. § 7a-2(c)(5)(C). By that time, it had long understood that "gaming" had a clear meaning under federal law (and not just state laws).

In the early 1980's the Federal Government provided financial support for the development of tribal gaming facilities and exercised some regulatory authority to review ordinances that tribal governments had adopted to regulate gaming on their lands. *See California v. Cabazon Band of Mission Indians*, 480 U.S. 202, 218 (1987)(noting agency financial support for the development of tribal gaming facilities, and the Secretary of the Interior's approval of tribal gaming ordinances). In 1987, the United States Supreme Court affirmed that tribal governments had the authority to authorize, operate, and regulate "gaming" activities on their lands. *Id*. The Court based its reasoning, in part, on the "important federal interests" in the potential for gaming to promote tribal self-sufficiency." *Id*. at 217.

The following year, in 1988, Congress adopted IGRA. The entire focus of IGRA was to establish a federal regulatory framework for the tribal gaming industry. Federal courts have consistently held that IGRA is both comprehensive and preemptive, when it comes to the regulation of "gaming" on Indian lands. *See*, *Gaming Corp. of America v. Dorsey & Whitney*, 88 F.3d 536, 548 (8th Cir. 1996)(holding that Congress intended for IGRA to have extraordinary preemptive force).[12]

[12] The Court in *Dorsey* elaborated: "The legislative history contains a strong statement about IGRA's preemptive force. The Senate committee report stated that 'S. 555 is intended to expressly preempt the field in the governance of gaming activities on Indian lands. Consequently, Federal courts should not

Among other things, IGRA divides "gaming" into three separate classes, and provides definitions for them. "Class III" gaming includes all forms of gaming that aren't tribal cultural games, bingo, or certain card games. 25 U.S.C. § 2703(8). The language of IGRA is explicit that class III gaming "is lawful on Indian lands ***only*** if such activities" are authorized by a tribe and regulated in accordance with IGRA. 25 U.S.C. § 2710(d)(1)(emphasis added). Tribes have the primary authority to authorize gaming on their own lands and regulate that gaming in accordance with their own laws.

IGRA also established a federal regulatory agency – the National Indian ***Gaming*** Commission (the "NIGC") – devoted to the regulation of "gaming" on Indian lands. *See*, 25 U.S.C. §§ 2704 to 2718 (emphasis added). The NIGC's power includes the authority to review and approve tribal gaming ordinances. *See*, 25 U.S.C. § 2710.

The NIGC has been exercising its statutory powers for nearly four decades in a manner that confirms sports wagering is a form of "gaming," under IGRA. For example, the NIGC has promulgated regulations defining the scope of the term "gaming." See, 25 C.F.R. §§ 501. Those regulations state:

> **§ 502.4 Class III gaming**. Class III gaming means all forms of gaming that are not class I gaming or class II gaming, including but not limited to:
>
> (a) Any house banking game, including but not limited to—
>
> (1) Card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games);
>
> (2) Casino games such as roulette, craps, and keno;
>
> (b) Any slot machines as defined in 15 U.S.C. 1171(a)(1) and electronic or electromechanical facsimiles of any game of chance;
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> (c) ***Any sports betting*** and parimutuel wagering including but not limited to wagering on horse racing, dog racing or jai alai; or
>
> (d) Lotteries.

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balance competing Federal, State, and tribal interests to determine the extent to which various gaming activities are allowed.'" *Id*. at 544 (quoting S.Rep. No. 446, 100th Cong., 2d Sess. 6 (1988), reprinted in 1988 U.S.C.C.A.N. 3071, 3076).

25 C.F.R. § 502.4 (emphasis added).

As far back as 1993, the NIGC has approved tribal gaming ordinances regulating sports wagering. *See, e.g.,* Letter from NIGC Chairman Anthony Hope to Bay Mills Indian Community President, Jeffrey D. Parker (August 31, 1993)(approving a tribal gaming ordinance that explicitly included "sports betting" as a form of class III gaming).[13] The NIGC has also issued legal opinions explaining that class III "gaming" encompasses sports betting as early as 2001. Letter from NIGC General Counsel Kevin Washburn to Joseph M. Speck (March 13, 2001)(" Because sports betting does not fit into any of the specifically defined categories of Class II gaming set forth above, it is a Class III form of gaming.").[14]

Congress also vested the Secretary of the Interior with regulatory powers related to Indian gaming. Under IGRA, a Tribe must reach a "compact" with a state to regulate tribal class III gaming in order to engage in class III gaming on its lands. See, 25 U.S.C. § 2710(d)(3). The Secretary of the Interior must review and approve that compact to ensure compliance with IGRA and "any other provision of Federal law" prior to it taking effect. 25 U.S.C. § 2710(d)(8).[15]

The Secretary of the Interior has exercised this authority to approve tribal-state compacts that expressly authorize and regulate sports wagering as a form of "gaming." *See, e.g.,* Letter from Principal Deputy Assistant Secretary – Indian Affairs Bryan Newland to Ak-Chin Indian Community Chairman Robert Miguel (May 21, 2021)("The 2021 Compact expands the scope of class III games the Tribe may offer on its Indian lands, including in-person and mobile sports betting and fantasy sports.").[16] Many of the agreements approved by the Secretary of the Interior preserve the exclusive ability for tribes to offer gaming in a geographic area beyond their reservations in exchange for payments to state governments. *See, e.g.* 2021 Amendment, *supra*.

Tribal-state agreements to maintain tribal gaming exclusivity are contemplated and protected by IGRA and Federal courts have acknowledged the Secretary of the Interior's authority to approve these agreements. *See, e.g., Rincon Band of Luiseno*

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[13] Available at: https://www.nigc.gov/wp-content/uploads/2025/01/baymills-ordappr083193.pdf.

[14] Available at: https://www.nigc.gov/wp-content/uploads/2025/03/WIN-Sports-Betting-Game-Class-III.pdf.

[15] The Secretary may elect to take no action within 45 days, in which case the tribal-state compact is deemed to have been approved by the Secretary. See, 25 U.S.C. § 2710(d)(8).

[16] Available at: https://www.bia.gov/sites/default/files/dup/assets/as-ia/oig/pdf/508%20Compliant%202021.05.24%20Ak-Chin%20Indian%20Community%20Tribal%20State%20Gaming%20Compact.pdf.

Mission Indians of Rincon Reservation v. Schwarzenegger, 602 F.3d 1019, 1041 (9th Cir. 2010)("The Department of the Interior has approved compacts with general fund revenue sharing provisions agreed to by other California tribes…"). The Department of the Interior has published regulations under IGRA that contemplate tribal-state gaming compacts protecting tribal gaming exclusivity for mobile/internet gaming. See 25 C.F.R. § 293.27; and Class III Tribal State Gaming Compacts, 89 Fed. Reg. 13232, 13245 ("The Department has previously approved revenue sharing in exchange for meaningful concessions, including geographic exclusivity from State-licensed gaming and statewide mobile or i-gaming exclusivity.").

3. The CFTC does not have the power to authorize sports wagering and cannot diminish the federally-protected rights of Indian tribes.

As explained above, the Federal Government has long understood that wagering on the outcome of sporting events is "gaming" under federal law. Congress was presumed to be aware of this understanding at the time it amended the CEA in 2010. *See, e.g., Mississippi ex rel. Hood v. AU Optronics Corp.*, 571 U.S. 161, 169, (2014)("First, we presume that Congress is aware of existing law when it passes legislation.")(internal quotations omitted).

Nothing in the statutory language of the CEA, nor its legislative history, even suggests that Congress sought to move sports wagering regulation into the CFTC's scope of authority. In fact, the legislative history for the 2010 amendments to the CEA indicate that Congress sought to preserve the distinction between gaming and financial derivatives. In a colloquy discussing the amendments, Senator Feinstein and Senator Lincoln expressed their intent to prevent event contracts from being used to authorize gambling on sports:

> Mrs. FEINSTEIN. I thank Chairman LINCOLN and Chairman DODD for maintaining section 745 in the conference report accompanying the Dodd-Frank Wall Street Reform and Consumer Protection Act, which gives authority to the Commodity Futures Trading Commission to prevent the trading of futures and swaps contracts that are contrary to the public interest.
>
> Mrs. LINCOLN. Chairman DODD and I maintained this provision in the conference report 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***. I thank the Senator from California for encouraging Chairman DODD and me to include it. ***I agree that this provision will strengthen the government's***

> ***ability to protect the public interest from gaming contracts*** and other events contracts.
>
> Mrs. FEINSTEIN. It is very important to restore CFTC's authority to prevent trading that is contrary to the public interest. As you know, the Commodity Exchange Act required CFTC to prevent trading in futures contracts that were ''contrary to the public interest'' from 1974 to 2000. But the Commodity Futures Modernization Act of 2000 stripped the CFTC of this authority, at the urging of industry. Since 2000, derivatives traders have bet billions of dollars on derivatives contracts that served no commercial purpose at all and often threaten the public interest. I am glad the Senator is restoring this authority to the CFTC. I hope it was the Senator's intent, as the author of this provision, 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. Will CFTC 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?
>
> Mrs. LINCOLN. That is our intent. The Commission needs the power to, and should, 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***.

156 Cong. Rec. S5906-07 (daily ed. Jul. 15, 2010)(emphasis added).

The understanding expressed by Senators Feinstein and Lincoln is consistent with the longstanding understanding of Congress, the Executive Branch, Indian tribes, and states that gaming, insurance, and derivatives are regulated under different regimes despite sharing some similar characteristics. The CFTC cannot change these distinctions.

The 2010 amendments to the CEA did not alter or diminish tribal or federal regulatory authority over sports wagering on Indian lands or state authority within

States. In fact, the same provision of the CEA conferring exclusive jurisdiction over swaps to the CFTC also contains a savings clause that preserves tribal and federal regulatory authority over sports wagering on Indian lands:

> Except as hereinabove provided, nothing contained in this section shall (I) supersede or limit the jurisdiction at any time conferred on the Securities and Exchange Commission ***or other regulatory authorities under the laws of the United States or of any State***.

7 U.S.C. § 2(a)(1)(A)(emphasis added). The Department of the Interior, the NIGC, tribal governments, and tribal gaming commissions are certainly regulatory authorities with varying degrees of jurisdiction over sports wagering on Indian lands under IGRA.

Moreover, neither Congress nor the Executive Branch have understood the CEA to repeal IGRA and grant the CFTC the power to authorize sports wagering on Indian lands. Since 2010, the NIGC and the Department of the Interior have continued to exercise their respective powers over gaming on Indian lands. Congressional committees have held oversight hearings over "gaming" on Indian lands, and federal courts have considered cases involving tribal operation of sports wagering as "gaming" under IGRA. *See, e.g., U.S. Department of Justice Opinion on Internet Gaming: What's at Stake for Tribes?*: *Hearing Before the S. Comm. on Indian Affairs*, 112th Cong. (2012); and *West Flagler Associates, Ltd. v. Haaland*, 71 F.4th 1059 (D.C. Cir. 2023). The Supreme Court has affirmed that IGRA governs the conduct of gaming on Indian lands. *See Michigan v. Bay Mills Indian Community*, 572 U.S. 782, 795 (2014)("Everything—literally everything—in IGRA affords tools (for either state or federal officials) to regulate gaming on Indian lands…"). Finally, we are not aware of the CFTC attempting to assert its regulatory authority over Indian tribes that operate sports wagering enterprises on the basis that sports wagers constitute "swaps" under the CEA.

When Congress enacted IGRA in 1988, it was clear in its understanding that tribal gaming was an important means for tribes to promote economic development and generate revenue to fund tribal government operations. 25 U.S.C. § 2701. Congress was also clear in expressing its intent that IGRA was designed to support tribal economic development through gaming, and to provide a statutory basis for regulating gaming on Indian lands. 25 U.S.C. § 2702. Finally, Congress was clear that only tribes may authorize sports wagering – a form of class III gaming – on their own lands. 25 U.S.C. § 2710(d)(1).[17] Nothing in IGRA, or any law adopted since, granted the CFTC or private companies operating CFTC-regulated exchanges to exercise "quasi

[17] Even then, tribes only have this authority where sports wagering is permitted under state law. *See*, 25 U.S.C. § 2710(d)(1).

regulatory authority" over sports wagering on Indian lands.[18] The CEA expressly recognizes this fact in its savings clause at 7 U.S.C. § 2(a)(1)(A).

A CFTC regulation that authorizes (or tolerates) private companies to offer, accept, and regulate sports wagering on our Indian lands, or within federally-sanctioned exclusive markets, would be contrary to Congress' express intent in IGRA by:

1. Siphoning gaming revenues generated on Indian lands, and within federally-sanctioned exclusive markets, away from tribal governments;
2. Violating tribal gaming regulations adopted by the governing body of the Tribe and approved by the NIGC pursuant to IGRA;
3. Violating the class III gaming compact negotiated on a government-to-government basis between Mohegan and the State of Connecticut;
4. Intruding on our sovereign regulatory powers by creating a parallel, private regulatory regime for sports wagering on our lands; and,
5. Creating the risk for the CFTC to claim the authority to authorize, regulate, or prohibit tribally operated sports wagering on our own lands.[19]

An activity that involved any one of these factors standing alone would be a violation of IGRA and federal laws upholding tribal regulatory authority. A CFTC regulation authorizing activities that involve all of these factors would be a flagrant disregard of longstanding congressional policy and a violation of federal law. The CFTC must not promulgate any regulations that allow or regulate sports wagering on CFTC-regulated exchanges, because it would violate IGRA, tribal-state gaming compacts, and tribal and state gaming laws.

4. Other public interest considerations weigh against authorizing nationwide internet sports betting on CFTC-regulated exchanges.

The ANPR includes questions about how the CFTC should consider the scope of the public interest, with respect to gaming. Many of these questions seek to understand the boundary between "gaming" and other activities. Other questions suggest that the CFTC is considering how to factor in a company's scope of gaming into its evaluation of whether to allow gaming to occur on CFTC-regulated exchanges. For example, the CFTC has asked whether it should consider the age of users, and

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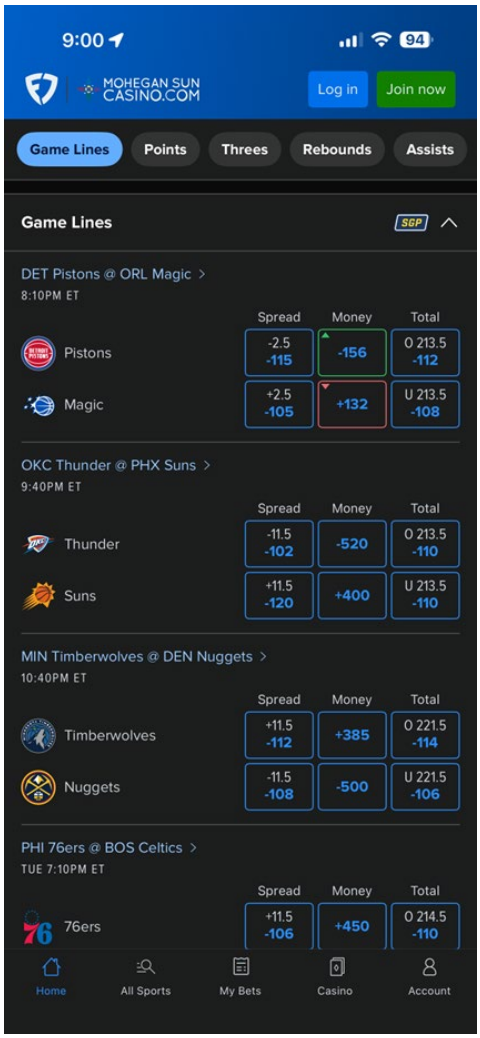
[18] In testimony before the United States House of Representatives Committee on Agriculture, the Chairman of the CFTC stated that regulated exchanges have "quasi regulatory authority" over transactions on their markets. Oral Remarks of CFTC Chairman Michael Selig to the House Committee on Agriculture (April 16, 2026)(available at: https://agriculture.house.gov/calendar/eventsingle.aspx?EventID=8119).

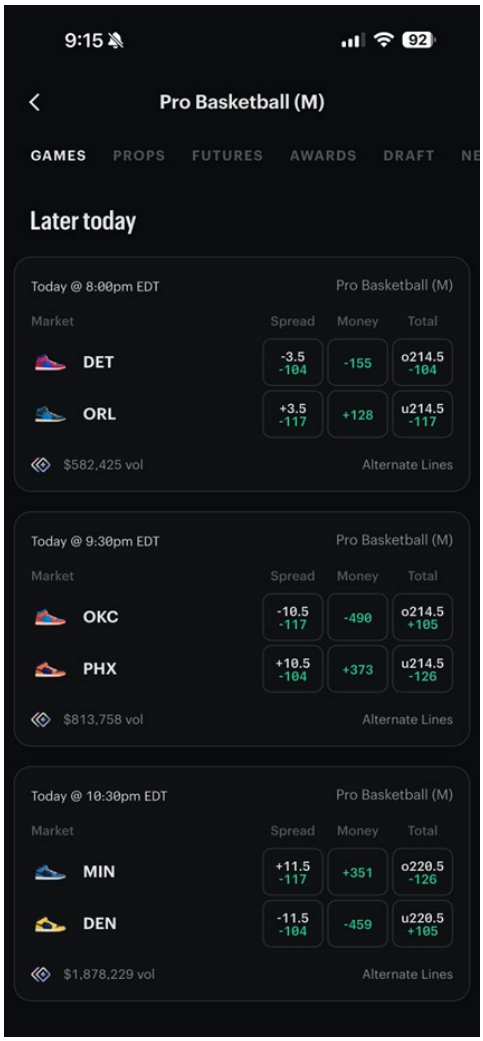
[19] In their 2021 article, CFTC lawyers Dave Aron and Matt Jones discuss the potential for the CFTC to claim regulatory authority over sports betting. See, generally, Dave Aron & Matt Jones, *States' Big Gamble on Sports Betting*, 12 UNLV L.J. 53 (2021).

available protections for users in potentially authorizing gaming on the exchanges it regulates.

As explained above, the CFTC does not have the authority to permit sports betting on the exchanges it regulates – especially within Indian lands. No matter where the boundary between gaming and lawful event contracts lies, sports wagering is gaming as Kalshi admitted in Federal court. The same goes for the types of games regulated under IGRA, tribal gaming ordinances, and state law. A company cannot pick and choose its regulator simply by labeling its business a "prediction market."

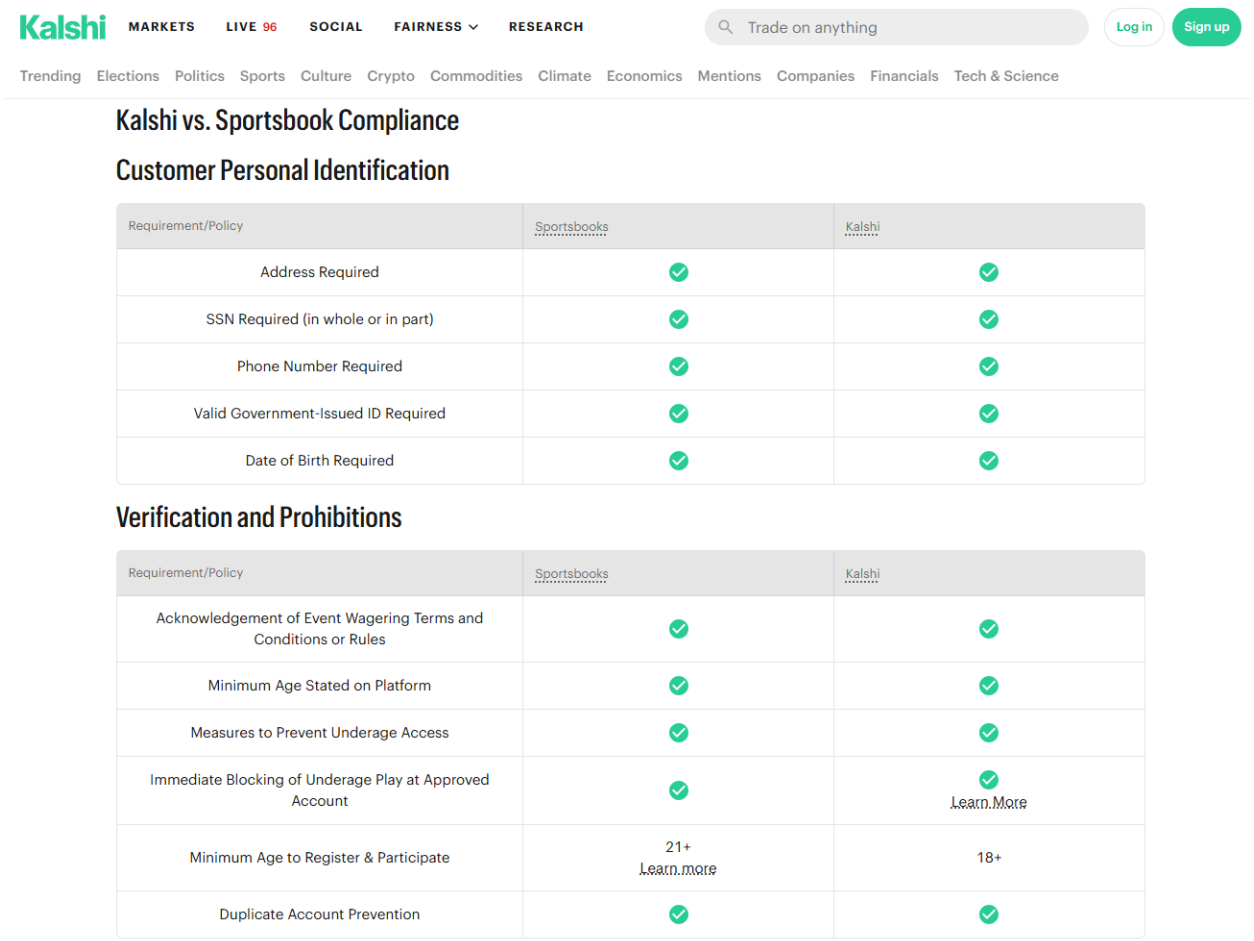
So-called prediction markets operators are simply operating sports betting businesses that are indistinguishable from tribal sports betting operations. Here is a side-by-side comparison of the same available wagers from the same date on the Tribe's mobile sports wagering app (left) and on Kalshi's mobile sports wagering app (right):





These wagers are indistinguishable to the public because there is no distinction. They are both sports wagers. They both offer the same utility to the public, with respect to the "price discovery" and "hedging" functions contemplated by the CEA: none. This activity is recreational gaming, and it has been regulated as such for at least a century.

These companies are also behaving like gaming operators in other ways. For example, Kalshi's own website contains a table designed to convince its users will have the same protections they would have under gaming laws:



Kalshi vs. Sportsbook Compliance

Customer Personal Identification

Requirement/Policy	Sportsbooks	Kalshi
Address Required	✓	✓
SSN Required (in whole or in part)	✓	✓
Phone Number Required	✓	✓
Valid Government-Issued ID Required	✓	✓
Date of Birth Required	✓	✓

Verification and Prohibitions

Requirement/Policy	Sportsbooks	Kalshi
Acknowledgement of Event Wagering Terms and Conditions or Rules	✓	✓
Minimum Age Stated on Platform	✓	✓
Measures to Prevent Underage Access	✓	✓
Immediate Blocking of Underage Play at Approved Account	✓	✓ Learn More
Minimum Age to Register & Participate	21+ Learn more	18+
Duplicate Account Prevention	✓	✓

See, https://kalshi.com/faq. This table has no other purpose than to assure users that they can engage in regulated sports wagering on Kalshi. There is no effort to distinguish between its activities and gaming.

In addition, a number of prediction market companies recently announced a program called "SelfExclude," which is a self-exclusion program for people at risk of gambling addiction. *See*, Dan Bernstein, *Kalshi, IC360 Launch New Prediction Market*

Self-Exclusion Initiative, Sportico, April 10, 2026, https://www.sportico.com/business/sports-betting/2026/kalshi-ic360-prediction-market-self-exclusion-1234889773/). We are not aware of long-established CFTC-regulated exchanges – such as the Chicago Board of Trade – that offer self-exclusion programs. That is because self-exclusion programs are used in the gaming industry, and not in markets intended to provide actors in the national economy with the ability to discover prices and hedge risk. Like other gaming operators, the Tribe participates in self-exclusion programs for its patrons to prevent the risks of compulsive gambling.

Setting aside all the considerations listed above, prediction market companies appear to be engaged in an even more insidious attempt to gain gaming customers: they appear to be targeting teenagers.

Mohegan and other sports-betting entities operate under a requirement for their patrons to be 21 years old to use their mobile sports betting apps. Connecticut Public Act 21-23, An Act Concerning the Authorization, Licensing and Regulation of Online Casino Gaming, Retail and Online Sports Wagering, Fantasy Contests, Keno and Online Sate of Lottery Tickets. CFTC-regulated companies are offering sports wagering to users starting at age 18. This appears to be a target demographic. As Citizens Bank has reported, "the user base of prediction market platforms skews younger compared to that of traditional sports betting operators." Jordan Bender, *Prediction Markets vs. Sports Betting: Market Dynamics, ROI by Cohorts, and Competitive Implications*, Citizens Bank Industry Update, (March 23, 2026).[20] The report added, "[w]e believe prediction markets are attracting a younger, non-core demographic...." *Id*. Users with smaller "wallets" – who are more likely to be young – fare the worst when betting on sports on CFTC-regulated exchanges. *Id*. at Fig. 3. In other words, sports wagering companies operating on CFTC-regulated exchanges appear to be targeting younger users than allowed under sports wagering laws, with an apparent increased risk of compulsive gambling (associated with cognitive development in late adolescence), and presumably taking more money out of their pockets.[21]

At least two federal courts have already noted the policy concerns flowing out of the underage gambling that occurs on CFTC-regulated exchanges. In *KalshiEX, LLC v. Schuler*, the Court stated:

> But the [Court] feels compelled to remark on the risk
> Kalshi's sports-event contracts pose for Ohioans ages 18

[20] Available at: https://citizens.bluematrix.com/docs/pdf/3beb4505-5a8b-49da-89df-ebdb104ebea9.pdf.

[21] "Vulnerability is high in people with low incomes who have more to gain with a big win, added psychologist Shane Kraus, PhD, director of the Behavioral Addictions Lab at the University of Nevada, Las Vegas. Young people, especially boys and men, are another susceptible group." Emily Sohn, *How gambling affects the brain and who is most vulnerable to addiction*, 54 Monitor on Psychology 62 (July 1, 2023). This is a publication of the American Psychological Association.

> through 20. The General Assembly determined these individuals were too young to participate in legal sports gambling, but they have unrestricted access to sports-event contracts on Kalshi's exchange. This population is particularly vulnerable to problem gambling and, when trading on Kalshi, is unprotected by Ohio's responsible gaming laws.

No. 2-2025-cv-01165, 2026 WL 657004 at n.9 (S.D. Ohio March 9, 2026)(internal citations omitted).

In *KalshiEX v. Hendrick*, the Court similarly noted the disparity between gaming regulations and the conduct occurring on Kalshi's platform by people under the age of 21:

> Whatever one's views are on gambling, there is no question that some segment of the population will suffer from problem gambling, but neither DCMs nor the CFTC is equipped to address those issues the same way state gaming regulators and licensed entities are.[12] The CFTC admits it is not a gaming regulator. Allowing Kalshi to continue offering sports-related event contracts to 18-year-olds, even though the CFTC issued a regulation that prohibits DCMs like Kalshi from listing gaming contracts, is not in the public interest.

No. 2-25-cv-00575, 2025 WL 3286282 at *13 (D. Nev. November 24, 2025)(internal citations omitted).

These companies are engaging in conduct that is designed to look like gaming to the public, because that is what they are offering on CFTC-regulated exchanges. In doing so, they are operating in a way that reaches young users that other gaming operators, in the public interest, cannot target for online and mobile sports betting. Moreover, these young gamblers often think they are betting against their peers when they are actually betting against institutional traders and market makers financed by these companies themselves (as explained above).[22] Congress did not enact the CEA to facilitate this conduct.

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[22] A recent article reporting on activity on Polymarket stated that just 0.04% of users captured more than 70% of the profits from betting on Polymarket. See, Anas Hassan, *70% of Polymarket Traders Lost Money as Top 0.04% Captured Most Profits: Data*, Cryptonews (December 29, 2025)(available at: https://cryptonews.com/news/70-of-polymarket-traders-lost-money-as-top-0-04-captured-most-profits-research/). As noted in that article, this "reflects broader patterns in prediction markets, where ***professional traders and sophisticated algorithms typically extract value from retail participants***." *Id*. (emphasis added).

Rather than attempt to weigh different factors to design its own sports betting regulations, the CFTC should leave gaming regulation to gaming regulators (as the law already requires). It is not positioned to effectively regulate a national online sports wagering industry.

The CFTC currently has only one of the five commissioners envisioned by law, a staff of 636, and an enforcement staff of 105 people for ***all*** exchanges operating in the United States (not just sports betting platforms operating on CFTC-regulated exchanges). *See* President's Budget for Fiscal Year 2027 for the CFTC at 7, 10.[23] This pales in comparison to the thousands of state and tribal gaming regulatory staff that regulate gaming across the country. The CFTC is simply not equipped to protect the public interest when it comes to sports betting. *See Hendrick*, 2025 WL at *13; *see also* Statement of Commissioner Caroline D. Pham, 89 Fed. Reg. 48968, 48999 (June 10, 2024)("When it comes to event contracts related to gaming, I have been clear that the CFTC should exercise caution, primarily because I believe the Commission fundamentally misunderstands the law in this area…"). This likely explains the overall lack of enforcement or contract review actions brought by the CFTC against these operators.

The CFTC must not promulgate any rules that attempt to authorize and regulate sports betting on the exchanges it regulates under the banner of "public interest."

C. Questions Regarding "Inside Information."

The ANPR poses several questions regarding "inside information," including a question about whether there is "public interest utility" if people with "an asymmetric information advantage" are able to place bets on prediction markets. The Tribe understands that the CFTC is seeking information on this issue, and that some academics believe that there is utility to allowing insiders to make trades (or bets) based on their access to information that others in the market don't have. That may be true in a laboratory setting, but it creates enormous risks in a federally regulated public exchange.

In December 2025, The Atlantic reported that a CEO for a prediction market operator made a public statement stating that "insider trading" on prediction markets was desirable. Will Gottsegen, *The Polymarket Bets on Maduro Are a Warning*, The Atlantic (Jan. 6, 2026).[24] Since those remarks, there have been a number of instances

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[23] Available at: https://www.cftc.gov/sites/default/files/CFTC%20FY%202027%20President's%20Budget%20Book_CFTCGOV.pdf.

[24] Available at: https://www.theatlantic.com/technology/2026/01/venezuela-maduro-polymarket-prediction-markets/685526/.

where suspicious activity led to enormous payouts on a number of prediction markets. *See* Benjamin Weiser and Jonah E. Bromwich, *Soldier Used Classified Information to Bet on Maduro's Ouster, U.S. Says*, New York Times (April 23, 2026). Insider trading not only creates an insurmountable financial advantage for those using their "asymmetric information advantage" in a public market, but it also creates the risk that people will manipulate events to gain a profit. Rather than disclosing the "price" of an outcome, it manipulates the price altogether.

The CFTC has already acknowledged these risks in the context of sports wagering. In regulations it proposed in 2024, the CFTC stated:

> Moreover, the Commission believes that an individual or entity for whom a particular occurrence in connection with a contest or game may have more direct and more predictable economic consequences may also be more likely to have access to information and/or influence that could be used to engage in activity that could artificially move the market in an event contract involving such occurrence, potentially raising heightened manipulation concerns. For example, a professional athlete or coach may be economically impacted by their team's wins or losses, but may also have access to information—for example, about a team member's health or a potential injury—that could be used to trade ahead of the market in an event contract involving the team's performance. Further, the athlete or coach would potentially have a platform—for example, access to media, combined with public perception as an authoritative source of information regarding the team—that could be used to disseminate misinformation that could artificially impact the market in the contract for additional financial gain.

89 Fed. Reg. 48968, 48982 (June 10, 2024). The CFTC also published an alert in 2019 encouraging whistleblowers to report on "insider trading or improper use of information." *CFTC Whistleblower Alert: Be on the Lookout for Insider Trading or Improper use of Information* (June 2019).[25]

The potential for abuse, fraud, and manipulation is a key reason that insider trading is prohibited in federally regulated stock exchanges. *See*, 15 U.S.C. § 78j; and, 15 U.S.C. § 78u-1. That is also why sports wagering regulations universally prohibit athletes and coaches from betting on their own games. *See, e.g.*, Conn. Gen. State. § 12-864(a); and, Conn. Agencies Regs. § 12-865-16(b)(7).

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[25] Available at: https://www.whistleblower.gov/whistleblower-alerts/Insider_Trading_WBO_Alert.htm.

The risks created by insider trading far outweigh any claimed benefits, which is why it is broadly prohibited in other contexts. There is no public interest in creating an exception to this principle for CFTC-regulated exchanges.

IV. CONCLUSION

The Mohegan Tribe thanks the CFTC for consideration of these comments. For all of the foregoing reasons, the CFTC must ensure that it is preventing companies from impairing the Tribe's sovereign authority, impairing the Tribe's ability to generate government revenues through lawful gaming under both tribal and state law, and violating federal law by conducting sports wagering on CFTC-regulated exchanges. As a federal agency, the CFTC shares the United States' trust obligations owed to Indian tribes and Indian people, and must uphold the laws that Congress has enacted to advance the interests of Indian tribes.