April 30, 2026

Christopher Kirkpatrick,
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Docket No: CFTC-2026-0331-0001
RIN: 3038-AF65

RE: *Comment on CFTC Advance Notice of Proposed Rulemaking; Prediction Markets; RIN 3038-AF65 (91 Fed. Reg. 12516)*

Secretary Kirkpatrick:

Democracy Defenders Fund (DDF) respectfully submits this comment in response to the Commodities Futures Trading Commission's (CFTC) advance notice of proposed rulemaking (ANPRM), *Prediction Markets* (91 Fed. Reg. 12516).

DDF is a nonpartisan, non-profit section 501(c)(3) organization committed to defending and strengthening democracy while ensuring that all Americans can freely exercise their fundamental civil rights by defending the rule of law, fighting corruption, and protecting elections. DDF is submitting this comment to address questions CFTC raised in Part II.C and Part II.E of the ANPRM concerning prohibitions on event contracts that are "contrary to the public interest" under section 5c(c)(5)(C) of the Commodities Exchange Act (CEA) and the risks of abuse of insider trading to manipulate prediction markets. Specifically, DDF's comments focus on the immense risk of market manipulation that is posed by event contracts based on the outcome of official government events.[1]

As discussed below, prediction markets present an unprecedented opportunity for self-dealing and abuse of sensitive government information by government employees of all three branches of the federal government.[2] The use of nonpublic information by federal officers and

[1] DDF's comment does not address other important open questions raised in the ANPRM, including the extent to which event contracts would ever not constitute "gambling." This comment also does not address the immense harm that would be caused by the continued allowance of prediction markets to offer political event contracts. The risks of political event contracts are well understood and the CFTC has enough information available to, at this time, prohibit such contracts as contrary to the public interest.

[2] Although the focus of this comment is on employees of the federal government, the risk is not limited to U.S. government officials. As was reported late last month, a major in the Israeli Air Force was recently indicted for using classified information to purchase Polymarket event contracts related to Israel's 2025 attacks in Iran and Yemen. Charlie Summers & Emanuel Fabian, *Israeli Air Force major charged with using classified info to place bets on Polymarket*, The Times of Israel (Mar. 27, 2026), https://www.timesofisrael.com/israeli-air-force-major-charged-with-using-classified-info-to-place-bets-on-polymarket/.

employees is not only illegal, but it poses unacceptable risks of market manipulation that could directly and detrimentally impact U.S. citizens' lives, liberty, and property. As DDF described in its recent letter to the Division of Enforcement on April 10, 2026, the recent spate of suspicious event contract trades concerning U.S. military action–including the recently announced arrest and indictment of an active-duty member of the U.S. Army, who was directly involved in the planning and execution of the arrest of Venezuelan President Nicolas Maduro, for insider trading on Polymarket[3]–make it clear that the CFTC must take enhanced steps to prevent the abuse of nonpublic government information in the prediction markets.[4] That is why DDF recommends CFTC:

1. Ban as "contrary to the public interest" all event contracts that involve or are related to official government acts, including, but not limited to, any order; rulemaking; law enforcement activity; or military operation, including any use of military force[5] regardless of whether it is in an international or non-international armed conflict or otherwise;
2. Prohibit Designated Contract Markets (DCMs) from tokenizing event contracts, which allows customers to skirt customer due diligence, including Know-Your-Customer (KYC);
3. Robustly enforce existing provisions of the Commodities Exchange Act (CEA) aimed at preventing misuse of nonpublic government information, including CEA sections 4c, 6, and 6c, and issue joint guidance with the U.S. Office of Government Ethics (OGE) on the application of the CEA and the federal ethics rules to transactions involving events contracts.

Background

Federal government employees are strictly prohibited from abusing their offices or using, trading on, or disclosing nonpublic information. Several statutes prohibit the release of private, classified, and confidential information.[6] In the executive branch, government employees are strictly prohibited from participating in any government decision in which they have a financial interest.[7] Ethics rules for all three branches also prevent the abuse of nonpublic information for personal gain.[8] And the CEA itself prohibits use of nonpublic information by executive and

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[3] Indictment, United States v. Van Dyke, 26 Cr. 156 (S.D.N.Y, Apr. 23, 2026), https://www.justice.gov/usao-sdny/media/1437781/dl.

[4] Letter from Democracy Defenders Fund to David I. Miller, Commodities Futures Trading Commission, Division of Enforcement (Apr. 10, 2026) (DDF Letter), f9c23f_8e4843eab01f4aaa9797785d1836f9ba.pdf.

[5] Section 5c(c)(5)(C) explicitly provides the CFTC the authority to deem event contracts "contrary to the public interest" if they involve "war" or "other similar activity." 7 U.S.C. § 7a-2(c)(5)(C)(i)(IV), (VI).

[6] *See, e.g.,* 5 U.S.C. § 552a (Privacy Act); 18 U.S.C. § 798 and 50 U.S.C. § 783 (Classified Information); 18 U.S.C. § 1905 (Trade Secrets Act); 32 C.F.R. § 2002.1, et seq. (Controlled Unclassified Information); 48 C.F.R. § 3.104-4 (Federal Acquisition Rule prohibition provision of source selection information).

[7] 18 U.S.C. § 208(a).

[8] *See, e.g.*, 5 C.F.R. §§ 2635.101(b)(3), 2635.703; Code of Conduct for Judicial Employees, Canon 3(D); The Standing Rules of the Senate, Senate Manual, S. Doc. No. 113-18, at R. XXIX(5) (2013); Code of Ethics for Government Service ¶ 8, H. Con. Res. 175, 85th Cong., 2d Sess., 72 Stat., pt. 2, B 12 (1958) (providing that it is the "sense of Congress that . . . [a]ny person in Government service should . . . [n]ever use any information coming to him confidentially in the performance of governmental duties as a means for making private profit").

congressional employees to trade in futures contracts and derivatives under sections 4c, 6, and 6c.

Section 4c of the CEA[9], as amended by the STOCK Act,[10] prohibits any "employee or agent of any department or agency of the Federal Government or any Member of Congress or employee of Congress" who has acquired nonpublic "information that may affect or tend to affect the price of any commodity in interstate commerce, of for the future delivery, or any swap" from:

1. "Us[ing] the information in his personal capacity and for personal gain to enter into, or offer to enter into" any futures contract, option, or swap; or
2. "Impart[ing] the information in his personal capacity and for personal gain with intent to assist another person, directly or indirectly, to use the information to enter into, or offer to enter into" any futures contract, option, or swap.[11]

It is likewise illegal for any "person" to use or steal nonpublic government information for use by themselves or another person to enter into or offer to enter into any futures contract, option, or swap.[12]

Section 6 of the CEA, as amended by section 753 of the Dodd-Frank Wall Street Reform and Consumer Protection Act,[13] provides the CFTC with expansive authority to prohibit manipulation and fraud in the futures markets.[14] Pursuant to Section 6, CFTC passed Rule 180.1 which is modeled on Securities and Exchange Commission Rule 10b-5 and broadly prohibits any person from "directly or indirectly, in connection with any swap, or contract of sale of any commodity in interstate commerce, or contract for future delivery" engaging in any form of market manipulation, material misstatement, fraud, or deceit.[15]

Section 13c of the CEA provides that any person who "willfully aids, abets, counsels, commands, induces, or procures" any violation of the CEA is liable to the same extent as any person who personally commits a violation.[16] "[T]he legislative history of section [13c(a)] shows that the aiding and abetting provision was modeled on, and was intended to be interpreted consistently with, the federal statute that makes aiding and abetting a crime, 18 U.S.C. § 2."[17]

Taken together, these laws establish an intricate and expansive web of criminal, civil, and administrative rules that is designed to prevent the abuse of government office and nonpublic

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[9] 7 U.S.C. § 6c.
[10] Pub. L. 112–105, § 5, 126 Stat. 293 (2012).
[11] 7 U.S.C. § 6c(a)(3)-(4).
[12] *Id.*
[13] Pub. L. 111–203, title VII, § 753(a), 124 Stat. 1750 (2010).
[14] 7 U.S.C. § 9.
[15] 17 C.F.R. § 180.1(a); Prohibition on the Employment, or Attempted Employment, of Manipulative and Deceptive Devices and Prohibition on Price Manipulation, 76 Fed. Reg. 41398 (2011) ("Rule 180.1 is modeled on SEC Rule 10b-5").
[16] 7 U.S.C. § 13c(a).
[17] *Bosco v. Serhant*, 836 F.2d 271, 279 (7th Cir. 1987).

government information. They also reflect Congress's perennial concern and extensive regulation aimed at preventing misconduct from occurring in the first instance.

Discussion

Abuse of office for personal gain and misappropriation of sensitive government information is not a new problem. As two experts on insider trading by government officials noted in 2012, "the selective disclosure of nonpublic market-moving information is a longstanding tradition in the federal government."[18] That tradition began in earnest in 1789, when political allies of former U.S. Treasury Secretary Alexander Hamilton used inside information to purchase Revolutionary War bonds ahead of an expansive investment by the U.S. Treasury.[19] Recently there have been claims of substantial abuse of nonpublic information in the securities markets by both executive and congressional employees. For example, in 2011, a chemist working for the Food and Drug Administration pleaded guilty to using nonpublic information on pharmaceutical companies' product approvals to secure over $3 million through stock trades.[20] In 2020, members of Congress were accused of using nonpublic information to avoid potential losses at the beginning of the COVID-19 pandemic.[21]

Prediction markets are no more immune to abusive trading by government insiders than the stock markets are. However, there are also unique risks that illicit trading in the prediction markets pose that illicit trading in the stock markets does not. As DDF highlighted in our request to the CFTC Division of Enforcement to investigate suspicious event contract trading on the Venezuela invasion and the Iran War:

> The use of nonpublic information for personal gain by federal officials not only violates basic ethical principles of government services, but it also could have serious national security implications. For example, experts have warned that "[i]f, for example, a government official in the Department of War had been invested in the market predicting when President Maduro would be captured, or when the U.S. might strike Iran, they might have altered the timing of the operation in order to make a profit."[22] These trades could also serve as a potential signal to U.S. adversaries concerning imminent foreign and domestic operations. Given the "yes/no" nature of event contracts, sophisticated agents of foreign intelligence agencies may be able to discern the likelihood of specific government

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[18] Donna M. Nagy & Richard W. Painter, *Selective Disclosure by Federal Officials and the Case for an Fgd (Fairer Government Disclosure) Regime*, 2012 Wis. L. Rev. 1285, 1288 (2012).
[19] *Id.*
[20] Press Release, U.S. Department of Justice, Former FDA Chemist Sentenced to 60 Months in Prison for Insider Trading (Mar. 5, 2012), https://www.justice.gov/archives/opa/pr/former-fda-chemist-sentenced-60-months-prison-insider-trading.
[21] Sylvan Lane, *Four Senators Sold Stocks Before Coronavirus Threat Crashed Market*, The Hill (Mar. 20, 2020), https://perma.cc/VWG6-5JAH; Robert Faturechi & Derek Willis, *Senator Dumped Up to $1.7 Million of Stock After Reassuring Public About Coronavirus Preparedness*, ProPublica (Mar. 19, 2020), https://perma.cc/ADS5-6X22.
[22] Matt Motta & Robert Ralston, Prediction markets are a national security threat, RESPONSIBLE STATECRAFT (Mar. 6, 2026), https://responsiblestatecraft.org/prediction-markets-war/.

action based on trading spikes on prediction markets like Polymarket and Kalshi.[23]

Moreover, the immense proliferation of prediction markets and the ease of participation has greatly increased the opportunity for government insiders to abuse their offices and sensitive nonpublic information while at the same time offering ways to reduce risks associated with being identified. Two factors in particular have played into this equation: (1) prediction markets are currently able to sell event contracts that are based on the outcomes of official government events, creating the opportunity for government insiders to both trade on nonpublic information and participate in decisions that could manipulate the results of those contracts; and (2) prediction markets have increasingly permitted "on-chain" trading over decentralized platforms, which can obscure who is the actual purchaser of a contract.

These risks are not abstract. On April 23, 2026, the Department of Justice unsealed an indictment alleging violations of the CEA's insider trading provisions against Gannon Ken Van Dyke, an active-duty U.S. Army official who helped execute the arrest of Venezuelan President Nicolas Maduro and his wife, Cilia Flores.[24] Van Dyke is alleged to have purchased thousands of dollars of tokenized event contracts over Polymarket related to the United States' deployment of forces to Venezuela and the ouster of Nicolas Maduro.[25] Those purchases resulted in Van Dyke profiting off of nonpublic, classified information by over $400,000.[26]

Recommendations

Recommendation 1: Ban Event Contracts Related to Official Government Events

Under CEA core principle 3, prediction markets are statutorily prohibited from listing or permitting the trading of event contracts that are susceptible to manipulation.[27] In addition, Section 5c(c)(5)(C) of the CEA, as amended by Section 745(b) of the Dodd-Frank Act,[28] explicitly empowers the CFTC to determine that event contracts that "involve" the following are "contrary to the public interest":

(I) activity that is unlawful under any Federal or State law;
(II) terrorism;
(III) assassination;
(IV) war;
(V) gaming; or
(VI) other similar activity determined by the Commission, by rule or regulation, to be contrary to the public interest.[29]

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[23] DDF Letter, *supra* nt. 4.
[24] Indictment, United States v. Van Dyke, 26 Cr. 156 (S.D.N.Y, Apr. 23, 2026), https://www.justice.gov/usao-sdny/media/1437781/dl.
[25] *Id.*
[26] *Id.*
[27] 7 U.S.C.§ 7(d)(3); 17 C.F.R. § 38.200.
[28] Pub. Law. 111-203, § 745, 124 Stat. 1736-37 (2010).
[29] 7 U.S.C. § 7a-2(c)(5)(C)(i)(I)-(VI).

This provision was added principally 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."[30] But the CFTC is also authorized to prevent any other event contract that involves "activity that is unlawful under any Federal or state law" or similar activity determined to be "contrary to the public interest."

Prohibiting event contracts based on the outcome of official government actions falls neatly into the prophylactic authority that Congress provided the CFTC to prevent event contracts that are susceptible to market manipulation and that involve activity that is unlawful under federal law. The risks of allowing event contracts based on the outcome of official government events are manifold. First, government employees of all levels can easily influence official government actions to game the results of an event contract in their financial favor. Actions as simple as delaying an approval, postponing a meeting, or changing the text of an official speech by a word or two could have sizable impacts on the outcome of an event contract. Event contracts that can be manipulated by a small number of insiders pose significant risk of market manipulation as the CFTC has already recognized with sports-related event contracts.[31] Second, government officials are often privy to material nonpublic information. The chief-of-staff to a cabinet-level official may know that the official is planning to retire on a certain date. An attorney in the general counsel's office may become aware of regulation being prepared in a separate section of the agency. A congressional aide may be aware that a mark-up is about to be scheduled on a bill that is likely to pass. These individuals could easily use that information to game the system. Third, the opportunity for government officials to participate in prediction markets incentives non-federal parties to seek out and attempt to influence those parties, through bribes, gifts, offers of future employment, or even coercion. Fourth, because the possibility always exists that government officials may participate in event contracts based on official government action, there can never be confidence that the markets are fair.

These risks are too great to the fair and efficient functioning of either the prediction markets or our government. Nor can they be rectified by the imposition of additional laws on the conduct of government employees, which already exist. As a result, the only effective step that the CFTC can take to prevent trading on official government events is to remove the opportunity to engage in such trades in the first place. That means banning event contracts based on official government action.

The need for an outright ban becomes even more apparent when considering the current process of listing event contracts and assessing whether an event contract is "contrary to the public interest." Under the Commodity Futures Modernization Act (CFMA), a DCM seeking to offer a new event contract is the primary decision-maker when it comes to whether a particular contract is subject to a heightened risk of market manipulation or involves one of the categories of risky event contracts set forth in the Dodd-Frank Act. A DCM then generally self-certifies that the product is compliant with the CEA pursuant to 17 C.F.R. § 40.2. Once self-certified, a new

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[30] 156 Cong. Rec. S5906-07 (daily ed. Jul. 15, 2010) (statements of Sen. Diane Feinstein and Sen. Blanche Lincoln), *available at https://www.congress.gov/111/crec/2010/07/15/CREC-2010-07-15-senate.pdf*.

[31] CFTC Letter No. 26-08, Prediction Markets Advisory 4 (Mar. 12, 2026) (stating that sports-related events contracts have a heightened risk of market manipulation when the contracts "resolve or settle based on the action of a single individual or a small group of individuals").

product (which could include multiple event contracts) can be made available for purchase the very next day.[32] Although a DCM can voluntarily seek pre-approval from the Commission under 17 C.F.R. § 40.3, the CFTC recently sent a letter to Congress explaining that only one product was submitted for prior approval between 2022 and 2024.[33] That means that in most cases, a DCM both decides that a contract is compliant and does not pose a risk for market manipulation or otherwise is not "contrary to the public interest" well before the CFTC actually has an opportunity to review the contract.

Moreover, the current process used by the CFTC to review "agreements, contracts, transactions, or swaps" under the Dodd-Frank Act that "involve" the listed categories is done under a two-step inquiry: first, the Commission must determine that the contract involves the listed categories, and then it must assess whether the contract is contrary to the public interest. This multi-step process, wherein the CFTC is playing catch-up to self-certified products, inevitably results in limited enforcement. In fact, in the CFTC's 2024 proposed rulemaking on prediction markets, CFTC explained that it has only made *two* final determinations that a product was "contrary to the public interest" and has only reviewed *two* other cases for potential inconsistency with the public interest standard.[34] That is four cases in total.

The current procedures utilized to address market manipulation are inadequate to prevent individual instances of market manipulation by government officials. These procedures are wholly ineffective at dealing with event contracts, like those that are tied to official government actions, where the risk of market manipulation is baked into the very nature of the contracts themselves. This is compounded by the fact that the effects of market manipulation and use of nonpublic government information go far beyond the economic impacts that can result from abuses of other forms of event contracts, such as those presented by sports stars betting on their own games. Government decisions affect every aspect of the political, social, economic, and commercial spheres. That includes the health and welfare of our citizens. It also includes our national security.

The immense likelihood that abusive trading on event contracts tied to official government actions will occur—as evidenced by the frequency of suspicious trades on the Venezuelan incursion and Iran war—and the magnitude of harm that could arise from insider trading, make it clear that the mere issuance of these types of contracts is inconsistent with public policy and too risky to warrant their availability on prediction markets. As a result, the CFTC should amend 17 C.F.R. § 40.11 to prohibit the trading or offering of any event contracts that involve any official government action as "contrary to the public interest."[35]

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[32] 17 CFR 40.2(a)(2).

[33] Dustin Gouker, *The Early Line: CFTC Responds To Senators' Questions On Sports Event Contracts*, The Closing Line Substack (Nov. 24, 2025), https://closingline.substack.com/p/the-early-line-cftc-responds-to-senator-on-sports-betting.

[34] 89 Fed. Reg. 48968, 48971-48972 (Jun. 10, 2024).

[35] Alternatively, if the CFTC decides that it does not have the authority to institute a *per se* ban, then the CFTC should nonetheless amend 17 C.F.R. § 40.11(c) to provide that each contract concerning an official government action will be subject to an automatic review. The CFTC should develop additional risk assessment factors for any event contracts based on an official action with a default being that the contract is "contrary to the public interest" unless the DCM can prove by clear and convincing evidence that there is no or limited risk to abuse by government insiders.

Recommendation 2: Prohibit Tokenization of Event Contracts

Under core principle 10 of the CEA, DCMs are required to maintain acceptable audit trails for all trades made over the exchange.[36] A DCM's audit trail must include original documents related to each trade including "an account identifier" that relates back to the account owner.[37] The purpose of the audit trail is to ensure that DCMs can "detect, investigate, and prevent customer and market abuses."[38]

Currently, major prediction markets like Kalshi and Polymarket permit purchases of event contracts that have been tokenized as digital assets and offered for sale via blockchain. Unlike purchasing event contracts directly through a DCM or through a broker, however, on-chain trading can be done anonymously or quasi-anonymously. Traders can also utilize crypto mixers, which pool and scramble transactions, and other obfuscating services (like bridges and swaps) to hide the original source of funds for on-chain event contract purchases.

The CEA's audit trail requirements provide no legitimate guarantee of client traceability when event contracts can be purchased on-chain. More importantly, without a lack of guaranteed know-your-customer due diligence for each event contract customer, the risk of government employees' manipulation of the event contract markets increases. Government employees who must provide their name, address, and principal occupation are less likely to engage in illegitimate trades than employees who can hide their investments behind complex financial layers.

Recommendation 3: Enforce the Existing Provisions of the CEA & Jointly Publish Guidance with OGE on the CEA and Ethics Rules

Although it is imperative that the CFTC take action to prophylactically prevent abuse of the prediction markets by government insiders, it is as apparent that the CFTC needs to begin effectively enforcing the existing rules that exist against abuse by government officials. In addition, the CFTC should work to provide greater advice on the existing limitations found at sections 4c, 6, and 6c, and how they apply to market manipulation by government officials. To do so, DDF recommends that the CFTC work alongside the U.S. Office of Government Ethics to produce joint guidance that covers not only the CEA provisions but also the federal ethics rules. Much overlap exists between the purposes and prohibitions of these rules, and issuance of joint guidance will better inform government employees of the risks attendant with abuse of position and nonpublic information to manipulate or game the prediction markets.

Conclusion

DDF appreciates the opportunity to comment on CFTC's ANPRM regarding prediction markets. As outlined above, these markets pose significant new challenges in the fight to prevent

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[36] 17 C.F.R. § 38.550.
[37] 17 C.F.R. § 38.552. In addition, if the prediction market operates as a future commission merchant, it is subject to the Bank Secrecy Act and the Know-Your-Customer requirements of that Act. 17 C.F.R. § 42.2.
[38] 17 C.F.R. § 38.551.

federal employees from abusing their offices and nonpublic information for private gain. To counteract that risk, the CFTC must ban event contracts on official government actions, must prohibit tokenization of event contracts, and should take a stronger enforcement position on the existing anti-manipulation rules while issuing additional guidance on how those laws apply to federal government employees.

Sincerely,

/s/
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Democracy Defenders Fund

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Virginia Canter
Chief Counsel and Director for Ethics and Anticorruption
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