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April 30, 2026

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

Submitted via the Federal eRulemaking Portal

Re: Prediction Markets (RIN 3038-AF65) - Comments on Advance Notice of Proposed Rulemaking on Event Contracts 91 Fed. Reg. 12,516 (Mar. 16, 2026)

Dear Secretary Kirkpatrick:

On behalf of the Match-E-Be-Nash-She-Wish Band of Pottawatomi (the "Tribe"), we submit these comments in response to the Commodity Futures Trading Commission's ("CFTC" or "Commission") Advance Notice of Proposed Rulemaking ("ANPRM"), published March 26, 2026, 91 Fed. Reg. 12516. We strongly oppose any CFTC regulatory change that would permit the use of futures markets for wagering on sporting event outcomes under the Commodities Exchange Act ("CEA"), 7 U.S.C. §§ 1 et seq.

Failure to Engage in Required Tribal Consultation

The Tribe notes that there has been no meaningful tribal consultation. Consistent with federal Indian policy and Executive Order 13175, agencies must conduct government-to-government consultation when regulatory actions may affect tribal sovereignty. This ANPRM has direct impacts on tribal sovereignty. Proceeding without consultation is inconsistent with the CFTC's federal obligations.

The Tribe urges the Commission to suspend further action and begin formal consultation with tribal governments and tribal gaming regulators.

Conflict with IGRA and Tribal–State Compacts

The ANPRM reflects a misunderstanding of the role of tribal gaming regulatory authorities and the statutory framework established by the Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C. §§ 2701 et seq.

The Tribe operates gaming under a Tribal-State compact with Michigan in compliance with IGRA. These compacts balance tribal sovereignty, state authority, and public policy. Michigan's regulatory system for gaming, including sports wagering, recognizes tribal authority. Nationally listing sports event contracts under the CEA bypasses these systems.

As written, the ANPRM:

- Circumvents state gaming laws and compacts;
- Undermines tribal sovereignty and IGRA exclusivity;
- Weakens responsible gaming protections;
- Competes with tribal gaming, undermining tribal revenues that fund government services and support regional economies.

Congressional Intent and Statutory Limits of the CEA
Congress did not intend the CEA to allow gambling through derivatives markets. The CEA's Special Rule allows the Commission to ban event contracts involving "gaming" on public-interest grounds. 7 U.S.C. § 7a-2(c)(5)(C). If a contract meets this definition, it cannot be listed or traded.

The Commission has implemented this directive through 17 C.F.R. § 40.11(a)(1), which prohibits event contracts involving gaming. This interpretation is correct and should be reaffirmed.

Sports Event Contracts Fall Outside the Scope of the CEA
Sporting events do not qualify as "commodities" within the meaning of the CEA. Nor are they properly considered "excluded commodities," which must be associated with financial, commercial, or economic consequences. 7 U.S.C. §§ 1a(9), 1a(19).

Contracts on sporting outcomes are not used for hedging and have no economic purpose; they are bets. Federal law reinforces this conclusion.

Further, the Wire Act prohibits interstate transmission of bets or wagers on sporting events. 18 U.S.C. § 1084.

Similarly, IGRA classifies sports betting as Class III gaming, which is lawful on Indian lands only if conducted pursuant to a valid tribal ordinance and Tribal–State compact. 25 U.S.C. § 2710(d)(1).

Event contracts tied to sports outcomes attempt to circumvent these legal requirements while replicating the economic aspects of sports betting.

Limits on Agency Authority
It is well established that agencies may not use rulemaking to expand statutory authority beyond limits set by Congress. See Virginia v. EPA, 597 U.S. 697 (2022); FDA v. Brown & Williamson Tobacco Corp., 529 U.S. 120 (2000).

If the Commission authorizes sports event contracts, it would violate the CEA and exceed its authority.

Conclusion

Modernizing financial markets should not come at the expense of tribal sovereignty or established gaming regulatory frameworks. Using the CEA to enable nationwide sports wagering undermines federal law, state authority, and tribal self-governance.

The Tribe respectfully urges the Commission to:

1. Promptly begin meaningful government-to-government consultation with tribal governments regarding the ANPRM;
2. Clearly reaffirm that contracts involving sporting event outcomes gaming are prohibited under the Commodity Exchange Act; and
3. Explicitly clarify that contracts based on sporting events are not permitted to be listed, cleared, or traded under the law.

The Tribe urges the Commission to reject any attempt to authorize sports event contracts, as their approval would violate federal, state, and tribal law and harm the sovereign right of tribal and state governments to regulate gaming. These actions would undermine foundational legal principles and fail to fulfill trust responsibilities to tribal communities. Only by upholding these protections can the Commission fulfill its statutory and trust obligations.

Sincerely,



Bob Peters
Chairman
Match-E-Be-Nash-She-Wish Band of Pottawatomi