TOPSTEP

Submitted via CFTC Comments Portal

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

April 30, 2026

Re: Response to the Commodity Futures Trading Commission's Request for Comments on Event Contract Derivatives Traded on Prediction Markets (RIN 3038-AF65)

Dear Secretary Kirkpatrick,

Topstep LLC ("***Topstep***") is a Chicago-based organization and the parent company to an enterprise of businesses, including a registered introducing broker and proprietary trading firm, all sharing a common goal of helping retail traders build and maintain discipline and consistency both prior to and while trading live capital. Topstep takes an innovative, technology-enabled approach to trader development and capital allocation, educating traders and channeling participation into regulated derivatives markets.

As an innovator in derivatives markets, Topstep supports commonsense prediction market regulation that will foster market growth and development. Prediction markets themselves are not new. They have existed for more than 100 years—a futures contract is nothing less than an attempt to predict the future price of a commodity. There has been a robust federal regulatory regime applicable to designated contract markets ("***DCMs***") since the enactment of the Grain Futures Act in 1922. The novelty in modern prediction markets is simply the use of events as a contract's underlying commodity.

To encourage responsible innovation and protect investors by providing regulatory clarity, the Commodity Futures Trading Commission ("***CFTC***" or the "***Commission***") should adopt flexible, principles-based rules regulating event contracts traded on prediction markets. This regulatory approach will fulfill a key purpose of the Commodity Exchange Act ("***CEA***")—"to promote responsible innovation and fair competition" among regulated entities transacting in derivatives markets.[1] The CFTC's advance notice of proposed rulemaking ("***ANPR***")[2] represents a critical opportunity for the CFTC to achieve this goal, consistent with the provisions of the CEA[3] and CFTC regulations thereunder ("***CFTC Regulations***").[4]

I. Regulatory Clarity Promotes Responsible Innovation and Protects Investors

Both Congress and the CFTC have long recognized that flexible, principles-based regulations encourage innovation. In the lead-up to the Commodity Futures Modernization Act of 2000 ("***CFMA***"), the CFTC drafted a framework replacing the CEA's existing rigid regulatory standard. As the CFTC put it, its proposed principles-based structure would "promote innovation . . . and [] permit the markets the flexibility to respond to technological and structural changes in the markets."[5] Members of Congress, too, noted that the CFMA's flexible approach would "remov[e] barriers to financial innovation that are threatening

[1] CEA § 3(b).
[2] *Prediction Markets*, 91 FED. REG. 12516 (March 16, 2026).
[3] 7 U.S.C. § 1a *et seq*.
[4] 17 C.F.R. § 1.1 *et seq*.
[5] *A New Regulatory Framework for Multilateral Transaction Execution Facilities, Intermediaries and Clearing Organizations*, 65 FED. REG. 38986, 38992 (June 22, 2000).

America's global competitive position in financial markets"[6] and would "ensure America remain[s] the leader in the world's financial community."[7] The CFTC today continues to recognize the benefits of innovation.[8] CFTC Chairman Michael Selig, for example, recently advocated for "fit-for-purpose market structure regulations for this new frontier of finance."[9]

Indeed, regulatory uncertainty can hinder responsible innovation. For example, state-led regulation-by-enforcement targeted at prediction markets—including criminal charges—may discourage new entrants.[10] Without clear regulations, some innovators who are not deterred by regulatory uncertainty may innovate irresponsibly, and investors, including retail customers, may seek unregulated, offshore markets.[11]

II. Response to the Commission's Questions

Below are responses to the specific questions the Commission raises in the ANPR, guided by Topstep's interest in promoting innovation and regulatory certainty. As a general matter, the Commission should consider a new Part of its Regulations to address specific considerations for event contracts (*e.g.*, similar to Part 5 for retail foreign exchange contracts).

a. *Response to Questions 1 & 2d–2f: Application of DCM Core Principles*

The Commission asks what factors it should consider in applying the DCM Core Principles to prediction markets.[12] The CFTC should consider creating a separate appendix to Part 38 of its regulations ("***Appendix X***") to address the specific factors DCMs should consider in listing event contracts.[13] The Commission's March 2026 prediction markets advisory (the "***March 2026 Advisory***"), published the same date as the ANPR, already notes several factors for DCMs to consider.[14]

To address the unique application of certain Core Principles to event contracts, the Commission should also consider the following:[15]

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[6] House Committee on Agriculture, *Congress Concludes Commodity Futures Modernization Act* (Dec. 15, 2000) (quoting Committee Chairman Rep. Larry Combest).
[7] *Id.* (quoting House Agriculture Risk Management Subcommittee Chairman Rep. Thomas Ewing).
[8] *How the CFTC Stays on Top of Financial Market Innovations*, UNIV. OF PA.: KNOWLEDGE AT WHARTON, https://knowledge.wharton.upenn.edu/article/how-the-cftc-stays-on-top-of-financial-market-innovations (quoting comments by a panel of three former CFTC chairmen as saying that "the CFTC's belief in principle-based regulation has fostered a dynamic where rules can evolve organically").
[9] *Chairman Selig Launches the CFTC Innovation Advisory Committee*, CFTC Rel. No. 9167-26 (Jan. 12, 2026); *see also Innovation at the CFTC*, CFTC, https://www.cftc.gov/About/Innovation ("[T]he agency aims to ensure that the Commission's regulatory framework remains clear, coherent, and adaptable, ensuring that innovation takes root on American soil, under American law, and in service of American investors, customers, and businesses.").
[10] *Attorney General Mayes Charges Kalshi With Illegal Gambling Operation, Election Wagering in Arizona*, ARIZ. ATT'Y GEN. (March 17, 2026), https://www.azag.gov/press-release/attorney-general-mayes-charges-kalshi-illegal-gambling-operation-election-wagering.
[11] David Krause, *Beyond Patchwork Crypto Regulation: The Case for a Unified U.S. Financial Regulatory System*, at 3, RESEARCHGATE (Feb. 2025), https://www.researchgate.net/publication/388997626_Beyond_Patchwork_Crypto_Regulation_The_Case_for_a_Unified_US_Financial_Regulatory_System_Beyond (explaining how "[a] modernized regulatory structure" could "promot[e] responsible financial innovation.").
[12] 91 FED. REG. at 12518–19; *see* CEA § 5(d).
[13] *See* 17 C.F.R. § 38.1 *et seq.*
[14] *See* CFTC Division of Market Oversight, CFTC Letter No. 26-08: Prediction Markets Advisory (March 12, 2026).
[15] 91 FED. REG. at 12519 (Question 2d: Core Principle 4); 91 FED. REG. at 12519 (Question 2e: Core Principle 5); 91 FED. REG. at 12519 (Question 2f: Core Principle 11).

i. Core Principle 4

Disruptive trading in event contracts is no different from disruptive trading in traditional futures and swaps contracts. The CFTC and DCMs have sufficient tools to police this conduct, including artificial intelligence systems that can help detect disruptive trading practices.[16] As discussed below, at Section II.b., collaboration with industry participants—including major league sports organizations—could further assist the CFTC and DCMs in minimizing disruptive trading.

ii. Core Principle 5

Position limits were introduced in reference to physically deliverable contracts where the underlying commodity is of limited supply and therefore could be easily cornered or squeezed.[17] A limited supply of occurrences does not constrain most event contracts; therefore, position limits are unnecessary. However, accountability levels should be commensurate with the liquidity and depth of the market and DCMs can impose them on a case-by-case basis.

iii. Core Principle 11

Given that event contracts are either futures or listed swap contracts, they should not be automatically excluded from margin trading. However, DCMs, derivatives clearing organizations ("***DCOs***"), futures commission merchants ("***FCMs***"), and other industry participants should develop an industry-standard set of risk disclosures related to prediction markets.[18]

The CFTC has provided guidance on margin trading in various DCM-traded products, as well as collateral for over-the-counter swaps.[19] The CFTC should set margin guidelines for event contracts in consultation with the industry.

b. *Response to Questions 2a–2c & 29–32: Inside Information, Core Principles 2 & 3*

The Commission does not prohibit insider trading in and of itself. The Commission's rules prohibit (a) the misappropriation of material non-public information and (b) insider trading with the intent to manipulate the contract.[20] Insider trading has many utilities, including better price discovery,[21] and the CFTC currently allows insider trading to a certain extent, for example, when a farmer with knowledge of his own crop performance enters into a contract as a hedge. These general rules should apply to event contracts traded on prediction markets.

The anti-manipulation rules currently applicable to swaps, including those concerning trading by government officials, should apply equally to event contracts. But to the extent the CFTC determines that event contracts traded on DCMs and swap execution facilities ("***SEFs***") pose substantially different risks

[16] *See, e.g.*, CFTC SUBCOMM. ON EMERGING & EVOLVING TECHS., RESPONSIBLE ARTIFICIAL INTELLIGENCE IN FINANCIAL MARKETS 65 (May 2, 2024) ("*Market surveillance*. AI can be used to detect market manipulation, fraud, and unfair practices.").
[17] *See* CEA § 4a(a).
[18] See, e.g., standardized examples from the Futures Industry Association ("***FIA***") and the International Swaps and Derivatives Association ("***ISDA***"). FIA GLOBAL CLEARED MARKETS, UNIFORM FUTURES AND OPTIONS ON FUTURES RISK DISCLOSURES (March 2026) (FanDuel Predicts version), available at https://www.cmegroup.com/fcm/files/fia-risk-disclosure.pdf; *Disclosures*, ISDA (Nov. 16, 2012), https://www.isda.org/2012/11/16/disclosures.
[19] *See, e.g.*, CFTC Market Participants Division, CFTC Letter No. 25-11: Staff Interpretation Regarding Exchange-Traded Funds as Eligible Margin Collateral for Uncleared Swaps Transactions (April 14, 2025).
[20] 17 C.F.R. § 180.1(a)(1); *see In the Matter of Arya Motazedi*, CFTC Docket No. 16-02 (Dec. 2, 2015).
[21] Chih-Hsiang Hsu & Hsiu-Chuan Lee, *Insider trading and information revelation with the introduction of futures markets*, 43 ECON. MODELLING 173 (2014).

from other futures and swaps contracts, the CFTC should consider segregating account types (similar to the CFTC's now-withdrawn virtual-currency segregation advisory).[22]

The Commission should also recognize that some event contracts may be distinguished by the outsize impact a single data input has on a contract's valuation. For example, a Brent Crude futures contract is priced at settlement based on thousands of data inputs, but an event contract on a single athlete's individual performance is priced off of one—the occurrence or non-occurrence of that specific event. Event contracts resemble some futures contracts in this way—a futures contract on a weather event is also priced off of a single event—but also pose unique risks—unlike an event contract on an individual athletic performance, a weather future is not under human control.

The Commission should consider at least two potential strategies to mitigate these concerns. First, guided by existing insider trading principles, it can set standards for excluding individuals with control over a contract's outcome (and their families) from trading such event contracts. The CFTC should take a broad approach, recognizing that once an individual is aware of a contract in an event for which he or she controls the outcome, the individual faces unavoidable conflicts and should not trade in that contract. Excluding such individuals would not violate the principle of impartial access, which is aimed at ensuring that a DCM does not create different classes of participants with different sets of trading privileges.[23]

Second, the guidance in Appendix X could assist DCMs and DCOs with developing an industry governance body to assess whether a particular contract has been improperly traded. FIA and ISDA, which have developed standardized dispute resolution systems, and the industry associations directly involved with the data reference points for these contracts—i.e., the National Football League or Major League Baseball—are good examples of neutral third parties. In partnership with these bodies, the Commission can adopt a nuanced, contract-by-contract approach to limit insider trading and manipulation.

Both the CFTC and self-regulatory organizations ("***SROs***") should work collaboratively with industry participants to more efficiently police manipulative trading activity. The Commission recognized in the March 2026 Advisory that greater coordination between prediction markets and sports leagues could help "protect against manipulation and insider trading."[24] By analyzing "league integrity standards . . . and restricted or insider trading participation lists," the Commission explained, prediction markets could achieve greater compliance with their Core Principle 3 obligations.[25] And Polymarket, for example, partnered with Major League Baseball in March 2026, with "integrity [as] the foundation of the deal" and a "focus[] on high-risk markets such as individual pitch outcomes and decisions made by umpires and managers."[26]

Ultimately, SROs should play a major role in the policing of insider trading activity. The CFTC already tasks DCMs with investigating manipulation in listed contracts, and prediction markets are already enforcing insider trading rules.[27] DCM self-regulation of market manipulation will also prevent overreach

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[22] CFTC Division of Swap Dealer and Intermediary Oversight, CFTC Letter No. 20-34: Accepting Virtual Currencies from Customers into Segregation (Oct. 21, 2020).

[23] 17 C.F.R. § 38.151(b); *see id.* at § 38.151(c) (allowing DCMs to exclude individuals "when such actions are part of a disciplinary . . . action by the [DCM]" so long as the DCM impartially enforces its rules); *Core Principles and Other Requirements for Designated Contract Markets*, 75 FED. REG. 80572, 80579 (Dec. 22, 2010).

[24] CFTC Letter No. 26-08, supra at note 14.

[25] *Id.*

[26] *MLB's Polymarket Partnership Is a Turning Point for the Prediction Market Industry*, SPORTS ILLUSTRATED (Mar. 27, 2026), https://www.si.com/betting/prediction-market/mlb/mlb-polymarket-partnership-turning-point-prediction-market-industry.

[27] *Insider Trading*, Kalshi, https://kalshi.com/insidertrading (at bottom of page, listing insider trading enforcement actions); *CFTC Enforcement Division Issues Prediction Markets Advisory*, CFTC Rel. No. 9185-26 (Feb. 25, 2026) (CFTC press release applauding Kalshi's recent insider trading enforcement actions).

by the Commission—indeed, DCMs are the commodities industry's "frontline regulators."[28] DCMs are better positioned to strike the right balance between allowing hedging and prohibiting manipulation, and the CFTC should empower them to craft their own rules concerning potential insider trading.

c. *Response to Question 2h: Blockchain-based Prediction Markets*

To ensure a level playing field as prediction markets continue to innovate, the Commission should adopt a flexible, principles-based approach capable of growing with the industry and ensuring meaningful involvement by SROs.[29] Blockchain-based prediction markets are a key example. To the extent they qualify as DCMs, SEFs, or DCOs, these markets employ novel technology to clear contracts and resolve disputes. Strict rules establishing a single market-wide standard for event contract dispute resolution, for example, would unnecessarily hinder blockchain-based prediction markets.[30]

d. *Response to Question 3: Considerations for DCOs*

The ANPR discusses several regulatory issues specific to DCOs.

i. DCO Core Principles (C), (D), (H), and (I)[31]

In consultation with the industry—including DCOs—the CFTC should provide guidance on the use of technological solutions for and the unique risks associated with clearing event contracts. As further addressed below, the CFTC should evaluate DCOs whose business models pose additional risks to the market. For example, a DCO offering direct market access to retail participants in event contracts via fully collateralized retail self-liquidating accounts may raise different regulatory considerations, unique to a retail participant base, from a DCO interacting with institutional traders.

ii. Margin Trading Implications for DCOs[32]

Considering the fundamental difference between the risks inherent in clearing event contracts when compared to other categories—including that they have binary outcomes and are novel products subject to ongoing litigation—the CFTC should consider specific protections for DCOs offering direct market access for event contract swaps regardless of whether the contracts are traded on margin. For example, the CFTC could establish a separate "retail" DCO category to protect clearing members and the guaranty fund, and aid in DCO risk management.[33] This would not require significant structural change, as retail participants are already quasi-clearing members. Likewise, the CFTC should consider whether a new account category for retail accounts trading cleared event contract swaps should be created in addition to cleared futures, foreign futures, and cleared swaps accounts and whether comingling of these accounts should be prohibited.

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[28] *Financial Surveillance Examination Program Requirements for Self-Regulatory Organizations*, 83 FED. REG. 31078, 31079 (July 3, 2018); *see cf.* CFTC Letter No. 26-08, supra at note 14.

[29] *See* Thomas A. Russo & Marlisa Vinciguerra, *Financial Innovation and Uncertain Regulation: Selected Issues Regarding New Product Development*, 69 TEX. L. REV. 1431, 1486–87 (1991) (discussing benefits of SROs as helping harmonize regulatory inefficiencies).

[30] *See* Felix Reichenbach & Martin Walther, *Exploring Decentralized Prediction Markets: Accuracy, Skill, and Bias on Polymarket*, SSRN (Dec. 12, 2025), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5910522.

[31] 91 FED. REG. at 12520 (Question 3a).

[32] 91 FED. REG. at 12520 (Question 3c).

[33] *See CFTC Staff Seek Public Comment on Direct Clearing by Retail Participants*, CFTC Rel. No. 9158-25 (Dec. 18, 2025).

e. *Response to Question 4: Considerations for Institutional Traders*

The CFTC should restrict neither eligible contract participant trading in event contracts on SEFs nor retail participants trading in those contracts on DCMs. The SEF swap market is a professional market,[34] and the CFTC already protects major swap participants ("***MSPs***") through comprehensive regulations.[35] The CFTC should enhance its swap margining and risk calculations to factor in the unique features of event contracts.[36]

f. *Response to Questions 5, 12 & 33–35: Event Contracts as Swaps, Futures Contracts, Excluded Commodities, and Insurance Products*

Several of the Commission's questions concern whether event contracts fit into existing types of regulated products.

i. Swaps[37]

In the ANPR, the Commission asks whether it should provide guidance on or amend several of its rules concerning swap transactions to account for prediction market event contracts.[38] The rules applicable to swap transactions should apply equally to event contracts.[39] Considering that swaps need not reference a "commodity" (or an "excluded commodity"), event contracts enjoy greater regulatory flexibility as swaps. We note that a number of recent court decisions have focused on whether event contracts qualify as "swaps" under § 1a(47) of the CEA;[40] accordingly, it could be helpful if the CFTC further clarified its understanding of what contracts qualify as swaps and provide further guidance, by, *e.g.*, amending the CFTC and SEC's 2012 Further Product Definitions.[41]

The CFTC further asks in the ANPR about how several specific swap rules apply to event contracts. First, as to the swap reporting rules: event contracts listed on prediction markets as swaps should be subject to the same treatment under Section 2(a)(13)(G) and the related rules.[42] The execution facilities—not the swap counterparties—should bear responsibility for reporting required information about the swap transaction to the swap data repositories. The Commission has already recognized this in a number of related no-action letters stretching back to 2017.[43] In July 2025, for example, it took a no-action position as to the Chicago Mercantile Exchange's ("***CME***") request for relief from the swap data reporting requirements for counterparties' positions in event contracts CME was planning to list for trading, as the

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[34] Tradeweb Markets, *Tradeweb and Kalshi Announce Strategic Partnership to Expand Institutional Access to Prediction Markets*, TRADEWEB.COM (Feb. 19, 2026), https://www.tradeweb.com/newsroom/media-center/news-releases/tradeweb-and-kalshi-announce-strategic-partnership-to-expand-institutional-access-to-prediction-markets/.
[35] *See generally* 17 C.F.R. § 23.
[36] *See, e.g.*, 17 C.F.R. §§ 23.600 & 23.101–23.103.
[37] 91 FED. REG. at 12523 (Question 33).
[38] 91 FED. REG. at 12520 (Question 5).
[39] Further, in response to the Commission's Question 39 in the ANPR, general antitrust laws and considerations should apply to event contracts as well.
[40] *See, e.g.*, Memorandum re. Preliminary Injunction Order, *KalshiEX LLC v. Orgel*, No. 3:26-cv-00034, Dkt. 48 (M.D. Tenn. Feb. 19, 2026).
[41] *See Further Definition of "Swap," "Security-Based Swap," and "Security-Based Swap Agreement"; Mixed Swaps; Security-Based Swap Agreement Recordkeeping*, 77 FED. REG. 48208, 48246 (Aug. 13, 2012).
[42] 91 FED. REG. at 12520 (Question 5a).
[43] *See, e.g.*, CFTC Division of Market Oversight, CFTC Letter No. 21-11: No-Action Relief from Commission Regulations 38.8(b), 38.10, 38.951 (In Part), and 39.20(b)(2), and Parts 43 and 45, for Binary Options Traded On or Pursuant to the Rules of KalshiEX LLC and Cleared by LedgerX, LLC (Apr. 22, 2021); CFTC Division of Market Oversight, CFTC Letter No. 25-23: Request for No-Action Position for Commission Regulations 38.8(b), 38.10, 38.951 (In Part), and 39.20(b)(2), and Parts 43 and 45, for Contracts Traded on or Pursuant to the Rules of Chicago Mercantile Exchange Inc. (July 22, 2025).

execution facility would already be responsible for the reporting obligations.[44] The CFTC should further consider creating a new asset category under C.F.R. Parts 43 and 45, given that event contracts may warrant unique reportable fields, such as the event that is the subject of the contract.

Second, concerning pre-arranged or non-competitive swap transactions, the same rules applicable to futures traded on DCMs and swaps traded on SEFs should apply to event contracts.[45] The CFTC should further clarify that entities such as event contract market makers are not subject to swap dealer and MSP designation.

Third, as to the disruptive trading practices prohibition, the CFTC should consider structural changes to account for the unique challenges to disruptive trading in event contract transactions.[46] This relates to the CFTC's question about Core Principle 4, discussed above.[47]

ii. Futures contracts[48]

When listed on DCMs as futures contracts, the general DCM rules should apply to event contracts. The CFTC can propose additional rules and interpretation in Appendix X.

iii. Excluded commodities[49]

Some events may not qualify as "excluded commodities" depending on the nature of the underlying event, including whether the occurrence of the event is "beyond the control of the parties to the relevant contract."[50] For swaps purposes, contracts on such events would still be DCM-traded swaps.

iv. Insurance products[51]

The Commission also asks in the ANPR about the implications of treating event contracts as insurance products. Event contracts may at some point serve different purposes that could be addressed through economic substitutes—including banking, insurance, or securities products. There is no need to regulate one as the other simply because the public chooses a specific form of contract—*i.e.*, an event contract listed on a prediction market.

g. *Response to Questions 6, 38 & 40: Cost–Benefit Considerations*

As event contracts are an entirely new class of commodity, the CFTC should consider costs and benefits in a broad sense—not simply in terms of the compliance cost. If the CFTC does not regulate this new class, protracted state litigation will have significant costs, including discouraging these markets' development and pushing them offshore.[52]

The Commission also asks in the ANPR whether flexible regulations can aid in cost-saving. Specific provisions of the CEA may warrant greater flexibility. For example, 17 C.F.R. Part 38[53] could provide additional rules to accommodate smaller entities, while also providing for an expedited review and

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[44] *See* CFTC Letter No. 25-23, supra note 43.
[45] 91 FED. REG. at 12521 (Question 5b).
[46] 91 FED. REG. at 12521 (Question 5c).
[47] *See* supra at II.a.i.
[48] 91 FED. REG. at 12523 (Question 34).
[49] 91 FED. REG. at 12523 (Question 35).
[50] 7 U.S.C. § 1a(19)(iv)(I).
[51] 91 FED. REG. at 12521 (Question 12).
[52] *See* Alan McQuinn, *Supporting Financial Innovation Through Flexible Regulation*, INF. TECH. & INNOVATION FOUND. (Nov. 4 2019), https://itif.org/publications/2019/11/04/supporting-financial-innovation-through-flexible-regulation ("Many fintech firms caught in regulatory tugs of war are unable to launch in the United States due to the uncertainty over whether their products could draw enforcement action from risk-adverse regulators.").
[53] 17 C.F.R. § 38.1 *et seq.*

approval process (*e.g.*, a temporary or provisional registration). Given how quickly these markets are developing, the CFTC should accommodate new types of prediction markets to the greatest extent possible and ensure that these markets remain in the United States, where they are subject to a robust regulatory regime with strong customer protections.

h. *Response to Questions 7–8 & 13–28: Issues Concerning CEA Section 5c(c)(5)(C)*

The Commission also asks for comments regarding CEA Section 5c(c)(5)(C), which gives the CFTC discretion to prohibit as contrary to the public interest event contracts in five classes of enumerated activities—unlawful activity, terrorism, assassination, war, gaming—and "other similar activity."[54] We have three comments.

First, the CFTC should revise Rule 40.11. As it stands, Rule 40.11 collapses the analysis of whether a contract falls into enumerated category and whether a contract is against the public interest into a single step, contrary to the statute's clear requirement of a two-part analysis.

Second, in revising Rule 40.11, the CFTC should promulgate separate factors to guide it and SROs in determining whether a certain contract falls into each category and what public interest factors are applicable to each category. The CFTC can establish these factors in close coordination with the industry and interested market participants. The Commission's experience as a commodities regulator and the public comments in response to the ANPR form a strong foundation from which it can develop these factors, which will provide regulatory clarity and reduce costs for parties seeking to develop new products.

And third, the CFTC should also enact a new rule as part of Appendix X outlining when a DCM should seek the CFTC's guidance as to whether a contract is within the public interest before self-certifying the contract.[55]

The CFTC should keep in mind specific considerations relevant to each of the five enumerated factors.

i. Unlawful activity

While federal law preempts state regulation of DCM-traded derivatives,[56] there may be heightened public interest considerations where a contract concerns activity that is illegal under federal or state law. A modified form of the economic purpose test may be useful to stem such concerns.

ii. Terrorism, assassination, & war

Any hedging or price discovery benefit to these contracts does not outweigh their damage to the public interest. Other commodity derivatives can partially replicate the economic benefits of a violent-political-event-related event contract. For example, a market participant interested in low crude oil prices can hedge against the risk of war breaking out in the Middle East by purchasing crude oil swaps. While this might make for a less efficient hedge, there are significant costs to allowing markets in violent political events—including potential insider trading. Indeed, one Polymarket account netted $550,000 after correctly predicting the U.S. strikes on Iran.[57] And assassination contracts carry the further risk of incentivizing a single trader to effectuate the subject event.

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[54] CEA §§ 5c(c)(5)(C)(i); 5c(c)(5)(C)(i)(I)–(VI).
[55] This would be part of the new Appendix to Part 38, as discussed above at Section II.a.
[56] *See KalshiEX, LLC v. Flaherty*, No. 25-1922, Dkt. 105 (3d Cir. Apr. 6, 2026).
[57] *See* Ken Sweet, *Well-timed bets on Polymarket tied to the Iran war draw calls for investigations from lawmakers*, AP NEWS (Apr. 9, 2026), https://apnews.com/article/polymarket-kalshi-trump-iran-prediction-congress-d16d7bdf9a56cc1466b44baaf634aeeb.

iii. Gaming

If traded on a DCM or SEF, state attempts to regulate gaming contracts are federally preempted.[58] Considering the variety in sports-related event contracts, the CFTC should maintain an active dialogue with industry groups and professional sports leagues for further input on which factors to treat as relevant when making the public interest determination.

iv. Similar activities contrary to the public interest

The Commission should use a reasonableness test to address whether a contract is similar to one in an enumerated category; i.e., by asking what a reasonable person would recognize as a similar contract.

i. *Response to Question 9: Economic Purpose Test*

The economic purpose test was a holdover from the pre-CEA litigation involving state challenges to DCM-listed futures contracts.[59] By 2000, with the passage of the CFMA, federal preemption over futures trading was well established, eliminating the test's utility. Before Congress repealed the test in the CFMA, the CFTC required that a DCM evaluate before listing a contract whether the contract "reasonably can be expected to be, or has been, used for hedging and/or pricing based on more than an occasional basis."[60] In other words, the contract must have been intended to serve a real economic purpose—not just as a vehicle for pure wagering.

Given the event contracts' novelty, the CFTC may consider a variant of such a test—for example, whether there are instances wherein a given event contract has served, or potentially could serve, an economic purpose. Contracts with some counterparties who trade for an articulated purpose would pass the test, even if others would trade purely speculatively (providing liquidity to the market as they do so). For example, a municipality has a clear commercial interest in having its home team win a game but a fan of the home team has no such interest in the outcome. Consider also event contracts on political events. While some industries would benefit economically from a certain candidate's victory, many participants are merely speculators. But the settlement of such a contract is a valuable data point for the media—so, even third parties reap an economic benefit by trading such a contract. And contracts involving terrorism, assassination, and war, too, serve an economic purpose—*e.g.*, for a defense contractor, a weapons manufacturing facility, or a security agency. On the other hand, the CFTC should also recognize that any of these examples could quickly become inappropriate in the event a contract's economic purpose makes misappropriation of material nonpublic information more likely.

j. *Response to Questions 10 & 11: Event Contracts and the CEA's Purposes under CEA Sections 3(a) and (b)*

In the ANPR, the CFTC asks how event contracts fulfill the CEA's overarching goals.[61] Event contracts traded on DCMs and SEFs facilitate hedging, price discovery, and the dissemination of new information about the probability of future events. Public interest considerations strongly favor ensuring these markets are widely available. For one, the explosive growth of these markets speaks for itself—the data these markets collect have significant potential, and they are meeting a clear demand.[62] Further, the CFTC can manage countervailing risks—including the potential for manipulation—by tailoring its existing principles-based regulations to account for the unique features of these markets.

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[58] *See KalshiEX, LLC*, No. 25-1922, Dkt. 105.
[59] *See Testimony of Chairman Alan Greenspan, S. 2697, the Commodity Futures Modernization Act of 2000*, FED. RSRV. (June 21, 2000), https://www.federalreserve.gov/boarddocs/testimony/2000/20000621.htm.
[60] *Event Contracts*, 89 FED. REG. 48968, 48978 (June 10, 2024).
[61] 91 FED. REG. at 12521.
[62] *See, e.g.*, *Creating prediction markets (and suing the CFTC) with Tarek Mansour and Luana Lopes Lara*, CHEEKY PINT (Mar. 17, 2026) (discussing value of prediction market data, including in parametric insurance).

III. Conclusion

Event contracts are simply new versions of contracts that have been federally regulated since 1922. Like other derivatives, they help manage price risks and disseminate valuable information used throughout the global economy. Keeping in mind the nuances of prediction market event contracts, the Commission should apply its flexible, principles-based approach to this new frontier of American finance.

Respectfully submitted,

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