Saint Regis Mohawk Tribe

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Onerahtókha | April 30, 2026

ELECTRONIC SUBMISSION

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

Re: Saint Regis Mohawk Tribe Comments on CFTC Advance Notice of Proposed Rulemaking on Prediction Markets

Tekwanonhwerá:tons | Greetings Secretary Kirkpatrick,

On behalf of the Saint Regis Mohawk Tribe ("SRMT" or the "Tribe"), we are writing in response to the Commodity Futures Trading Commission's Advance Notice of Proposed Rulemaking on prediction markets and event contracts. On March 26, 2026, the Commodity Futures Trading Commission ("CFTC") published an Advance Notice of Proposed Rulemaking ("ANPRM") seeking public comment on matters affecting potential CFTC regulations that would apply to event contract derivatives traded on prediction markets.

SRMT is a federally recognized Tribal government located on the Akwesasne Mohawk Territory in rural upstate New York with over 16,500 enrolled Tribal members, with approximately 7,000 Tribal members living on the Reservation. We rely on revenues from gaming conducted under the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2701 et seq., to support essential governmental services including healthcare, education, law enforcement and housing.

We are concerned that the proposed framework for prediction markets will allow wagering activity to be conducted within our territory, with implications for Tribal sovereignty, regulatory authority, and economic stability. If this framework is enacted, the CFTC would not be acting in the best of interests of Tribal nations, as this ANPRM does not appropriately address the rapid expansion of unregulated sports betting and trampling of Tribal and State sovereignty. These comments are therefore submitted on SRMT's behalf to convey our strong opposition to any revision of the CFTC's regulations that would purport to authorize the use of futures markets to facilitate wagering on the outcome of sporting events under the auspices of the Commodities Exchange Act ("CEA"), 7 U.S.C. § 1 et seq.

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A. The Nature of Prediction Markets

Prediction markets allow individuals to risk money on the outcome of uncertain future events, with payouts determined by whether a specified event occurs, forming the basis of "event contracts". These transactions

involve the essential elements of gambling: **Consideration**, the process by which you weigh your odds before betting, **Chance**, the uncertain nature of the outcome itself that the bet relies upon, and **Prize**, the payout you receive. Over the past year, we have watched with dismay at the failure of the CFTC to prohibit the exploitation of the CEA to facilitate interstate sports betting outside of a lawful State and/or Tribal regulatory framework.

The fact is that these "events contracts" are not financial instruments; they are interstate wagers and such wagers are unlawful under the CEA and its implementing regulations. They therefore constitute illegal gambling under federal, State, and Tribal law. As they are gambling under another name, and serve no other purpose then to facilitate gaming activity, there is no legitimate "hedging" or "price discovery" function inherant to their nature. These illegal markets demand a government response, but no such response has yet materialized.

Worse, instead of applying its own correct interpretation of the law as reflected in its existing regulations, the CFTC, in recent months, has become an active proponent of sports betting through prediction markets, filing legal briefs opposing the enforcement of Tribal and State gambling laws. Now, the CFTC has issued this ANPRM, which portends an effort to weaken the agency's existing regulations prohibiting registered entities from listing swaps that are related to "terrorism, assassination, war, gaming, or an activity that is unlawful under any State or Federal law."

B. The Commodity Futures Modernization Act, Dodd-Frank, and Congressional Intent

Congress has consistently reaffirmed that the role of the CFTC is to regulate markets that serve bona fide hedging and price-discovery functions that serve an inherent economic interest, not to authorize speculative gambling on the outcomes of events unrelated to economic commodities. To do so would be to disregard the important history of the relevent legislation. With the enactment of the Commodity Futures Modernization Act of 2000 ("CFMA"), derivatives markets were significantly deregulated with the goal of limiting regulation of over-the-counter swaps and energy derivatives. CFMA created a regulatory void that permitted the highly risky credit default swap market to flourish, which proved a key factor in the 2008 Financial Crisis. Congress stepped in to fill this void by enacting the Dodd-Frank Act of 2010, which significantly overhauled the CFTC. While Dodd-Frank did not directly restore a broad economic purpose test, it did empower the CFTC to use public interest standards, effectively bringing back aspects of the economic purpose test for new derivatives. Part of this included requiring evaluation for hedging/commercial uses versus pure gambling. This included a special rule for CFTC review and approval of event contracts and swaps. The special rule provides that the CFTC may determine that "agreements, contracts, or transactions are contrary to the public interest if [they] involve – **activity that is unlawful under any federal or state law; terrorism; assassination; war; gaming; or other similar activity** determined by the Commission by rule or regulation, **to be contrary to the public interest**." The CEA's "Special Rule" provides that the CFTC may determine

that contracts involving certain enumerated categories (which expressly include "gaming") are contrary to the public interest, and as a result are prohibited from being listed or traded. 1 7 U.S.C.§ 7a-2(c)(5)(C).

The CEA's legislative history clearly evidences that Congress did not intend its 2010 amendments to the CEA to encompass gambling activities on the futures market. Senator Lincoln, who drafted the amendments, stated on the floor that the provision ultimately enacted as Section 5(c)(5)(C) of the CEA was intended to 'prevent gambling through futures markets' and restrict 'event contract[s] around sporting events such as the Super Bowl.'" The Senator added that the intent of the 2010 Dodd-Frank amendments to the CEA was "to protect the public interest from gaming contracts." 156 Cong. Rec. S5906 (2010).

Congress clearly intended the CEA to prohibit any event contract involving gaming as contrary to the public interest. In fact, it is questionable whether a sporting event can reasonably meet the definition of "commodities" under the CEA. It is thus questionable whether such activity is within the scope of either the CEA or the CFTC's regulatory jurisdiction. See 7 U.S.C. § 2(a)(1)(A) *("The Commission shall have exclusive jurisdiction . . . with respect to accounts, agreements…, and transactions involving swaps or contracts of sale of a commodity for future delivery "); 7 U.S.C. § 1a(9)(defining the term "commodity" to mean certain tangible goods like wheat, cotton, or corn); Id. § 1a(19)(iv) (defining the term "excluded commodity" to mean, among other things, "an occurrence, extent of an occurrence, or contingency . . . that is . . . associated with financial, commercial, or economic consequences.").*

Sporting events simply are not "associated with financial, commercial, or economic consequences," and, therefore, so-called Sports Contracts are not within the bounds of activity governed by the CEA. **Betting on the outcome of sporting events is gambling and comes within the jurisdiction of State and Tribal governments** unless and until Congress declares otherwise through affirmatively enacted law. To date, it has not. In fact, the federal Wire Act, 18 U.S.C. § 1084, provides no one may "knowingly use a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers . . . on any sporting event or contest . . . ." Id. § 1084(a).

C. The Indian Gaming Regulatory Act and Tribal Expertise

Courts of appeals and the U.S. Department of Justice ("DOJ") interpret the Wire Act to prohibit interstate online sports betting. Particularly pertinent from our perspective, these so-called Sports Contracts also offend IGRA by facilitating wagering on the outcome of sports events, a Class III gaming activity. Class III gaming activities on Indian lands are only lawful where such activity is: (1) authorized by a Tribal ordinance or resolution; (2) located in a state where such gaming is permitted; and (3) conducted pursuant to a Tribal-State Gaming Compact. 25 U.S.C. § 2710(d)(1).

IGRA establishes the federal framework governing gaming on Indian lands and preserves Tribal authority. Gaming activity conducted on Indian lands falls within Tribal jurisdiction and is regulated through Tribal gaming authorities under IGRA and Tribal law, typically under Class III gaming activities. Class III gaming encompasses a broad array of gaming activities from slot machines to card and table games to wagering on racing and sports events.. A federal regulatory structure that permits substantially similar wagering activity outside this system raises concerns regarding the integrity of that framework and the authority Congress placed with Tribal governments.

In weighing and balancing the costs and benefits of gaming, the key consideration is the public interest and how best to protect it from the acknowledged harms and vulnerabilities associated with gambling. **Tribal governments, like state governments, have invested heavily in regulatory systems to monitor, audit, and enforce compliance with laws, regulations, and internal control systems as a means not only of safeguarding Tribal gaming revenues, but to prevent unlawful practices harmful to the public interest**, including safeguards designed to protect consumers. Licensing and background requirements are designed to prevent infiltration by criminal elements. These systems address gambling addition, problem gaming, the adjudication of patron complaints, and the prevention of cheating and money laundering. Such rules, regulations, processes, and procedures are designed to facilitate integrity in the conduct of gaming, mitigate potential threats and harms, and safeguard the public interest.

Sports betting on the futures market is vulnerable to all the harms commonly associated with gambling with virtually none of the protections provided under Tribal, federal, and State regulatory frameworks. The anonymity associated with trading on the predictions market alone makes it vulnerable to money laundering and corruption. Add to that the self-certification allowed to registered entities and the lack of a regulatory framework specific to gaming, and the potential for corrupt practices is obvious. Already there have been numerous scandals revealing the vulnerabilities of the predictions markets to abuse, corruption, and corrupt practices from insider trading to market manipulation to outright fraud.

D. Suggestions Regarding Commission Authority

Sports betting dressed up as investments on the prediction markets under the CEA is a fiction fabricated by commercial interests as an end run around responsible State and Tribal regulation of sports betting activities and a means to by-pass public policies restricting, regulating, or prohibiting sports betting. Sports Contracts directly violate the Commodity Exchange Act, and the plain language of the CFTC's implementing regulations because they involve gaming, violate state, tribal, and federal laws, and are contrary to the public interest.

To adopt a regulation that classifies sports betting as a derivative, event contract, swap or other financial instrument not only stretches the reach of the CFTC far beyond what Congress intended in the CEA, it would undermine federal Indian law and policy, encroach upon the legally protected rights and interests of American Indian and Alaska Native Tribal governments, and encroach upon the inherent sovereignty of Tribal governments. It would not only constitute an improper intrusion on the sovereignty of Tribal governments, but it would also intrude upon State sovereignty as well.

The Saint Regis Mohawk Tribe strongly urges the CFTC to affirm its current interpretation of the CEA and clarify that Sports Contracts are prohibited from being listed or made available for clearing or trading. Allowing Sports Contracts to be listed and traded interferes with the sovereign right of Tribal and state governments to exercise their police power to regulate gaming within their respective jurisdictions. This right is fundamental to the authority of State and Tribal governments to regulate or even prohibit activities deemed contrary by State and Tribal governments to the public interest. Furthermore, the CFTC must explicitly reject attempts to reclassify wagering products as financial instruments, affirm that CFTC regulation does not preempt IGRA, and ensure that that any regulatory framework does not create a mechanism for nationwide online wagering outside existing Tribal systems.

E. Conclusion

Niá:wen (thank you) for taking the time to seek feedback from the Saint Regis Mohawk Tribe regarding this important matter. Because prediction markets, as currently structured, are not innovative financial tools, but instead are poorly disguised gaming products repackaged to evade existing legal frameworks. Permitting their expansion undermines the IGRA, violates numerous State and Tribal laws and conflict with public policy protections. We urge the CFTC to maintain and enforce the CEA Special Rule and its regulations and affirm that Sports Contracts are prohibited from listing and trading on financial markets pursuant to the CEA. At the very least, we would request an extension of time to submit comments regarding Event Contract Derivatives Traded on Prediction Markets and conduct consultation with Tribal governments and Tribal gaming regulatory bodies. Under general principles of federal Indian policy, it is not appropriate for a federal agency to proceed with a rulemaking of potentially devasting impact on tribal economies without fair and meaningful consultation consistent with Executive Order 13107.

We hope the suggestions, answers, and concerns we shared above prove useful to you as you continue to manage the treaty obligations the federal government has with Tribes. Please contact the Office of Tribal Council if you have any questions regarding this correspondence.

Skén:nen | In Peace,

SAINT REGIS MOHAWK TRIBAL COUNCIL

Michael Conners	Donald Thompson, Jr.	Ross Garrow
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