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April 30, 2026

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

Via CFTC Comments Portal: https://comments.cftc.gov

Re: Prediction Markets, Advance Notice of Proposed Rulemaking; Request for Comments (RIN 3038-AF65)

Dear Mr. Kirkpatrick:

Nodal Exchange, LLC ("Nodal Exchange") and Nodal Clear, LLC ("Nodal Clear") (collectively, "Nodal") appreciate the opportunity to comment on the Advance Notice of Proposed Rulemaking ("ANPRM") issued by the Commodity Futures Trading Commission ("CFTC" or the "Commission") regarding prediction markets.[1] Nodal also appreciates the recent Division of Market Oversight Staff Advisory on Prediction Markets ("Staff Advisory on Prediction Markets"),[2] which provides additional context to the ANPRM. Nodal supports this comprehensive stakeholder outreach and the Commission's efforts to further understand issues related to event contracts and prediction markets as they impact exchanges, clearinghouses, retail market participants, and the public.

As background, Nodal Exchange is a designated contract market ("DCM") that is at the forefront of innovation in the electric power, natural gas, and environmental futures contract markets. Nodal Exchange's growth and success since becoming a DCM has been possible due to the flexibility and discretion afforded under the CFTC's principles-based regulatory system for DCMs. Nodal Clear is a wholly owned subsidiary of Nodal Exchange and, as a registered derivatives clearing organization ("DCO"), acts as its clearinghouse. Nodal Clear is also the clearinghouse for another DCM, Coinbase Derivatives, LLC. Nodal Clear is a "Subpart C" DCO, having elected to comply with the requirements applicable to DCOs that have been designated systemically important by the Financial Stability Oversight Council. Nodal Clear operates pursuant to a predominantly intermediated clearing model. Its clearing members primarily are futures commission merchants ("FCMs"), although, like other Subpart C DCOs, sophisticated proprietary trading firms or large corporations may clear on their own behalf. One of Nodal Clear's core values is smart innovation. From its groundbreaking margin model—which provides prudent, efficient portfolio risk assessment—to becoming the first, and currently only, DCO to offer 24/7 clearing for

[1] 91 FR 12516, Mar. 16, 2026.

[2] CFTC Staff Letter No. 26-08 (Mar. 12, 2026), available at https://www.cftc.gov/PressRoom/PressReleases/9193-26.

margined futures contracts, Nodal Clear seeks to lead thoughtful innovation in the derivatives markets.

Nodal Exchange and Nodal Clear are part of the EEX Group of companies owned by the European Energy Exchange AG.

I. General Comments

Nodal welcomes the Commission's effort to thoughtfully consider amending its regulations to address event contracts and prediction markets. The Commission's regulations should provide for fair, clear rules of the road, while allowing for innovation under a Core Principles framework. Nodal supports clarifying and ensuring market participant protections in prediction markets consistent with the Core Principles. Given the rapid growth of prediction markets in recent years, this is an opportune time for the Commission to engage in a comprehensive review of both event contracts and prediction markets to identify if there are vulnerabilities and regulatory gaps resulting from evolving contract designs and new market structures. Insight gained from this ANPRM as well as other related CFTC issuances, including, but not limited to, the Staff Advisory on Prediction Markets, should serve as an essential step when considering appropriate regulated market structure changes specific to prediction markets and event contracts.

As Nodal addresses in its comments below, the CFTC should provide a clearer understanding of its regulatory focus within the existing prediction market landscape. This will allow stakeholders to offer thoughtful comments that aid the conversation on complex issues, such as prediction market trader protections; market abuse; adherence to DCM and DCO Core Principles; and the public interests underlying the Commission's regulations. In particular, any subsequent proposed rules should clarify terminology related to prediction markets, whether certain event contract types are considered differently under the CEA and/or Commission regulations, or if certain event contract types create greater concern to the Commission regarding the protection of derivative markets and/or the public than others. The ANPRM's definition of a "prediction market"—as simply any DCM or swap execution facility ("SEF") that lists an event contract—broadly covers markets that may list several distinct event contract types and market structures with disparate regulatory considerations. This includes: (i) swaps or futures; (ii) fully collateralized or leveraged/margined; (iii) traded by retail or institutional market participants; (iv) disintermediated or intermediated; and (v) some combination of the above characteristics. The Commission should identify the issues related to each characteristic with precision and tailor any new regulations or guidance to each concern.

Additionally, *prior* to issuing any proposed rules, the Commission should continue to enhance its understanding of these complex issues through focused, public input, such as roundtables that include CFTC leadership, broad derivative industry representation, and a diverse variety of stakeholders, to better address all of the challenges arising from prediction markets and event contracts, including the potential impact of such rules on the broader derivatives industry.

II. Specific Comments

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A. Clarifying Prediction Market and Related Terminology

The Commission should propose regulations or guidance that details operative terms relating to prediction markets, including, but not limited to, the terms "prediction markets," "event contracts," and "retail." Clear definitions are the cornerstone of effective, equitable, and appropriately tailored regulation, which allows for the clarity within the industry that DCMs and DCOs need to operate and clear markets within their Core Principles framework.

As noted above, the ANPRM definition of "prediction market" (a DCM (or SEF) that lists any type of event contract for trading) would greatly benefit from better clarity to ensure the entire derivatives industry can provide more detailed and helpful feedback in any subsequent proposed rule or guidance.[3] The "prediction market" definition also raises additional questions, including, but not limited to: (i) whether it is appropriate for a DCM that lists a single event contract to be subject to any additional scrutiny as a "prediction market," even if it predominantly lists traditional (*e.g.,* non-event contract) futures, options on futures, and/or swaps; (ii) whether the structure or type of event contract (future vs. swap) is relevant to the prediction market definition; and (iii) to what extent the composition of the DCM's participants, including whether they primarily are direct retail participants, is relevant to consider if additional regulatory scrutiny as a "prediction market" is appropriate. Relatedly, the Commission should carefully consider whether a DCM that exclusively or predominantly lists event contracts should be treated the same as a traditional DCM that exclusively or predominantly lists non-event contract intermediated futures, options on futures, and/or swaps.

As discussed in more detail below, the Commission should also define "event contract." The description of "event contract" in the ANPRM is a good starting point: "the CFTC has used [the term event contract] to describe derivative contracts, typically with a binary payoff structure, based on the outcome of an underlying occurrence or event."[4] It is important to clarify the types of products that may be covered by any new regulations designed to specifically address event contracts or prediction markets. In particular, the ANPRM notes that event contracts can also be listed for trading as futures contracts, but the Commission should elaborate on the difference between event contracts that are considered futures and event contracts that are considered swaps, given the importance of the distinction for regulatory purposes.[5]

Further, the Commission should consider defining the term "retail." This would allow the Commission to properly tailor regulations for the targeted protection of less sophisticated participants in prediction markets. The term "retail" is sometimes informally defined in opposition to an "eligible contract participant" ("ECP") – *i.e.*, as a natural person trading for him or herself that does not meet the financial resource requirements for ECPs.[6] The Commission should carefully consider the regulatory purpose of the "retail" definition as applied to the CEA

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[3] 91 FR at 12517.

[4] *Id*.

[5] *Id.*

[6] 7 U.S.C. 1a(18)(A)(xi).

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and its Regulations, and, if appropriate, in the specific context of prediction markets, before determining that it should be defined simply as "not an ECP."

B. Event Contracts—Futures Versus Swaps

The recent focus on event contracts and prediction markets has been mostly directed at binary option swaps that generally incorporate a "yes – no" settlement mechanism and an "all or nothing" payout structure contingent on the outcome of an event. Such contracts are defined as "swaps" under the CEA and Commission regulations because they are "dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence."[7] As noted in the ANPRM, CEA section 1a(47)(B), provides that "[t]he term 'swap' does not include— (i) any contract of sale of a commodity for future delivery (or option on such contract)."[8]

The ANPR and Staff Advisory on Prediction Markets, however, both state that event contracts can be futures or swaps (binary options), as well as security-based swaps or other instruments subject to SEC jurisdiction.[9] As examples of "Event Futures Contracts," the ANPRM cites to a list of self-certified contracts in the Commission's public database.[10] These "Event Futures Contracts" include certain long-standing (first introduced in 1999) cash-settled, margined, index-based non-financial contracts (*e.g.*, settled to a weather index).

Additionally, the ANPRM also states that *all* event contracts are fully collateralized which likely refers to the newer DCMs offering event contracts that are binary options (*i.e.,* swaps).[11] However, most of the "event futures contracts" referenced in the ANPRM are margined products.

The Commission should clarify the specific characteristics of "Event Futures Contracts" to provide regulatory certainty to the industry. Most of the contracts cited as "Event Futures Contracts" are index-based and are traded on a leveraged or margined basis at DCMs that operate on a predominantly intermediated model, rather than being based on an event. They have characteristics that distinguish them from binary option event contracts (considered swaps), and specifically from the fully collateralized retail binary options that the ANPRM references to characterize prediction markets.[12] These attributes include being based upon an independent index, being based upon an aggregate series of events or occurrences, and where the settlement is the value of the index (in contrast to the "yes – no" functionality of binary options). It would be

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[7] 7 U.S.C. 1a(47)(A)(ii).

[8] 91 FR at 12517 n. 15.

[9] *Id.* at 12517 n.14 and accompanying text, 12523 (Qs. 33 and 34); Staff Advisory on Prediction Markets at 2 n.4.

[10] 91 FR at 12517 n.14.

[11] *Id.* at 12519 (Q. 2(f)) and 12520 (Q. 3(c)).

[12] DCMs that focus on retail event contracts as significant part of their business model overwhelming list their products as swaps and the Commission has consistently granted them no-action relief from swap data reporting requirements. *See, e.g.,* CFTC No Action Letters 26-10 (Jan. 8, 2025); 25-48 (Dec. 11, 2025); 25-47 (Dec. 11, 2025); 25-46 (Dec. 11, 2025); 25-44 (Dec. 11, 2025); 25-24 (Dec. 10, 2025); 25-35 (Sept. 30, 2025); 25-28 (Sept. 2, 2025); 25-26 (Aug. 7, 2025); 25-23 (Jul. 22, 2025); 25-20 (Jan. 31, 2025).

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beneficial to the industry, and Nodal would appreciate, the Commission's elaboration of the statutory, regulatory, and functional analysis to allow regulated entities to understand the difference between an "Event Futures Contract" and a swap event contract. The distinction between futures and swaps entails key commercial and regulatory implications which Commission-regulated entities need to fully understand to operate and innovate within their business models.

C. Consistent Regulatory Approach in Prediction Markets

The Commission should carefully consider how it may further ensure that retail participants in prediction markets receive customer protections comparable to those required in existing DCM and DCO intermediated markets. It appears that the ANPRM focuses its questions on newer prediction markets for retail, fully collateralized trading and clearing.[13] These prediction market exchanges are generally also fully or partially self-clearing. The Commission's review of these newer prediction markets may likely reveal that the absence of regulated intermediaries including futures commission merchants ("FCMs") for trading and clearing creates a regulatory gap with respect to appropriate customer protections such registrants are traditionally required to address. If the Commission were to propose new regulations or guidance to ensure that retail market participants are afforded comparable protections, the Commission should consistently apply the existing core principles and customer protection framework required for traditional DCM and DCO intermediated markets to newer prediction markets.[14]

For example, the Commission may find that without a registrant (*e.g.*, an FCM) interposed between the retail trader and the derivatives market, it is unclear where the responsibility lies to ensure that retail prediction market participants are protected from abusive sales and marketing practices.[15] To the extent these protections must be addressed, it is appropriate to include a clear rationale for doing so in a notice and comment rulemaking process. However, DCMs and DCOs employing predominantly traditional, intermediated trading and clearing models should be allowed to leverage their existing infrastructure and relationships with their membership, within the existing core principles framework, to ensure that both institutional and retail traders may avail themselves of appropriate customer protections across all asset classes.

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[13] ANPRM Question 1 asks for general priorities; Question 2.f addresses disclosures and other protections for retail participants in potentially margined event contract trading, stating that event contracts are fully collateralized; Question 3 addresses clearing; Question 4 contrasts retail trading behavior from ECP/institutional trading behavior; and Question 11 asks how the Commission can fulfill the CEA purpose of protecting market participants in the context of prediction markets. Although the ANPRM does not reference Core Principle 12, which requires that DCMs "protect market participants from abusive practices committed by any party," this could be the source of the requirement for DCMs to undertake additional protection of retail market participants (*i.e.*, rules against abusive marketing practices if the DCM performs the marketing role in the absence of FCMs). *See* 17 CFR 38.650-651.

[14] Section 17(p)(3) of the Commodity Exchange Act (7 USC 21(p)(3)) requires that the rules of a registered futures association such as the National Futures Association (which registers and oversees intermediaries in the traditional model) establish minimum standards on sales practices. NFA sets these rules out in its Rulebook.

[15] *See, e.g.,* NFA Compliance Rules 2-2 (deceit and fraud), 2-4 (just and equitable principles), 2-29 (advertising practices) and 2-30 (risk disclosures).

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D. DCM Core Principles, Contract Terms and Conditions for Prediction Markets

All DCM Core Principles, including those that address preventing and detecting risks such as abusive trade practices, manipulation, price distortion, and insider information, should be applicable to prediction markets and all event contracts through rules and rule enforcement, surveillance, monitoring, and system safeguards. While event contracts may present unique challenges in these respects, the current DCM Core Principles already provide a robust and effective framework for the detection and prevention of market abuses at traditional DCMs. The Commission should ensure that any specific surveillance, additional monitoring, or other requirements that may be appropriate for prediction markets are precisely tailored to the specific risks that may be associated with prediction markets and, as appropriate, the protection of retail customers. The Commission should consult with all industry stakeholders through roundtables and other inclusive public fora to further understand whether new surveillance, monitoring, or system safeguards requirements are needed for the specific new risks inherent to retail prediction markets. It would be appropriate for the Commission to consider these issues in consultation with the Market Risk Advisory Committee, whose charter includes the monitoring of systemic risk and the implication of changing market structures.[16] The challenges of prediction markets fit squarely within the remit of the Market Risk Advisory Committee and the most recent committee members represent an excellent cross section of experts within the derivatives industry.

The Commission should also consider distinguishing between highly manipulable contracts and contracts that are less inherently manipulable. As recognized in the Staff Advisory on Prediction Markets, binary option event contracts that settle to outcomes dependent on individual or small-group performance may create a "heightened potential for manipulation or price distortion."[17] Additionally, where appropriate, the Commission should consider issuing additional regulations and guidance specific to prediction markets to timely and effectively inform registrants of their obligations with respect to contract terms and conditions and self-certification submissions. To the extent that the Commission develops (or has already developed) a consistent and thoughtful viewpoint on certain aspects of event contract terms and conditions and self-certification submissions, it should consider whether written guidance would assist registrants and market participants to properly design event contracts by providing additional clarity.

The ANPRM and Staff Advisory on Prediction Markets address the potential risks of inside information in prediction markets and the need to protect settlement integrity through the terms and conditions of contracts.[18] Nodal agrees that the Commission should address the risks of insider information present in the prediction markets and the need for accurate settlement.

The Commission should take a thoughtful and measured approach on if, or how, DCMs may share information and decision making with other entities. Any considerations regarding sharing

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[16] *See* Market Risk Advisory Committee Charter at https://www.cftc.gov/media/10531/mrac_charter041624/download.

[17] Staff Advisory on Prediction Markets at 4-5.

[18] Staff Advisory on Prediction Markets at 5-6.

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certain tailored information where appropriate, must also be tempered with the consideration that the DCM is the Self Regulatory Organization for its own market participants and must retain decision-making authority and the right to enforce its own rules.

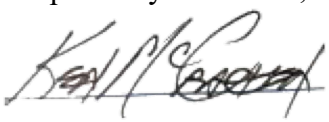
E. Public Interest Considerations

Nodal appreciates the Commission's attention to addressing the standards and procedures for deeming a contract "contrary to the public interest" and whether to prohibit it. Nodal is supportive of a robust, fair, and transparent set of standards and procedures for such action, including but not limited to, the Commission providing better clarity and scope to phrases and terms listed in CEA section 5c(c)(5)(C)(i)(I)-(VI) to provide clearer rules of the road for the industry.

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Nodal appreciates the opportunity to comment on the ANPRM. If you have any questions regarding these comments, please do not hesitate to contact the undersigned.

Respectfully submitted,



Ken McCracken
Nodal General Counsel

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