April 30, 2026

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

Re: Public Comment on Prediction Markets ANPRM, RIN 3038–AF65, 91 Fed. Reg. 12,516 (Mar. 14, 2026)

Dear Secretary Kirkpatrick:

I respectfully submit this comment in response to the Commission's Advance Notice of Proposed Rulemaking on Prediction Markets, 91 Fed. Reg. 12,516 (March 14, 2026). This comment responds specifically to Questions 2(c), 2(d), 2(e), 2(f), 3, 4, 7, 8, 19(c), 19(e), 29, 30, 31, 32, and 33 of the ANPRM and offers a structural regulatory framework for the Commission's consideration.

The attached paper advances five principal arguments.

First (Questions 29, 31, 32, 33): The primary regulatory concern for outcome-realization contracts is not insider trading but manipulation, event influence, and benchmark corruption. Prediction markets are realization markets: a binary event contract settles to $1.00 or $0.00 depending on whether the underlying event occurs, and the decisive economic moment is settlement, not pre-resolution price movement. Securities insider-trading law enforces a mandatory disclosure regime built around relational duties to shareholders and information sources, an architecture that commodity markets have never had and were never designed to have. No person or entity has a general duty to disclose information about real-world occurrences, and the government, for example, has no issuer relationship to a prediction market contract. The correct commodity-law baseline, consistent with CEA § 6(c)(1)'s express proviso against mandatory disclosure and with CFTC Director of Enforcement David Miller's March 31, 2026 remarks at NYU Law School, is that a trader is "absolutely entitled to trade on material nonpublic information" that the trader "rightfully own[s]," so long as the trader is "not breaching a duty to the source of the information." Liability attaches upon misappropriation through breach of duty, fraud, or deception, not upon trading while informed. The rulemaking should build from this commodity-law foundation rather than importing securities insider-trading doctrine. The paper grounds this argument in the doctrinal structure of *Chiarella*, *Dirks*, and *O'Hagan*, and explains why the harms those cases address (distortion of disclosure-based price formation, adverse selection within a mandatory disclosure regime) presuppose an architectural premise absent from commodity markets.

Second (Questions 3, 4, 7, 8): Core public interest functions of price discovery and hedging under CEA § 3(a) are affirmatively served by informed trading in prediction markets. The hedger benefits under either price regime: cheap insurance when the market underprices a tail risk, and accurate probability information when informed traders have driven prices toward accuracy. The

relationship between price discovery and hedging is complementary even when they do not maximize value for the same participant at the same instant. Rulemaking that broadly suppresses informed trading would degrade not only the informational function of these markets but potentially their risk-transfer function as well. The paper develops this through the Maduro-removal contracts, where contracts reportedly traded at approximately seven cents despite visible public catalysts suggesting elevated political risk, demonstrating how a commercial actor with genuine exposure to a Venezuelan political transition could, in principle, have purchased a direct hedge against that specific event at a very low premium. The paper further explains why critiques of binary contracts as imperfect hedges because they do not continuously track the magnitude of a real-world loss overlook that hedging does not always require continuous payout proportionality; for event-driven risks, a discrete payout upon realization may be more useful than a broad but noisy proxy.

Third (Questions 2(c), 29, 30): The foundational status-based prohibition should be grounded in manipulation risk, specifically the actor's functional capacity to determine or substantially influence the outcome, not in information possession. If you have material authority to affect the outcome of a contract's underlying event, you should not trade on that contract. This encompasses officials whose decisions determine electoral, military, or policy outcomes; players, coaches, referees, and officials in sporting events; voting panel members for award contracts; and any person whose conduct is determinative or materially influential over resolution. The prohibition targets the position, not the information: a singer who holds a long position on her own album achieving a sales milestone has incentives aligned with her professional obligations, but a short position on album sales creates a financial incentive contrary to expected conduct. The wrong is not that the singer knows more about her album's prospects than the market; it is that she has the material ability to affect whether the album succeeds and a financial position that rewards her for not trying. The recent Kalshi disciplinary actions against three political candidates (Mark Moran, Matt Klein, and Ezekiel Enriquez) who traded on their own elections illustrate both the necessity of this prohibition and the importance of grounding it in the correct legal framework. Kalshi's own characterization is telling: "political candidates who can influence a market based on whether they stay in or out of a race." That is a manipulation-risk rationale, not an MNPI rationale.

Fourth (Questions 2(d), 31, 32, 33): The concern about MNPI in prediction markets is fundamentally a platform regulation problem, not a doctrinal gap. On a CFTC-registered DCM with mandatory KYC and surveillance obligations under Core Principles 4, 10, and 18, the existing legal instruments are adequate to reach every category of bad actor the literature has identified. A government employee or agent who trades on nonpublic government information is covered by CEA § 4c(a)(3), and theft, conversion, or misappropriation of nonpublic government information is covered by CEA § 4c(a)(4)(C). The corporate employee who misappropriates employer information is covered by Rule 180.1. The coordinated leak-and-trade scheme may be covered by wire fraud. No new doctrine is required. What is required is platform infrastructure that makes the trader's identity knowable at account opening. The paper demonstrates this through four case studies. The Paris weather contracts illustrate outcome manipulation: suspected tampering with meteorological data used for settlement at the Charles de Gaulle Airport weather station, a classic manipulation case under Rule 180.2. The Van Dyke matter presents both manipulation risk (a soldier with material authority over the military operation on which contracts resolved) and a clear breach-of-duty theory (trading on classified information in violation of nondisclosure agreements).

The Nobel Peace Prize episode appears to involve fraud-based misappropriation through digital espionage rather than classic insider trading. And the "Magamyman" case illustrates where enforcement fails entirely: $553,000 in proceeds remain unclaimed on the Polygon blockchain, and the trader has escaped identification by abandoning the proceeds. Every enforcement instrument (the Eddie Murphy Rule, Rule 180.1, wire fraud, commodities fraud) proved sufficient in Van Dyke's case once the identity was known. The legal tools work. The question is how much institutional effort is required to use them. Mandatory platform registration for all operators serving U.S. persons is the foundational requirement.

Fifth (Questions 2(e), 2(f), 19(c), 19(e), 30): The paper proposes lifecycle-aware position limits calibrated to contract maturity, liquidity, and proximity to resolution. Far from expiration, the market's own illiquidity is the natural deterrent. Near expiration, when informed-flow leverage is highest and market makers have stepped back, position limits serve their most important function: preventing any single actor from building a position large enough to extract maximum value from private knowledge at the expense of retail counterparties. The specific calibration should be developed through collaboration between CFTC and DCMs based on observed trading patterns across contract types. CFTC should not permit margin trading for retail participants in prediction markets. The binary nature of outcome-realization contracts creates gap risk fundamentally more severe than in equity markets: a news headline can cause the contract price to skip the entire order book because the mechanism is a sudden reassessment of probability by all participants simultaneously. Margin is incompatible with the realization-game thesis: a margin call forces exit on epistemic noise at the worst possible time. Market makers, by contrast, should be permitted margin access because market making in prediction markets is capital-intensive, particularly at the price extremes, and market makers manage directional exposure actively and professionally. Separately, the paper identifies the reverse manipulation risk, the use of prediction market prices to influence rather than reflect the underlying event, as most acute in contracts of medium liquidity and visibility, where a single coordinated actor can materially move the price with manageable capital and where prices carry sufficient epistemic authority to influence political actors and media. High-volume contracts are protected by capital requirements and informed participant depth; thin-volume contracts lack epistemic authority. The danger zone is the middle. Finally, the paper argues that retail participation should be conditioned on honest disclosure of the product's distinctive risk profile, and that responsible-gaming standards including self-exclusion programs, monetary limits, and risk warnings merit consideration as the Commission develops its framework.

All factual claims in the attached paper are sourced to verifiable primary authorities. The paper is submitted for inclusion in the administrative record in full.

Respectfully submitted,

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REALIZATION, NOT INFORMATION:

A STRUCTURAL FRAMEWORK FOR REGULATING MANIPULATION AND

INFORMED TRADING IN OUTCOME-REALIZATION

PREDICTION MARKET CONTRACTS

Andy Wong

ABSTRACT

The rapid growth of prediction markets has prompted calls to import securities insider-trading doctrine into commodity-derivatives regulation. This Article argues that approach is structurally misguided. Prediction markets are realization markets, not information markets: the decisive economic moment is settlement—whether the underlying event occurs—not pre-resolution price movement. Securities insider-trading law enforces a mandatory disclosure regime built around relational duties to shareholders and information sources, an architecture that commodity markets have never had and were never designed to have. The correct regulatory baseline is commodity-native: manipulation, event influence, and benchmark corruption first; duty-based misappropriation second; and no generalized prohibition on trading while informed. Drawing on four case studies from the recent empirical record—the Paris weather contracts (outcome manipulation), the Van Dyke matter (status-based prohibition grounded in manipulation risk), the Nobel Peace Prize episode (fraud-based misappropriation through digital espionage), and the "Magamyman" Iran-related trades (informed trading of uncertain provenance)—this Article develops a regulatory framework organized around the contract's structure rather than imported securities concepts. Specific recommendations include a material-authority prohibition targeting actors with the capacity to affect the outcome, mandatory platform registration with pre-trade KYC as the foundational enforcement mechanism, lifecycle-aware position limits calibrated to contract maturity and liquidity, a prohibition on retail margin in binary event contracts, honest disclosure of the product's distinctive risk profile, and heightened scrutiny of medium-liquidity contracts for reverse manipulation risk.

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I. INTRODUCTION

The rapid proliferation of prediction markets has generated an equally rapid proliferation of legal scholarship urging the importation of securities insider-trading doctrine into commodity-derivatives regulation. The instinct is understandable. The empirical record of trading misconduct on prediction markets is real and, because of public blockchain data, often documented with unusual precision.[1] Mitts and Ofir identify at least $143 million in aggregate anomalous profits on Polymarket International since February 2024.[2] The episodes are vivid: a U.S. soldier allegedly traded Maduro-related event contracts while participating in the military operation on which they resolved[3]; six newly created wallets reportedly netted $1.2 million from trades placed hours before the U.S. strike on Iran[4]; and a Paris temperature contract appears to have been affected by suspected tampering with the meteorological data used for settlement.[5] But these episodes do not point to a single problem, and they do not justify treating all prediction-market misconduct as insider trading.

This Article's central claim is that prediction markets are best understood not merely as information markets, but as realization markets. A binary event contract settles to $1 or $0

[1] Joshua Mitts & Moran Ofir, *From Iran to Taylor Swift: Informed Trading in Prediction Markets* 60, 77 (Mar. 16, 2026) (unpublished manuscript), https://ssrn.com/abstract=6426778 [hereinafter Mitts & Ofir].
[2] *Id.* at 5.
[3] Press Release No. 26-397, U.S. Dep't of Justice, U.S. Soldier Charged with Using Classified Information to Profit from Prediction Market Bets (Apr. 23, 2026), https://www.justice.gov/opa/pr/us-soldier-charged-using-classified-information-profit-prediction-market-bets [hereinafter DOJ Van Dyke Press Release].
[4] *Suspected Insiders Make Over $1.2 Million on Polymarket Ahead of U.S. Strike on Iran*, CoinDesk (Feb. 28, 2026), https://www.coindesk.com/markets/2026/02/28/suspected-insiders-make-over-usd1-2-million-on-polymarket-ahead-of-u-s-strike-on-iran [hereinafter CoinDesk, *Iran Strike*].
[5] *France Probes Weather Data Tampering After Surge in Polymarket Bets*, Bloomberg (Apr. 23, 2026), https://www.bloomberg.com/news/articles/2026-04-23/france-probes-weather-data-glitch-after-surge-in-polymarket-bets [hereinafter Bloomberg, *Weather Tampering*].

depending on whether the underlying event occurs.[6] Its pre-resolution price may matter greatly for liquidity, mark-to-market valuation, and information transmission, but it remains a probabilistic estimate of a future binary outcome. The decisive economic moment is settlement. That structural feature distinguishes prediction markets from securities markets in a way the existing literature has not adequately appreciated. In a prediction market, the ultimate question is not simply what the crowd currently believes, but what the world ultimately does.

Once prediction markets are understood as realization markets, the ordering of regulatory concern changes. The central integrity risk is not informational asymmetry in the abstract. It is interference with the event, benchmark, or resolution process that determines the contract's actual value. A trader who can influence, accelerate, delay, corrupt, or otherwise affect the occurrence on which the contract resolves poses a more fundamental threat than a trader who merely knows more than the market. Duty-based misuse of material nonpublic information ("MNPI") remains actionable where a genuine duty to the source exists, and fraud-based acquisition of confidential information remains wrongful even without classic insider status.[7] But generalized trading on superior information, standing alone, is not the core problem prediction-market regulation must solve.

That conclusion also explains why wholesale importation of securities insider-trading doctrine is misguided. Securities insider-trading law is relational. Under the classical theory developed in *Chiarella* and *Dirks*, liability turns on a duty running to shareholders.[8] Under the

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[6] *See* Commodity Futures Trading Comm'n, Understanding Prediction Markets and Event Contracts, https://www.cftc.gov/LearnandProtect/PredictionMarkets.

[7] Press Release No. 9185-26, Commodity Futures Trading Comm'n, CFTC Enforcement Division Issues Prediction Markets Advisory (Feb. 25, 2026), https://www.cftc.gov/PressRoom/PressReleases/9185-26 [hereinafter CFTC Prediction Markets Advisory].

[8] *See Chiarella v. United States*, 445 U.S. 222, 228–35 (1980); *Dirks v. SEC*, 463 U.S. 646, 653–64 (1983).

misappropriation theory recognized in *O'Hagan*, liability turns on a duty of trust and confidence owed to the source of the information.[9] In each formulation, the wrong is not superior information as such, but informational advantage acquired or used through betrayal. Commodity markets are different. Commodities are tradable things, occurrences and contingencies.[10] In prediction markets, the wrong is not nondisclosure, but interference: manipulation of the event, corruption of the benchmark, or misuse of information through breach of duty, fraud, or deception.[11]

Therefore, the commodity-law baseline is narrower and more precise than the securities-law framework many commentators seek to import. Trading on lawfully obtained information, without manipulation, deception, or breach of duty, is not itself the central legal problem. Nor does the Commodity Exchange Act impose any general duty of market-wide disclosure. To the contrary, CEA § 6(c)(1) provides that no Commission rule shall require a person to disclose nonpublic information that may be material to market price.[12] As the CFTC's Director of Enforcement stated in March 2026, a trader is "absolutely entitled to trade on material nonpublic information" that the trader "rightfully own[s]," so long as the trader is "not breaching a duty to the source of the information."[13] The proper framework for prediction markets is therefore commodity-native: manipulation, event influence, benchmark integrity, platform surveillance, and retail protection first; duty-based misappropriation second; and no generalized prohibition on trading merely while informed.

[9] *See United States v. O'Hagan*, 521 U.S. 642, 652–66 (1997).
[10] Commodity Exchange Act (CEA) § 1a(9), 7 U.S.C. § 1a(9).
[11] CFTC Prediction Markets Advisory, *supra* note 7.
[12] CEA § 6(c)(1), 7 U.S.C. § 9(1); 17 C.F.R. § 180.1(b) (2025).
[13] David I. Miller, Dir. of Enf't, Commodity Futures Trading Comm'n, Remarks at NYU Law School—CFTC Enforcement Priorities, Insider Trading in the Prediction Markets, and Cooperation with the CFTC (Mar. 31, 2026), https://www.cftc.gov/PressRoom/SpeechesTestimony/opamiller1 [hereinafter Miller Remarks].

This does not mean prediction markets require less regulation. It means they require different regulation. The cases examined in Part III illustrate the point. The Paris weather episode is best understood as outcome manipulation.[14] The Van Dyke matter presents both manipulation risk and a clear breach-of-duty theory.[15] The Nobel Peace Prize episode appears to involve fraud-based misappropriation through digital espionage rather than classic insider trading.[16] And the "Magamyman" trades illustrate the harder case of suspicious but still inferential informational trading.[17] Taken together, these examples show why prediction-market misconduct should not be forced into a single securities-law mold.

This Article proceeds as follows. Part II develops the legal and epistemological foundation: the commodity-law baseline, the realization-market distinction, the case for price discovery and hedging as core functions, and the taxonomy of contract types. Part III examines the empirical record through a series of case studies. Part IV critiques the existing literature. Part V articulates regulatory directions, including the material-authority prohibition, platform regulation and enforcement, lifecycle-aware position limits, and the case against retail margin. Part VI addresses reverse manipulation risk. Part VII addresses the product's distinctive retail risk profile and the need for honest disclosure. Part VIII concludes.

[14] Bloomberg, *Weather Tampering*, *supra* note 5.
[15] DOJ Van Dyke Press Release, *supra* note 3.
[16] Heidi Taksdal Skjeseth, Ott Ummelas & Emily Nicolle, *Unusual Polymarket Bets on Peace Prize Winner Spur Probe*, Bloomberg (Oct. 10, 2025, 12:07 PM EDT), https://www.bloomberg.com/news/articles/2025-10-10/unusual-bets-on-nobel-peace-prize-winner-prompt-probe-into-leaks [hereinafter Bloomberg, *Nobel Peace Prize Bets*].
[17] *Christopher Beam, A Darkly Modern Guide to Betting on War*, Bloomberg Businessweek (Mar. 3, 2026, 12:45 PM EST), https://www.bloomberg.com/news/articles/2026-03-03/iran-war-tests-insider-trading-death-wagers-on-kalshi-and-polymarket [hereinafter Bloomberg, *Magamyman Trades*].

II. THE EPISTEMOLOGICAL FOUNDATION: REALIZATION GAMES, COMMODITY LAW, AND PRICE DISCOVERY & HEDGING AS CORE FUNCTIONS

A. Commodities as Things, Securities as Relationships: The Correct Legal Baseline

The federal prohibition on insider trading in securities law rests on a specific legal foundation: breach of a relational duty. Under the classical theory developed in *Chiarella v. United States* and *Dirks v. SEC*, liability turns on a duty running to shareholders or other market participants to whom disclosure is owed.[18] In *Chiarella*, the Court held that silence is not fraudulent absent a duty to disclose arising from a relationship of trust and confidence. In *Dirks*, the Court held that tippee liability depends on a breach by the insider-tipper, and that such a breach requires, among other things, a personal benefit to the tipper. Under the misappropriation theory recognized in *United States v. O'Hagan*, liability instead turns on a duty of trust and confidence owed to the source of the information.[19] In each formulation, the wrong is not superior information as such, but informational advantage acquired or used through betrayal.

That doctrinal structure reflects a deeper substantive distinction. A share of stock is not merely a tradable instrument; it is an ownership interest in a legal entity, embedded in a framework of governance rights, fiduciary obligations, and disclosure duties.[20] By contrast, an occurrence, whether an election result, a military operation, or a policy decision, is a real-world contingency that exists independently of any fiduciary relationship among market participants.[21] The question whether trading on superior knowledge about an occurrence is wrongful is therefore categorically different from the question whether trading on superior knowledge about a company's earnings is

[18] *See Chiarella v. United States*, 445 U.S. 222, 228–35 (1980); *Dirks v. SEC*, 463 U.S. 646, 653–64 (1983).
[19] *See United States v. O'Hagan*, 521 U.S. 642, 652–66 (1997).
[20] *See* Securities Exchange Act of 1934 § 13(a), 15 U.S.C. § 78m(a).
[21] *See* 7 U.S.C. §§ 1a(47)(A)(ii), 7a-2(c)(5)(C)(i).

wrongful. The latter arises within a disclosure regime structured around relationships and duties. The former does not. One cannot betray an occurrence in the way one can betray shareholders or an information source. One can, however, manipulate, corrupt, or wrongfully influence it.

This is not a regulatory gap to be cured by importing securities doctrine wholesale. It is the correct legal architecture for commodity markets. Director Miller's March 31, 2026 remarks articulate the commodity law baseline with precision: liability for insider trading in commodity markets attaches only when a trader (1) possesses MNPI, (2) misappropriates that information by trading in breach of a duty of trust and confidence owed to the source of the information, and (3) does so with scienter.[22] By contrast, trading on lawfully obtained MNPI, without breach of duty, is not itself prohibited. The relevant baseline under commodity law is therefore narrower and more precise than a generalized ban on trading while in possession of MNPI.

That understanding is consistent with the history of Rule 180.1. When the CFTC adopted the rule after Dodd-Frank, it explained that, although CEA § 6(c)(1) is comparable to Exchange Act § 10(b), the Commission would be "guided, but not controlled," by securities-law precedent in light of the differences between securities and derivatives markets.[23]

Understanding why this baseline is correct requires understanding what securities insider-trading law is actually enforcing. The prohibition is not simply a rule against informational asymmetry. It is part of a broader regulatory architecture built around mandatory disclosure.[24] The securities laws require public companies to disclose material information on a defined basis, and insider-trading doctrine protects the integrity of that regime by preventing insiders and their tippees

[22] Miller Remark, *supra* note 13.
[23] Prohibition on the Employment, or Attempted Employment, of Manipulative and Deceptive Devices and Prohibition on Price Manipulation, 76 Fed. Reg. 41,398, 41,399 (July 14, 2011).
[24] *See supra* note 20.

from exploiting the gap between internal knowledge and public disclosure.[25] When an insider trades on undisclosed information, the wrong is not merely that the insider knows more than the counterparty. It is that the insider is exploiting a disclosure system that promises the market a common informational foundation.

That is why the familiar harms associated with securities insider trading are so serious. Price discovery is distorted because the market is expected to price securities based on the public record.[26] Adverse selection becomes particularly acute because traders reasonably assume that material issuer information will be disclosed through lawful channels rather than selectively monetized. Allocative efficiency is impaired because capital allocation depends on prices that are supposed to reflect publicly available fundamentals. At the deepest level, the prohibition protects an equal-access norm embedded in the disclosure regime itself: the premise that securities markets derive legitimacy from the orderly public dissemination of issuer information.

None of that architecture exists in commodity markets, and its absence is not an oversight. No one is generally required to disclose information about the world.[27] The government may publish economic data on a defined schedule, but it does not "issue" a prediction market contract in the way a corporation issues stock. Its disclosure obligations run to the public in its capacity as government, not to traders as counterparties in a commodity market. Likewise, a senator's obligations under the STOCK Act run to Congress and the public; they do not arise from any issuer-like relationship to a contract on electoral outcomes traded on a commodity exchange.[28]

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[25] *See supra* note 18.
[26] *See Basic Inc. v. Levinson*, 485 U.S. 224, 246–47 (1988); Selective Disclosure and Insider Trading, 65 Fed. Reg. 51,716, 51,716–17 (Aug. 24, 2000).
[27] *See supra* note 12.
[28] *See* Stop Trading on Congressional Knowledge Act of 2012, Pub. L. No. 112-105, § 4, 126 Stat. 291, 292 (codified at 15 U.S.C. § 78u-1(g)).

Commodity markets, and prediction markets in particular, therefore operate on a fundamentally different informational premise: private information may flow into prices, and that flow is often the mechanism of price discovery rather than a defect to be regulated away.[29]

Commodity markets were never designed to be informationally level in the securities-law sense. Their price-discovery function depends on the incorporation of dispersed, privately held knowledge into public prices. A trader who lawfully knows something others do not, and expresses that knowledge through a commodity trade, is not necessarily undermining the market's function. In many cases, the trader is performing it. The harms that securities insider-trading law was designed to prevent do not arise in the same way because the disclosure-based equality norm that generates those harms is not part of the architecture of commodity markets. The central norm in commodity law is therefore not disclosure parity, but the prohibition of manipulation, deception, and duty-breaching misuse of information.[30]

The implications of this baseline for prediction-market rulemaking are substantial. A framework that prohibited trading on lawfully obtained MNPI in prediction markets would not merely extend existing commodity law; it would alter its structure.[31] Such a prohibition would require affirmative justification in the text and purposes of the Commodity Exchange Act, not merely analogy to securities doctrine developed for categorically different market institutions. By contrast, status-based prohibitions in prediction markets are more naturally justified by manipulation risk—by a trader's capacity to determine, influence, or corrupt the outcome on which

[29] *See* Miller Remarks, *supra* note 13.
[30] *See supra* note 12.
[31] *See supra* note 12.

the contract resolves—not by the mere possession of MNPI.[32] The regulatory framework developed in Part V proceeds from that distinction.

B. Prediction Markets as Realization Games: The Epistemological Distinction

An outcome-realization contract is a binary event contract whose payoff is determined by an external reference event, such as an election result, sporting outcome, or scheduled policy decision. The contract pays $1.00 if the event occurs and $0.00 if it does not.[33] Between inception and resolution, the contract trades at a price reflecting the market's aggregate probabilistic estimate of that binary outcome. The critical structural feature is that the pre-resolution price is epistemically secondary. It matters for liquidity, mark-to-market valuation, and information transmission, but the economically decisive payoff for a holder through resolution is determined by the event itself. Therefore, prediction markets are not merely information markets; they are realization markets, in which the ultimate economic question is not what the crowd currently believes, but what the world ultimately does.

This distinguishes outcome-realization contracts from equity securities along two dimensions that the existing literature has not adequately developed. The first is the price-value relationship. In equity securities markets, different participants assign different values to the same security based on their investment horizon, risk tolerance, and analytical framework. A stock trading at $100 may be genuinely cheap to a long-term fundamental investor and genuinely expensive to a short-term momentum trader. Both assessments are simultaneously coherent because they reflect different frameworks and time horizons, not informational differences alone.

[32] *See* CFTC Prediction Markets Advisory, *supra* note 7.
[33] *See* Miller Remarks, *supra* note 13.

There is no single objectively correct price at any given moment; the market aggregates different expectations, preferences, and investment horizons into a clearing price.

Outcome-realization contracts are different. Their terminal value is fixed and binary.[34] Whatever disagreement exists before resolution is disagreement about the probability of a single future event, not disagreement about multiple legitimate valuation frameworks for an open-ended stream of future cash flows. The informed trader's edge in such a market is therefore tied more directly to the contract's eventual resolution, even if that edge may be monetized before expiration through price movement. That difference matters. In equity markets, a participant may rationally tolerate short-term informational disadvantage because the trade is based on a longer-term thesis about value that can still play out over time. In an outcome-realization contract, that avenue is much narrower. The contract resolves to $1.00 or $0.00 on a common timetable for all traders.

The second dimension is the relationship between time horizon and certainty. In equity markets, there is no set finish line. A security's value may develop over years and be realized across multiple horizons by participants with genuinely different investment objectives. A trader who is wrong in the short term because better-informed participants move the price may still hold the position and wait for the market to converge to the trader's own longer-term view. In an outcome-realization contract, by contrast, all participants ultimately face the same binary endpoint. Sophisticated and unsophisticated traders, informed and uninformed traders, retail participants and professionals all settle the same contract at the same moment against the same outcome. The long-horizon protection available in equity markets is therefore structurally limited or absent.

[34] *See* Miller Remarks, *supra* note 13.

This epistemological distinction has practical consequences. Participants who may rationally trade in markets containing informed flow in the equity context need not behave the same way in prediction markets. Near resolution, market makers can widen spreads, step back, and reduce inventory exposure. Retail traders and other directional participants who continue to provide liquidity may be far more exposed to informed order flow. The issue is therefore not simply informational inequality in the abstract, but the way binary resolution compresses all disagreement and all exposure into a single shared settlement point.

This point also sharpens the distinction between informed trading and pre-resolution price manipulation. In the prediction-market literature, manipulation is often described as an effort to move price away from true value, while insider trading is described as trading toward true value on the basis of private information.[35] That distinction is incomplete in binary event contracts because it focuses too heavily on pre-resolution price rather than on settlement. In an outcome-realization market, the decisive economic test comes at resolution.[36] A trader who pushes price away from the likely outcome without genuine informational or causal edge cannot reliably profit merely by moving the market. Unless that trader can transfer the resulting exposure to fresh entrants before settlement, the position must ultimately be carried to resolution, where the contract settles against the manipulator's position. By contrast, an informed trader with high-conviction knowledge is aligned with the settlement value itself. The informed trader's problem is execution: how to accumulate as large a position as possible without exhausting market depth or revealing information too quickly, not whether the contract will ultimately settle in the trader's favor.

[35] *See* Mitts & Ofir, *supra* note 1, at 10.
[36] *See* Miller Remarks, *supra* note 13.

The asymmetry is structural. If a price manipulator and a genuinely informed trader push in the same direction, the manipulator merely accelerates repricing and helps exhaust available liquidity. If they push in opposite directions, the manipulator effectively supplies liquidity to the informed trader and accumulates a losing exposure unless that risk can later be transferred to other participants. Exiting before resolution does not extinguish the exposure; it merely transfers it to a new counterparty. For that reason, the central concern in prediction markets is not pre-resolution price distortion in the abstract, but whether a trader can corrupt the event, benchmark, or resolution source itself, or induce uninformed entrants to assume distorted risk before settlement. Resolution integrity, not interim price movement alone, is therefore the proper conceptual anchor.[37]

A related point applies to event-triggered contracts. Fixed-date contracts resolve at a time known in advance. Event-triggered contracts, by contrast, terminate upon the occurrence of the underlying event regardless of the scheduled expiration date. An example would be "U.S. Strikes Iran by February 28?"[38] In such contracts, the timing is simply an additional informational edge to the mere occurrence of the event. That timing edge does not change the conceptual framework of outcome-realization markets. Resolution remains the decisive economic moment.

In short, prediction markets should be analyzed from the standpoint of settlement, not merely from the standpoint of trading. The contract does not ultimately care what price was quoted along the way; it cares what happened in the world. That is why manipulation and event influence are primary, why duty-based misuse of information is secondary but still actionable, and why a

[37] *See* CFTC Prediction Markets Advisory, *supra* note 7.
[38] *See* Mitts & Ofir, *supra* note 1, at 11–15 & n.68.

generalized prohibition on trading while informed would be conceptually misplaced. The structure of the contract determines the structure of the legal problem.

C. Public Interest: Hedging, Price Discovery, and the Social Value of Informed Trading

CEA § 3(a) identifies price discovery and hedging as core public-interest functions of liquid, fair, and financially secure derivatives markets.[39] Prediction markets can serve both functions, and they often do so through the incorporation of legally obtained MNPI into price.[40] In that respect, informed trading is not necessarily a threat to the market's public value. It is often one of the mechanisms by which that value is created.

Prediction markets achieve much of their practical usefulness by inducing traders with superior information, analysis, or judgment to express those views through price. Research has found Polymarket contracts accurate in predicting outcomes approximately 94% of the time in the hours before resolution is consistent with that intuition.[41] The point is not that every informed trade is socially beneficial, nor that all MNPI should be immunized from regulation. It is that prediction-market prices become useful precisely because information, often dispersed, unevenly held, and privately acquired, gets incorporated into them. Once embedded in price, that information becomes a publicly observable probability signal available to policymakers, journalists, risk managers, and ordinary market participants. A regulatory framework that treats all informed trading as suspect would impair that function directly.

Prediction markets may also serve a genuine hedging function, particularly for event-specific tail risks that are poorly captured by conventional instruments. The Maduro-removal

[39] CEA § 3(a), 7 U.S.C. § 5(a).
[40] *See* Miller Remarks, *supra* note 13.
[41] Ayesha Aziz, *Polymarket Achieves 94% Accuracy in Predicting Events, New Research Finds*, Yahoo Finance (Mar. 24, 2025), https://finance.yahoo.com/news/polymarket-achieves-94-accuracy-predicting-010322785.html.

contracts illustrate the point at the level of structure, independent of the legality of any particular trade. In late December 2025, contracts on whether Nicolás Maduro would be removed from power reportedly traded at approximately seven cents despite visible public catalysts suggesting elevated political risk.[42] A commercial actor with real exposure to a Venezuelan political transition, such as an energy company with local operations, a financial institution holding Venezuelan sovereign debt, or a firm with supply-chain exposure to the region, could, in principle, have purchased a direct hedge against that specific event at a very low premium and received a large payout if the event materialized.[43]

Traditional derivatives could not provide the same hedge with comparable specificity. An energy company could buy oil futures, a financial institution could purchase sovereign credit protection, and a multinational firm could hedge currency risk. But each of those instruments is only a proxy. Their value is affected by a wide range of macroeconomic, financial, and geopolitical factors that do not map cleanly onto the occurrence of a particular political event. By contrast, an event contract pays on the event itself. The hedge is therefore narrower, more direct, and less burdened by basis risk. Critiques of binary contracts as imperfect hedges because they do not continuously track the magnitude of a real-world loss overlook that point.[44] Hedging does not always require continuous payout proportionality. For some risks, especially event-driven risks, a discrete payout upon realization may be more useful than a broad but noisy proxy.

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[42] Kevin Collier, Ben Kamisar & Jason Abbruzzese, *A Mysterious Online Gambler Made $400,000 Betting on the Removal of Maduro*, NBC News (Jan. 6, 2026, 5:00 AM EST), https://www.nbcnews.com/tech/internet/polymarket-bettor-made-400000-wagers-removal-maduro-rcna252357 (reporting that President Trump stated in December 2025 that Maduro's days were "numbered," while declining to offer specifics about an operation to remove Maduro) [hereinafter NBC News, *Maduro Bettor*].

[43] *Id.* (reporting that the account made thirteen bets totaling $33,934.34 between December 27, 2025, and January 3, 2026, and profited more than $400,000).

[44] *See* Ilya Beylin, *Exchanges Are Using Federal Derivatives Law to Provide Gambling Products to Retail Traders* 72 (Feb. 2025) (unpublished manuscript), https://ssrn.com/abstract=5282276.

The argument becomes stronger, not weaker, when prediction markets misprice tail risks. If uninformed participants systematically underprice a low-probability but high-impact event, then a hedger who recognizes that underpricing is effectively buying cheap insurance at less than a fair actuarial premium. If, by contrast, informed trading pushes the market closer to a more accurate probability estimate, the hedger may lose the bargain but gain something else of substantial value: a more reliable measure of the underlying risk. A commercial actor that cannot insure cheaply against a political transition at seven cents may still benefit from observing the market trade at sixty cents, because that price conveys useful information about the seriousness of the threat. The market then serves the hedging function indirectly through information rather than directly through cheap insurance. Either way, price discovery and hedging remain linked.

For that reason, the relationship between price discovery and hedging is complementary even when they do not always maximize value for the same participant at the same instant. A hedger benefits either from underpriced insurance or from a more accurate signal of the risk being faced. The mechanism through which both benefits arise is the same: the incorporation of information, including private information, into price. Rulemaking that broadly suppresses informed trading would therefore degrade not only the informational function of these markets, but potentially their risk-transfer function as well.[45]

This point also helps clarify the limits of the "wisdom of crowds" account often invoked in the prediction-market literature.[46] If crowd aggregation alone were sufficient to produce accurate prices, then traders with MNPI would have little or no persistent edge, abnormal profits

[45] *See supra* note 39; Miller Remarks, *supra* note 13.
[46] Mitts & Ofir, *supra* note 1, at 9; Melinda Roth, *Prediction Markets: Creating a New Asset Class from Ballots to Box Scores* 10 (Aug. 13, 2025) (unpublished manuscript), https://ssrn.com/abstract=5390765 [hereinafter Roth].

would be rare, and there would be little reason to worry about them. But the empirical record suggests otherwise. Mitts and Ofir identify at least $143 million in anomalous profits on Polymarket International.[47] Those profits suggest that crowd pricing is not always sufficient on its own. In some cases, informed trading may correct market error and improve price discovery. In others, the information may have been obtained through breach of duty, fraud, or deception, making the wrong one of misappropriation.[48] In still others, the profits may derive from the trader's ability to affect the underlying event or benchmark, making the wrong one of manipulation.[49] What the evidence does not support is a generalized rule that treats all trading on MNPI as categorically harmful.

Understanding how the market achieves both functions requires a precise taxonomy of participant roles. The informed trader embeds private information into prices. Their function is price discovery. The commercial hedger offloads a specific economic exposure. Their function is risk transfer. The market maker quotes two-sided markets and manages inventory. Their function is liquidity provision and spread-based risk absorption. The speculator takes a directional position based on their own view or risk appetite. Their function is absorbing residual risk and providing diffuse liquidity. The speculator may be a retail participant trading on a celebrity engagement, or a sophisticated hedge fund with a geopolitical thesis, or a quantitative fund running a statistical model. For most of the current non-sports prediction market contracts, many participants appear to be retail speculators rather than commercial hedgers.

[47] Mitts & Ofir, *supra* note 1, at 5.
[48] *See* CFTC Prediction Markets Advisory, *supra* note 7; Miller Remarks, *supra* note 13.
[49] *See* CFTC Prediction Markets Advisory, *supra* note 7; Miller Remarks, *supra* note 13.

What defines the speculator is function, not sophistication: they are accepting market risk voluntarily in exchange for potential return, with no underlying exposure to hedge and no special information advantage to monetize. The speculator is sometimes rewarded when their view turns out to be correct and sometimes not. This is market risk allocation operating as designed: participants with heterogeneous risk profiles, different return expectations, and different time horizons interact to produce prices that reflect the aggregate of all available information and preference.[50] Without willing speculators absorbing residual risk on both sides of every trade, neither the hedger nor the market maker can function. Restricting speculative participation in the name of protecting speculators from informational disadvantage would destroy the liquidity conditions that make the hedger's insurance available and the market maker's business viable, while simultaneously degrading the price discovery that gives the hedger the accurate risk information they need when cheap insurance is unavailable.

III. THE EMPIRICAL RECORDS

These episodes illustrate four distinct forms of trading misconduct in prediction markets: outcome manipulation, status-based prohibition to trade based on material authority over the outcome, fraud-based misappropriation of MNPI, and trading on a possible informational advantage where the source and duty remain uncertain.

A. The Paris Weather Contracts and Event-Outcome Manipulation

The Paris weather-contract episode illustrates the kind of misconduct on which the CFTC should concentrate its enforcement resources. Public reporting indicates that Météo-France

[50] *See supra* note 39; Miller Remarks, *supra* note 13.

detected unusual temperature spikes at its Charles de Gaulle Airport weather station on April 6 and April 15, 2026, alongside heavy betting on Polymarket contracts that used those readings for settlement, and referred suspected tampering to police.[51] Polymarket later changed the reference airport used for those contracts. If substantiated, this is a classic manipulation case under Rule 180.2.[52] The theory of wrong is not trading while in possession of MNPI, but interference with the benchmark or resolution source that determines the contract's outcome. That is a form of misconduct with no legitimate place in commodity markets and one that falls squarely within the core market-integrity concerns of derivatives regulation.

This distinction has important implications for enforcement policy. Trading on informational advantage may present difficult line-drawing questions about duty, status, or the proper scope of any insider-trading-like restriction in event contracts. Benchmark tampering does not. It does not improve price discovery, cannot plausibly be defended as price discovery, and directly corrupts the mechanism by which the market is supposed to aggregate information into price. For that reason, CFTC should focus its limited resources first on clear manipulation cases of this kind, where the theory of liability is more administrable, the public-interest justification for enforcement is strongest, and the connection to market integrity is most direct. That concern is especially acute here because the airport weather data reportedly also serve operational aviation functions, making the alleged conduct potentially dangerous as well as manipulative.[53]

B. Gannon Van Dyke and Maduro-Related Event Contracts

[51] *See* Bloomberg, *Weather Tampering*, *supra* note 5.
[52] *See* CEA § 6(c)(3), 7 U.S.C. § 9(3); 17 C.F.R. § 180.2.
[53] *See* Bloomberg, *Weather Tampering*, *supra* note 5.

The Van Dyke matter is a status-based prohibition case grounded in substantial manipulation risk. According to the allegations, Gannon Ken Van Dyke, an active-duty U.S. Army soldier, participated in the planning and execution of Operation Absolute Resolve, the military operation that resulted in the capture of Nicolás Maduro.[54] A person with material authority to help determine, carry out, or affect the timing and outcome of the very event on which a contract resolves should not be permitted to trade that contract. The problem is not merely superior information. It is that the trader's institutional role gives him a meaningful capacity, directly or indirectly, to influence the occurrence that determines contract resolution. Even absent any public allegation that Van Dyke in fact altered the operation for trading purposes, that degree of operational involvement creates a substantial manipulation risk and is sufficient to make his participation in the market untenable.

The allegations also support a separate duty-based theory. The DOJ states that Van Dyke had access to sensitive, nonpublic, classified information concerning the operation and had signed nondisclosure agreements promising not to divulge classified or sensitive information relating to military operations.[55] He nevertheless allegedly created and funded a Polymarket account, placed approximately thirteen YES bets in Maduro- and Venezuela-related markets, wagered approximately $33,034, and realized approximately $409,881 in profit after the operation became public and the relevant contracts resolved in his favor.[56] If proved, those facts would also support the conclusion that Van Dyke traded while in possession of MNPI in breach of duties of trust and confidence owed to the U.S. government as the source of that information.[57] But the threshold

[54] DOJ Van Dyke Press Release, *supra* note 3.
[55] *Id.*
[56] *Id.*
[57] *See* Miller Remarks, *supra* note 13; CFTC Prediction Markets Advisory, *supra* note 7.

point comes first: a trader with material authority over the underlying event should have been prohibited from trading regardless of whether a misappropriation-style theory is also available.

C. The Nobel Peace Prize Case and Fraud-Based Misappropriation

The Nobel Peace Prize episode appears to present a case of fraud-based market misconduct rooted in the misappropriation of MNPI under Rule 180.1.[58] The Nobel Peace Prize selection process is highly secretive, with the winner's identity known in advance only to a five-member committee and a small number of trusted staff. Yet approximately nine to eleven hours before the public announcement that María Corina Machado had won the 2025 Nobel Peace Prize, concentrated buying began to flow into the Polymarket market on her victory. [59] Public reporting identified three accounts as driving the overnight price surge, including one newly created account and another with no prior betting history, and reported combined profits of approximately $90,000.[60] The Norwegian Nobel Institute treated the episode as a serious breach and stated that it appeared to have been targeted by a criminal actor seeking to profit from its confidential information.[61]

Unlike a classic insider-trading case, this episode does not appear to involve an identified insider trading their own institution's information. The more plausible account is that nonpublic decision information was acquired through fraud, deceit, or digital espionage and then used for trading before public release. Norwegian authorities reportedly shifted their focus from the possibility of an internal leak to systematic espionage, and the Committee later concluded that

[58] *See* CEA § 6(c)(1), 7 U.S.C. § 9(1); 17 C.F.R. § 180.1(a)(1), (3); CFTC Prediction Markets Advisory, *supra* note 7.
[59] Bloomberg, *Nobel Peace Prize Bets*, *supra* note 16.
[60] *Id.*
[61] Mitts & Ofir, *supra* note 1, at 28–32 (discussing the Nobel Peace Prize case study and noting that suspicious Polymarket trading appeared to signal that the Nobel Committee's confidential deliberations had been compromised).

digital espionage was the most likely explanation for the breach.[62] On those facts, the case is best understood as one of fraud-based misappropriation: the core wrong lies in the deceptive acquisition and trading use of confidential information belonging to the source institution. That makes the episode meaningfully different from both classic insider trading and event-outcome manipulation. The event itself was not altered, but the market was penetrated by trading on information that appears to have been obtained unlawfully through cyber intrusion or similar deceitful means.

D. "Magamyman" and Pre-Strike Trading in Iran-Related Event Contracts

The "Magamyman" trader on Polymarket International at issue remains unidentified, so any account of motive or information source must remain tentative.[63] Even so, after-the-fact review of the publicly visible blockchain trade record permits several observations. The trading pattern is consistent with the possibility that the trader possessed MNPI of uncertain reliability or incomplete specificity. Based on the account history, the trader appears to have focused heavily on Iran-related event contracts. If the trader in fact traded while in possession of MNPI, the conduct could be analyzed under frameworks analogous to misappropriation or tipper-tippee theories. At the same time, the observed pattern does not, by itself, primarily suggest the trader would have been prohibited from trading under manipulation theory. The episode is also noteworthy because it may illustrate how a trader with a potential informational advantage, but without highly sophisticated execution, might actually trade in an event-contract market.

The "Magamyman" account traded on Polymarket for approximately sixteen months across forty-eight Iran-related markets, with total volume exceeding $1.7 million, before

[62] Bloomberg, *Nobel Peace Prize Bets*, *supra* note 16.
[63] *See* Bloomberg, *Magamyman Trades*, *supra* note 17.

establishing its final large winning position ahead of the U.S. airstrikes on Iran.[64] On February 28, 2026, at 05:15:53 UTC, the account purchased 190,257.5 YES contracts at $0.17 for $32,336.97, then sold them at 05:17:23 UTC for $29,601.92, realizing a loss of $2,735 within two minutes.[65] In my view, this sequence is more consistent with a panic exit than with a deliberate liquidity test, contrary to the interpretation offered by Mitts and Ofir.[66] One possible explanation is that the market moved immediately against the position by roughly 10%, causing the trader to reduce exposure, only to re-enter after regaining confidence in the underlying thesis or source.

From 05:19 to 05:33 UTC, the account submitted three further buy orders totaling 253,0 YES contracts at prices between $0.18 and $0.22.[67] From 05:39 to 05:50 UTC, it acquired 80,510 YES contract exposure for $62,202.[68] The account also accumulated exposure in related date-specific contracts, including March 1, March 4, and March 31, a pattern consistent with directional conviction accompanied by uncertainty regarding the precise timing of the anticipated event.[69] A final set of purchases between 06:33 and 06:35 UTC added 11,967 YES contracts at prices between $0.70 and $0.80.[70] By then, the trader appears to have been buying into a market substantially repriced by the earlier flow, with implied probability having risen from roughly 17% to approximately 80%. U.S. strikes on Iran followed shortly thereafter.

These execution choices are significant. A trader possessing highly reliable information and substantial execution sophistication might be expected to accumulate more quietly, reduce

[64] Mitts & Ofir, *supra* note 1, at 11–16.

[65] *Id.*

[66] *Id.* at 14 (characterizing the round-trip as possibly reflecting "a liquidity test or a revision of trading strategy").

[67] *Id.* at 11–16.

[68] *Id.*

[69] *Id.* at 13 & n.76 (parallel date contract purchases: March 1 ($23,895), March 31 ($24,148.50), March 4 ($1,748), and additional near-term contracts).

[70] *Id.* at 14 & n.77 (final purchases 06:33:49 to 06:35:49 UTC, 11,967 YES tokens at $0.70-$0.80; implied probability had risen from 17% to approximately 80%).

signaling to other market participants, and avoid paying sharply higher prices after moving the market. Here, by contrast, the observed pattern suggests both informational advantage and meaningful uncertainty.[71] However, those inferences remain provisional and should not be overstated. The trader may also have been a person who, on a U.S.-regulated exchange, would have been subject to a status-based trading restriction independent of any misappropriation theory. More broadly, this episode shows that prediction markets can be very efficient in absorbing informed or toxic flow into price discovery.

IV. THE LITERATURE: AGREEMENT, CRITIQUE, AND DIVERGENCE

A. Mitts and Ofir: Structural Proposals Accepted, Primary Framing Contested

Mitts and Ofir make a substantial empirical contribution. Their statistical screening of Polymarket International identifies a population of traders whose profits and trading patterns are difficult to explain as chance, and their estimate of at least $143 million in anomalous profits is an important contribution to the empirical literature.[72] This Article generally accepts those findings, while noting that the dataset is drawn from an unregistered offshore platform and therefore likely overstates the amount of suspicious trading that would occur on a properly regulated designated contract market ("DCM") with mandatory Know Your Customer ("KYC"), surveillance, and exchange-level compliance.[73]

The principal disagreement is not with the existence of suspicious trading, or even with several of Mitts and Ofir's proposed responses. Mandatory platform registration, stronger

[71] *Id.* at 11–16.
[72] *Id.* at 60–84.
[73] *Id.* at 84.

surveillance, and targeted restrictions for especially sensitive contract categories are all broadly sensible.[74] The disagreement is instead with the primary framing of the problem. Mitts and Ofir treat manipulation and insider trading as roughly coequal concerns, and their analysis is organized largely around abnormal returns as evidence of insider-trading-like harm.[75] But in outcome-realization contracts, the decisive economic moment is settlement, not pre-resolution price movement. For that reason, the central regulatory concern is not informational asymmetry in the abstract, but the integrity of the event, benchmark, or resolution process on which the contract ultimately pays out. Part V develops the regulatory implications of that distinction.

B. Beylin: The Hedging Critique Overstates Present Market Form and Understates Structural Capacity

Beylin further argues that event contracts fall outside the CEA's legitimate jurisdiction because they lack sufficient utility for commercial hedging and price discovery in related cash markets.[76] That critique places too much weight on the present absence of a readily tradable cash market proxy and too little on the underlying economic reality of event risk. The absence of a conventional spot market does not mean that the underlying event lacks economic significance or price relevance. Firms and individuals are exposed to many of the same risks referenced in prediction market contracts through their ordinary commercial activities and through holdings in traditional assets, including securities. The innovation of prediction markets is that they make those underlying event probabilities directly tradeable and, in principle, directly hedgeable. Whether commercial hedgers currently participate at scale is therefore better understood as a question about market development than about structural capacity. The more appropriate regulatory response is

[74] *Id.* at 91–94.
[75] *Id.* at 7–11.
[76] Ilya Beylin, *Event Contracts Are a Step Too Far for Derivatives Regulation*, 4 U. Chi. Bus. L. Rev. 77, 136 (2025), https://chicagounbound.uchicago.edu/ucblr/vol4/iss1/3.

not to deny that hedging function, but to design rules that allow it to mature consistently with the CEA's public-interest purposes.[77]

C. Ashar: Sound Tool, Incomplete Calibration

Raj Ashar correctly identifies that position limits can serve as a structural deterrent to misconduct in event contracts, and his proposal for sector-based limits usefully builds on what Ashar describes as Verstein's insight that position limits may constrain problematic trading without requiring adjudication of intent in every case.[78] The difficulty is one of emphasis and calibration. Ashar does not sufficiently account for the way manipulation risk, liquidity, and informational advantage vary over a contract's lifecycle. Nor does the framework fully distinguish between pre-resolution informational asymmetry and the more serious problem of event or resolution manipulation. Position limits are a useful tool, but they should be structured around contract lifecycle and resolution risk rather than around a generalized concern with informed trading alone.

D. Roth: Institutional Clarity Without Doctrinal Foundation

Melinda Roth's comprehensive survey reaches the correct institutional conclusion that the CFTC is the appropriate regulatory home for event contracts, and documents the sector's growth, the Kalshi litigation history, and the state-federal jurisdictional conflicts with precision.[79] What Roth's framework does not address is the substantive content of that regulation. Federal regulatory clarity is necessary but not sufficient. The doctrinal framework must be native to the structure of the market it governs.

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[77] *See supra* note 39.
[78] Raj Ashar, *Insider Trading in the Era of Prediction Markets* 46 (Oct. 16, 2025) (forthcoming 20 Va. L. & Bus. Rev. 2026), https://ssrn.com/abstract=5617110.
[79] *See* Roth, *supra* note 46, at 71–73, 75–76.

V. REGULATORY DIRECTIONS FOR OUTCOME-REALIZATION CONTRACTS

A. The Prohibition: Material Authority to Affect the Outcome Based on Manipulation Risk

The foundational rule is straightforward: if you have material authority to affect the outcome of a contract's underlying event, you should not trade on that contract. This is a manipulation rule, not an insider trading rule. It requires no proof of informational advantage or intent to exploit nonpublic information. The prohibited class is defined by functional capacity: the material ability to determine or substantially influence whether the event referenced in the contract occurs or does not occur. This encompasses officials whose decisions determine electoral, military, or policy outcomes; players, coaches, referees, and officials whose conduct affects sporting results; voting panel members for award contracts; and any person whose conduct is determinative or materially influential over the resolution of the contract's underlying event. The status-based prohibitions that exist in prediction markets are justified by manipulation risk, the actor's capacity to alter the outcome, not by their possession of MNPI.[80]

The material authority to affect the outcome of an event standard that defines the prohibited class maps directly onto the existing CFTC-SEC jurisdictional boundary, which is a bright line CFTC has already drawn in an analogous context. The CFTC–SEC jurisdictional boundary already reflects a related concern in distinguishing broad-based index derivatives from single-security or narrow-based security products.[81] The same functional capacity test, meaning concentrated material ability to influence the outcome, governs the event participant prohibition proposed here. High manipulation risk is concentrated in contracts where determination of the outcome is in the

[80] *See* KalshiEX LLC Rule 5.17(z); CFTC Prediction Markets Advisory, *supra* note 7.
[81] *See* 7 U.S.C. §§ 1a(35), 2(a)(1)(C); 15 U.S.C. § 78c(a)(55).

hands of a few identifiable actors. Where the outcome emerges from the aggregate behavior of large populations, such as the aggregate price of stocks in an index with a composition of 2000+ stocks, the manipulation risk from any single participant holding a position is de minimis regardless of their official role.

Nonetheless, the prohibition targets the position itself, not the information the actor possesses. A singer who holds a long position on her own album achieving a sales milestone has incentives aligned with her professional obligations and her label's expectations: she will promote and perform in the same effort, if not more, with the position. That position should not be categorically prohibited. The harm arises when the actor holds a position that profits from their own failure, e.g., a short position on album sales or a long position on a rival's success, because that position creates a financial incentive contrary to expected conduct. The wrong is not that the singer knows more about her album's prospects than the market. It is that she has the material ability to affect whether the album succeeds, and a financial position that rewards her for not trying. The distinction matters doctrinally: information asymmetry is the market's function; the capacity to alter the outcome is the market's vulnerability.

The recent Kalshi disciplinary actions against three political candidates who traded on their own elections illustrate both the necessity of this prohibition and the importance of grounding it in the correct legal framework.[82] In April 2026, Kalshi imposed suspensions and financial penalties on Mark Moran, Matt Klein, and Ezekiel Enriquez for violating Exchange Rule 5.17(z), which prohibits any trader who is a "decision maker" or who has "any influence, directly or indirectly"

[82] *See* Kalshi News, *Enforcement Update: Kalshi Continues Crackdown on Political Insider Trading* (Apr. 22, 2026), https://news.kalshi.com/p/kalshi-political-insider-trading-enforcement-update [hereinafter Kalshi Political Insider Trading Update].

on the outcome of an underlying event from trading on contracts related to that event.[83] The trade sizes were small, less than $100 in two of the three cases.[84] The enforcement was appropriate: candidates should not trade on their own elections, and the exchange acted as the first line of defense that the CFTC's enforcement leadership has called for.[85] Kalshi's own characterization of why these candidates violated its rules is telling: "political candidates who can influence a market based on whether they stay in or out of a race."[86] That is a manipulation-risk rationale, not an MNPI rationale.

Moreover, there is a genuine tension between this status-based trading prohibition and the hedging function.[87] An actor with material ability to influence the outcome of a contract may also have a legitimate commercial reason to hedge their exposure to that outcome. A singer facing genuine economic uncertainty about whether her next album will meet contractual sales thresholds could rationally seek insurance against that outcome. The prohibition as proposed does not permit this. As the market matures and enforcement infrastructure develops, CFTC should consider permitting actors who can influence but not unilaterally determine outcomes to hedge their genuine commercial exposure under a monetary cap, subject to disclosure contingent on such a duty depending on the factual circumstance. The general principle is that you should not benefit from failure. You can mitigate the damage from failure by hedging, but the hedge should not be large enough to divert you away from your original incentive or what is expected of you. The permissible size of a hedging position should be capped at no more than the economic value of what the actor stands to lose from the adverse outcome. This future-state framework raises insurance and moral

[83] *Id.*
[84] *Id.*
[85] *See* Miller Remarks, *supra* note 13.
[86] Kalshi Political Insider Trading Update, *supra* note 82.
[87] *See supra* note 39.

hazard questions that require further research. It is not proposed for immediate implementation but should be stated as an explicit direction so that the categorical prohibition adopted now is understood as a developmental-stage measure rather than the permanent end state.

B. Platform Regulation and Enforcement

The concern about insider trading in prediction markets is fundamentally a platform regulation problem, not a doctrinal gap. On a CFTC-registered DCM with mandatory KYC and surveillance obligations under Core Principle 4, the existing legal instruments are adequate to reach every category of bad actor the literature has identified.[88] A government employee or agent who trades on nonpublic government information is covered by CEA § 4c(a)(3), and theft, conversion, or misappropriation of nonpublic government information is covered by CEA § 4c(a)(4)(C). The corporate employee who misappropriates employer information is covered by Rule 180.1. The coordinated leak-and-trade scheme may be covered by wire fraud.[89] No new doctrine is required. What is required is platform infrastructure that makes the trader's identity knowable at account opening.

The advantage of pre-trade KYC on a registered exchange is that enforcement operates entirely within the CFTC's existing regulatory infrastructure. The exchange knows who the trader is. Surveillance detects the pattern. The CFTC exercises its authority. There is no need to coordinate with the FBI, the DOJ, or third-party blockchain forensics firms to reconstruct an identity after the fact. Enforcement is a regulatory function, not a criminal investigation.[90]

[88] *See* CEA § 5(d)(4), (10), (18), 7 U.S.C. § 7(d)(4), (10), (18); 17 C.F.R. pt. 38 app. B.
[89] *See* CEA §§ 4c(a)(3), 4c(a)(4)(C), 6(c)(1), 7 U.S.C. §§ 6c(a)(3), 6c(a)(4)(C), 9(1); 17 C.F.R. § 180.1(a)(1), (3); 18 U.S.C. § 1343.
[90] *See supra* note 88; Miller Remarks, *supra* note 13.

The Van Dyke indictment demonstrates what enforcement looks like without that infrastructure, and why it still worked, barely. Van Dyke traded pseudonymously on Polymarket International, an unregistered offshore platform.[91] He routed approximately $436,000 in proceeds through a major American exchange that is KYC-compliant.[92] That single interaction with regulated infrastructure made the chain traceable, but it required coordination between the CFTC, the DOJ, the FBI, and the cryptocurrency exchange to accomplish what a registered DCM's compliance department could have done at account opening.[93] Every enforcement instrument, the Eddie Murphy Rule, Rule 180.1, wire fraud, commodities fraud, proved sufficient once the identity was known. The legal tools work. The question is how much institutional effort is required to use them.

The "Magamyman" case illustrates the edge case where even that chain fails. The trader's $553,000 in proceeds remain unclaimed on the Polygon blockchain.[94] By not withdrawing into a KYC-compliant exchange, "Magamyman" has effectively escaped identification, and therefore, enforcement. The harm to counterparties is already done. The informed trades were executed, the other side lost, and the market impact occurred. But the trader avoids liability by abandoning the proceeds. This is not a tolerable enforcement outcome. With pre-trade KYC on a registered exchange, the identity would have been known from the first trade. The trader could not escape enforcement by forgoing profits, because the identity was established before the harm occurred, not contingent on a post-trade withdrawal decision.

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[91] DOJ Van Dyke Press Release, *supra* note 3.

[92] NBC News, *Maduro Bettor*, *supra* note 42 (quoting a Chainalysis spokesperson as stating that the bettor cashed out Polymarket winnings through "a major American exchange" and likely could be identified by regulators or law enforcement).

[93] *Id.*

[94] *See* Bloomberg, *Magamyman Trades*, *supra* note 17.

The Nobel Peace Prize episode shows how costly enforcement becomes when a platform lacks KYC, even before liability can be analyzed.[95] Public reporting ultimately pointed toward digital espionage rather than a simple internal leak.[96] Accordingly, the traders involved likely would not have been barred from trading under any obvious status-based prohibition even on a U.S.-regulated exchange. However, regulators could not know that at the outset. In the absence of verified identity, authorities had to spend resources just to determine whether the trader was an insider, a tippee, an outside intruder, or someone else entirely. KYC would not have answered every substantive question, but it would have allowed regulators to rule out certain insider-trading theories from the beginning and focus the investigation on the more plausible forms of misconduct.

Mandatory platform registration for all operators serving U.S. persons, regardless of domicile or technological architecture, is the foundational requirement. Registration moves the KYC obligation to account opening, making surveillance contemporaneous and intervention practical. For platforms where operator-level regulation proves insufficient, Rule 180.1 and wire fraud reach traders directly: the wrong is the breach of duty, not the platform on which trading occurs.

C. The Contract Lifecycle and Position Limits

The lifecycle of a prediction market contract should inform how position limits and regulatory scrutiny are calibrated.[97] The underlying insight, that risk, liquidity, and manipulation incentive are not static across a contract's life, should guide CFTC's approach.

[95] *See* Bloomberg, *Nobel Peace Prize Bets*, *supra* note 16.
[96] *Id.*
[97] *See* 7 U.S.C. § 7a-2(c)(5)(C)(i); *supra* note 39; CFTC Prediction Markets Advisory, *supra* note 7; Miller Remarks, *supra* note 13.

Far from expiration, when liquidity is thin, position limits have limited practical relevance. The market self-regulates because a large position in a thinly traded contract is very hard for the trader to accumulate. Even if successfully executed in a non-costly manner, it is still bad for the trader who holds it because capital is locked with no liquidity to exit. The holder is exposed to uncontrollable headline risk: any news development between now and resolution can move the probability estimate dramatically, and the holder cannot adjust. The informational edge, if one exists and absent material authority to determine the outcome, erodes over time as the world changes and other participants acquire information. No rational actor loads up massively in an illiquid contract far from resolution. The market's own illiquidity is the natural deterrent.

As open interest and trading volume increase, driven by approaching relevance, news developments, or growing public interest, position limits begin to matter.[98] There is now sufficient liquidity for a trader to build a meaningful position without the spread blowing out to the point where the position is self-defeating. The contract becomes an actionable instrument rather than a theoretical one. This is the phase where surveillance attention should increase, because the conditions for both legitimate price discovery and potential manipulation have materialized.

Anecdotally, when a $1,000 market order on a political contract swept the book and bid the price from 25 cents to 55 cents on $10,000 of open interest and approximately $1 million traded volume across 6 contract calendars, the spread blew out to 33 cents wide for hours from the typical 6 cents spread.[99] The quantitative market makers widened and waited.[100] The author was the only retail counterparty filling the other side during that widened-spread period.[101] Once market makers

[98] *Id.*
[99] Based on author's personal observation, trading records, and Kalshi order-book and trade-history data (Apr. 21, 2026) (on file with author).
[100] *Id.*
[101] *Id.*

determined there was enough outside interest that they were not holding the risk all by themselves, they started quoting again.[102] Market makers were fine. Retail taking the other side was exposed.

Near expiration, position limits are most critical. Liquidity is highest, and the outcome is most knowable to insiders.[103] A large directional position has maximum leverage over the payout: the relationship between position size and potential profit is most favorable when the contract is close to its binary resolution. For many non-sports contracts, the counterparties absorbing informed flow near expiration may be disproportionately retail participants rather than market makers. Market makers widen their quotes as resolution approaches, reduce their inventory, and in many cases step back from the market entirely in the final hours. The traders who fill the other side of a large directional position near expiration, the people paying for an insider's conviction, are overwhelmingly non-professional participants. This is the period where position limits serve their most important function: preventing any single actor from building a position large enough to extract maximum value from private knowledge at the expense of retail counterparties.

The same dollar-amount position limit has different practical impact at different lifecycle stages. A $50,000 position limit is meaningless in a contract with $200,000 in total open interest trading six months from expiration because no one would commit that capital in those conditions anyway. The same limit is highly constraining in a contract with $10 million in open interest trading two days from expiration, where $50,000 represents a small fraction of available liquidity and the manipulation or MNPI leverage is highest. This variability means that a position limit set at contract initiation cannot accurately anticipate the conditions that will prevail as the contract

[102] *Id.*
[103] *See* Mitt & Ofir, *supra* note 1, at 11–60; DOJ Van Dyke Press Release, supra note 3; CoinDesk, *Iran Strike*, *supra* note 4; NBC News, *Maduro Bettor*, supra note 42.

approaches resolution. CFTC should consider lifecycle-aware position limit frameworks that increase scrutiny and potentially adjust permissible position sizes as contracts approach expiration.

The specific calibration, how much adjustment, triggered by what conditions, over what time horizon, is an open problem best developed through collaboration between CFTC and DCMs based on observed trading patterns across contract types. Approximate reference points for the underlying economic significance of events referenced in a contract may serve as useful benchmarks. By analogy, venture-capital concepts such as total addressable market ("TAM") and serviceable addressable market ("SAM"), along with Fermi-style estimation techniques used by quantitative traders, may help frame the relevant scale of an event.[104] These methods, however, are only rough heuristics, not precise calibration devices, and the CFTC should treat them as inputs into regulatory judgment rather than as mechanical formulas.

D. No Margin for Retail

CFTC should not permit margin trading for retail participants in prediction markets.[105] The binary nature of outcome-realization contracts creates gap risk that is fundamentally more severe than in equity markets. In equity markets, a stock's price moves through a continuous order book shaped by supply and demand for a fixed quantity of shares outstanding. Large price movements occur, but they occur through a mechanism that involves sequential transactions at progressively different prices. The shares outstanding provide a structural anchor: there are only so many shares of a company, and price discovery is done through the flow of buying and selling those shares. In prediction markets, there is no underlying spot market and no fixed supply. The contract's price

[104] *See generally* Bill Aulet, *Disciplined Entrepreneurship: 24 Steps to a Successful Startup* 39–55 (2013); Lawrence Weinstein & John A. Adam, *Guesstimation: Solving the World's Problems on the Back of a Cocktail Napkin* 1–9 (2008).
[105] *See* CFTC Prediction Market Advisory, *supra* note 7.

reflects willingness of buyers and sellers to create new open interest at a given price. A news headline can cause the contract price to skip the entire order book, e.g. from 50 cents to 85 cents in a single trade if the news is sufficiently decisive, because the mechanism is not a supply-and-demand battle over scarce shares but a sudden reassessment of probability by all participants simultaneously.[106] The gap risk is real and severe.

This connects directly to the realization-game thesis developed in Part II.[107] If the contract's entire value is realized only at resolution, and all pre-resolution price movement is epistemically noise, a probabilistic crowd estimate that may or may not relate to the resolution price. Then, the rational strategy for a participant with a view is to hold to resolution. Margin is fundamentally incompatible with this strategy. A margin call forces exit on noise.[108] The participant who bought at 30 cents because they believe the event will occur is forced to sell at 25 cents because of a temporary price decline driven by sentiment, not by any change in the underlying probability. The forced exit occurs at the worst possible time, on movement that is, by the market's own logic, epistemically meaningless. The participant realizes a loss on a position that, had they been able to hold, would have resolved at $1.00. Margin and the realization-game thesis cannot coexist for retail participants.

Margin lending also presents a structural problem near expiration. The binary payoff means the borrower's position cannot serve as reliable collateral. In equity margin lending, the lender holds the borrower's shares as collateral and can liquidate them at market prices that, while variable, exist on a continuous spectrum. The collateral has a knowable market value at every

[106] *See* CFTC Prediction Market Advisory, *supra* note 7.
[107] *See supra* Part II.
[108] *See* 17 C.F.R. § 1.55(b)(1), (9), (11).

moment. In a prediction market contract near expiration, the position will be worth either $1.00 or $0.00 within hours or days. The collateral value is not uncertain in the ordinary sense but radically binary. Accordingly, if the uncertainty is very high, like trading at 50 cents very close to expiration, market makers might widen spread or even pause quoting. Hence, the margin lender cannot even liquidate that position if they do decide to margin call and will be forced to bear the exposure anyway. Thus, a lender cannot prudently extend margin against a position whose value may be zero soon with substantial uncertainty.

Market makers, by contrast, should be permitted margin access. Market making in prediction markets is capital-intensive, particularly at the extremes of the price range. A market maker has modelled the theorical value of a particular YES contract as 96 cents. The market maker quoting bid/ask at 95/97 cents on that YES contract must put up 95 cents of capital to earn a potential 1 cent of theorical profit or 2 cents of spread income if crossed. Quoting 94/98 cents, the capital requirement is 94 cents for 2 cents of theorical profit. Without margin, the capital required to provide liquidity at these price levels is disproportionate to the potential return, and market makers will withdraw, by widening spreads, reducing liquidity, and degrading the market's price discovery function. Market makers have the capital reserves, inventory management systems, and risk management sophistication to manage gap risk. Data from sports prediction markets on Kalshi shows that market makers consistently hold directional positions toward resolution and profit on average — delta-neutral market making is only aspirational.[109] But market makers manage that directional exposure actively, professionally, and successfully.[110] Margin therefore allows them to

[109] Nicholas Palumbo, *A Microstructure Perspective on Prediction Markets* 3–4 (Mar. 1, 2026) (unpublished manuscript), https://ssrn.com/abstract=6325658.

[110] Carolyn Silverman, Nathaniel Popper & Marie Patino, *Most Prediction Market Traders Are Losing Money While Bots Rack Up Gains*, Bloomberg (Apr. 28, 2026, 6:00 AM EDT), https://www.bloomberg.com/news/articles/2026-04-28/most-prediction-market-traders-are-losing-money-while-bots-rack-up-gains [hereinafter Bloomberg, *Bots*].

deploy capital more efficiently in a way that can benefit the market as a whole, including retail participants who depend on narrower spreads and deeper books.

That said, margin access should be coupled with an accountability standard. When a market maker's leveraged exposure grows sufficiently large relative to the economic significance of the underlying event, additional scrutiny should apply. As discussed above, rough benchmarks analogous to TAM, SAM, and Fermi-style estimation may help inform that judgment, though they should remain heuristic rather than mechanical.[111] The better policy is thus to allow market-maker margin, while imposing heightened accountability as leveraged exposure grows in size, concentration, and proximity to resolution.

VI. THE REVERSE MANIPULATION RISK: MEDIUM LIQUIDITY AS THE DANGER ZONE

Existing literature and CFTC's Advance Notice of Proposed Rulemaking on Prediction Markets have focused primarily on manipulation of prediction market prices through trading. This Article identifies an equally important risk that runs in the opposite direction: the use of prediction market prices to influence, rather than reflect, the underlying event.

As prediction market prices have become widely cited by media and relied upon by political actors as authoritative probability signals, they have become potential targets for manufactured consensus. This is the deliberate artificial movement of prices not to generate trading profits but to induce actors in the underlying event to behave differently. The canonical example is coordinated selling to artificially depress a candidate's reelection probability, manufacturing an

[111] *See supra* note 104.

appearance of inevitability that induces the candidate, their donors, or their party to conclude that further campaigning is futile.

The reverse manipulation risk is not uniform across the liquidity spectrum. High-volume, high-visibility contracts are substantially protected: moving the price of a contract with hundreds of millions of dollars in outstanding open interest requires enormous capital, and the large number of informed participants in such markets will rapidly trade against artificial price movements, correcting the manipulation before it can generate sufficient epistemic authority to influence behavior. Thin-volume contracts face the opposite problem: they lack the epistemic authority to serve as manufactured consensus signals in the first place, because sophisticated political actors and media understand that thin-volume markets produce unreliable probability estimates. The danger zone is the middle. Contracts of medium liquidity and visibility are where a single coordinated actor can materially move the price with manageable capital, and where prices carry sufficient epistemic authority to plausibly influence political actors and media coverage. An additional complication at this liquidity level: prices in medium-liquidity markets can be genuinely misleading as probability signals even without intentional manipulation, because they require trading volume to converge to the true probability. Artificial and genuine mispricing are therefore more difficult to distinguish precisely where the manipulation incentive is highest. CFTC's reverse manipulation scrutiny should concentrate on contracts in this middle zone, developing specific large-position disclosure requirements and anti-coordination provisions calibrated to the medium-liquidity context rather than applying uniform rules across the liquidity spectrum.

VII. THE PRODUCT AND ITS PARTICIPANTS: RETAIL RISK AND HONEST DISCLOSURE

A prediction market contract is a derivative. It pays $1.00 or $0.00 on a specified date based on whether a discrete event occurs.[112] Between inception and resolution, it trades at a price reflecting the market's aggregate probabilistic estimate of the binary outcome. The terms and conditions of these contracts are easier for laypersons to understand than most securities derivatives. A contract asking whether a candidate will win an election is comprehensible to anyone who follows the news. A contract asking whether a sport team will win a particular game is comprehensible to almost everyone. This accessibility is genuine and distinguishes prediction markets from more complex derivatives products, such as structured credit products, interest rate swaps, and multi-leg equity-options strategies.[113]

But accessibility of terms is not the same as accessibility of risk. The binary payoff structure creates a risk profile fundamentally different from what most retail participants have encountered in equities, bonds, or even conventional options. A prediction market contract trading at $0.90 presents its holder with $0.10 of potential gain against $0.90 of potential loss. If the event does not occur, the entire position is lost. Moreover, stop-loss orders or other ordinary risk controls may fail in the face of headline-driven gap risk, where price moves discontinuously from one probability estimate to another.[114] This is not the gradual erosion of value familiar from equity drawdowns, where a stock can decline and recover over time and the holder retains an ownership interest in a going concern. It is a binary wipeout at a fixed date.

In this respect, a prediction market contract trading above $0.90 is structurally similar to a high-risk bond trading near par with default risk at maturity: the holder earns a modest return if

[112] *See* CFTC Prediction Markets Advisory, *supra* note 7.
[113] *See generally* 17 C.F.R. § 1.55(b)(1), (9), (11).
[114] *See* 17 C.F.R. § 1.55(b)(9), (11).

the adverse event does not materialize and loses principal if it does. But the analogy is imperfect in ways that make the prediction contract riskier. The bond may pay coupons along the way, and a distressed bondholder may have restructuring rights or recovery value.[115] The prediction market contract pays nothing until resolution, and resolution is absolute.

The risk profile becomes more complex across the price range. Around $0.50, the contract resembles a coin flip, with roughly symmetric risk and reward. As the price moves toward the extremes, the asymmetry grows. At $0.95, the holder pays $0.95 for $0.05 of upside and $0.95 of downside. At $0.05, the reverse obtains: the holder pays $0.05 for $0.95 of potential upside, but faces an implied 95% probability of total loss. These are not the risk-reward ratios retail equity investors are accustomed to evaluating. Position sizing therefore operates under different principles than in equity markets. A retail participant who sizes a prediction-market position as though it were a stock purchase may be taking substantially more risk than understood. Tools such as the Kelly Criterion may be more relevant to sizing binary event exposures than the heuristics retail investors commonly use for equity portfolios.[116]

This risk profile more closely resembles sports betting or gambling than buying equities or bonds. Binary resolution, fixed expiration, absence of residual value upon adverse resolution, and concentration of risk at a single moment are structural features shared with wagers and largely absent from equity ownership. The comparison is descriptive, not normative. One can recognize that prediction market contracts resemble wagers in payoff structure without concluding that they should be regulated as gambling. Stocks and equity options can also be structured to create lottery-

[115] *See* Admin. Off. of the U.S. Cts., *Chapter 11 - Bankruptcy Basics*, U.S. Cts., https://www.uscourts.gov/court-programs/bankruptcy/bankruptcy-basics/chapter-11-bankruptcy-basics (explaining that a Chapter 11 debtor usually proposes a reorganization plan to keep its business alive and pay creditors over time).
[116] *See generally* J.L. Kelly, Jr., *A New Interpretation of Information Rate*, 35 Bell Sys. Tech. J. 917 (1956).

like exposures: a deep out-of-the-money weekly call option on a speculative equity is functionally close to a binary wager. Yet that does not make the equity-options market a casino. The risk profile of an instrument does not by itself determine the regulatory framework. The social function of the market matters.

Prediction markets produce social value that ordinary casino gambling does not. Their prices aggregate dispersed private information into publicly observable probability estimates. Those estimates may be useful to policymakers, commercial risk managers, journalists, researchers, and the general public in assessing the likelihood of consequential events. The conversion of privately held information into public price signals is a genuine public good. That distinction justifies a regulatory framework designed to protect and facilitate the market's information-production function rather than one designed solely to restrict access as a consumer-protection measure against a harmful product. This Article does not argue that prediction markets are too dangerous for retail participation. It argues that retail participation should be conditioned on honest disclosure of the product's distinctive risks.

CFTC should ensure that retail participants are informed, at minimum, of three points. First, prediction market contracts are derivative instruments with a binary risk profile, and the entire position can be lost at resolution. Second, risk management and position sizing operate differently from equities, and intuitions developed from retail stock investing may not translate. Third, exchange-level trading prohibitions and Commission-level legal requirements are not identical. Conduct prohibited by an exchange rule may not necessarily be independently prohibited by federal law, and conduct not specifically addressed by an exchange rule may still violate federal law. Retail participants should understand which rules come from which source of authority.

Therefore, the responsible-gaming standards referenced in the ANPRM, including self-exclusion programs, monetary limits, and risk warnings, merit consideration as CFTC develops a framework for retail participation. The sports prediction market experience provides a useful reference point. In sports contracts, retail participants often have alternative venues, including licensed sportsbooks with established consumer-protection infrastructure. The existence of those alternatives may discipline prediction-market exchanges to compete on price, transparency, and user experience rather than regulatory arbitrage. For many non-sports prediction market contracts, political, economic, weather, cultural, and geopolitical, no comparable regulated alternative exists. That absence of comparable alternatives heightens the CFTC's responsibility to ensure that the terms and risks of participation are clearly understood before retail participants commit capital.

VIII. CONCLUSION

CFTC's Advance Notice of Proposed Rulemaking on Prediction Markets presents a genuine opportunity to build a regulatory framework native to the structure of these markets. Once the Commission adopts rules that import securities insider-trading doctrine into commodity prediction-market regulation, the path dependence of regulatory frameworks will make course correction difficult even after the doctrinal error becomes apparent. That risk is especially acute here because prediction markets sit at the intersection of commodity law, public-event forecasting, and rapidly evolving exchange design. A poor conceptual choice at the outset will not remain confined to theory. It will shape exchange rules, enforcement priorities, market participation, and the public understanding of what these contracts are for.

This Article has argued that prediction markets should not be regulated through a generalized securities-style prohibition on trading while in possession of material nonpublic

information. Outcome-realization contracts are different. Their decisive economic moment is resolution, not interim price movement. Their central vulnerabilities are therefore different as well. The first-order concerns are manipulation, event influence, benchmark integrity, and other forms of interference with the event or resolution source. Duty-based misuse of information remains actionable where a genuine duty to the source exists, and fraud-based acquisition of confidential information remains wrongful even absent classic insider status. But informational asymmetry as such is not the central harm, and commodity regulation should not be reoriented around that mistaken premise. The better framework is commodity-native: manipulation and event influence first, misappropriation second, platform regulation and surveillance as infrastructure, and retail protection through honest disclosure and appropriately calibrated participation rules.

At the same time, the recommendations offered here are addressed to the market as it presently exists: relatively young, still thin in many categories, heavily retail-facing outside of sports, and not yet structured around deep institutional hedging flows. That developmental posture matters. If prediction markets evolve into genuinely liquid venues for institutional risk transfer, with substantial commercial hedger participation, block liquidity, RFQ-style execution, and more mature benchmark formation, some of the market dynamics analyzed here may change with them. Retail exposure to informed flow may look different in a thicker institutional market, and later-stage regulation may require tools that are not yet appropriate today. But that possibility strengthens, rather than weakens, the case for conceptual discipline now. CFTC should begin with the correct legal baseline and the correct theory of harm, so that future adaptation occurs from a sound foundation rather than from an inherited doctrinal mistake.