April 30, 2026

Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581
PublicRoundtables@cftc.gov

Re: Prediction Markets, Advance Notice of Proposed Rulemaking, 91 Fed. Reg. 12516 (Mar. 16, 2026) ("ANOPR") RIN 3038–AF65

Dear Sirs and Madams:

I applaud the Commission's efforts to write clear rules to promote the efficient adoption of prediction markets. In his Remarks at FIA Global Cleared Markets Conference Chairman Selig stated:

> "Markets that work well are truth machines. Additionally, highly liquid prediction markets better inform Americans about the likelihood and underlying nature of political elections and global events. Prices then aggregate dispersed information. Money disciplines those who take losing positions."[1]

I share the desire of the Commission to see prediction markets realize their vision as truth machines promoting price discovery, liquidity and the hedging of previously un-hedgable risks. Prediction markets have the potential to be the most promising financial innovation I will have seen in my twenty years as a derivatives lawyer.[2] To meet this potential, the Commission must ensure that the perceived cost to manipulate prediction markets is greater than the expected benefit to be reaped from that manipulation.

I offer my responses to questions 31 and 32 to support the goal of seeing prediction markets meet their potential as modern day truth machines:

> *31. CEA section 6(c)(1) provides that "[i]t shall be unlawful for any person, directly or indirectly, to use or employ, or attempt to use or employ, in connection with any swap, or a contract of sale of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Commission shall promulgate by [July 21, 2011], provided no rule or regulation promulgated by the Commission shall require any person to disclose to another person non-public information that may be material to the market price, rate, or level of the commodity transaction, except as necessary to make any statement made to the other person in or in connection with the transaction not misleading in any material respect." What aspects of prediction markets are relevant to the application of this statute? Are prediction markets more or less likely than other derivative markets to be susceptible to "any manipulative or deceptive device or contrivance"? How should*

[1] Available at https://www.cftc.gov/PressRoom/SpeechesTestimony/opaselig2
[2] Steven Mickelsen | LinkedIn. The comments submitted represent my opinions alone and do not necessarily reflect the opinions of any organization I am affiliated with.

the potential for application of this statute inform the Commission's regulation of prediction markets?

RESPONSE

Certain features of prediction markets heighten the risk that trading could involve manipulative or deceptive devices or contrivances within the meaning of CEA section 6(c)(1). Prediction markets are especially vulnerable to manipulation when (i) market participants may possess asymmetric access to non-public governmental or regulatory information, (ii) the determination of whether an event has occurred relies on opaque or discretionary mechanisms, and (iii) the Commission lacks the ability to effectively audit trading activity and event resolution. In order for prediction markets to act as truth machines, I recommend the following four principles be embodied in the Commissions' rulemaking:

First, **participation by government officials raises acute concerns in prediction markets and should be prohibited**. Unlike many traditional derivative markets, prediction markets frequently reference events—such as regulatory actions, enforcement decisions, government approvals, geopolitical events, or policy outcomes—that may be influenced by, or known in advance to, government personnel. Even where no intent to manipulate exists, the appearance or risk of misuse of non-public information undermines market integrity and public confidence. For that reason, government employees should be categorically prohibited from participating in prediction markets, whether directly or indirectly. A prophylactic rule is preferable to case-by-case enforcement, as it reduces incentives for misuse of information and aligns with the purposes of CEA sections 6(c)(1) and 4c(a)(3)–(4).

Second, **auditability is essential to deterring manipulation and deception in prediction markets and must be required of SEFs and DCMs offering prediction markets**. Event contracts often settle based on factual determinations rather than observable price data, making post-hoc review especially important. All prediction markets should therefore be required to maintain records sufficient to permit the Commission to audit trading behavior, order submission, position concentration, settlement decisions, and dispute resolution processes. Without full audit access, the Commission's ability to detect manipulative schemes, coordinated trading, or deceptive practices is materially impaired, increasing the risk that prediction markets could be used to distort prices or mislead participants.

Third, **the mechanisms used to determine whether an event has occurred ("oracles") are a critical point of vulnerability and must be public and transparent**. Where oracle processes are proprietary, discretionary, or non-transparent, they create opportunities for manipulation, selective disclosure, or conflicts of interest. To mitigate these risks, all oracles used to resolve event contracts should be public, transparent, and subject to objective, pre-specified criteria. Public oracles reduce information asymmetry, facilitate Commission oversight, and provide market participants with confidence that contract settlement is not influenced by hidden incentives or ex post discretion. A DCM should not be permitted to self-list an event contract where the oracle's result is not publicly posted or where the determination is made by an individual or small group based upon data which is not auditable.

***Fourth*, the Commission should create an implied duty to prohibit trading on the basis of trading on the confidential information owned by one's employer or client even if there is not a responsive agreement in place**. The Commodity Exchange Act's anti-manipulation framework is premised on protecting market integrity, not merely enforcing private

obligations. Trading on an employer or client's confidential information—regardless of whether the employer or client formally binds the employee or agent—undermines price discovery and public confidence in derivatives markets in the same way as classic insider trading or misappropriation. The Commission should imply a duty which prohibits the trading on this information.

Prediction markets and other event-driven derivatives are especially vulnerable because prices often turn on discrete, informational events rather than broad supply-and-demand forces. When a trader exploits confidential information obtained through an employment or client relationship to anticipate or determine those events, the trader is not engaging in superior analysis; the trader is extracting value from an informational asymmetry that the market cannot neutralize. Allowing such conduct would defeat the core statutory objective of ensuring that prices reflect aggregated public information and risk-taking, not undisclosed access.

Accordingly, the Commission's rules against manipulation must be understood to prohibit *any* trading strategy that relies on confidential employment-derived information, independent of whether the employer has imposed an express duty of confidentiality.[i]

Taken together, these measures would reduce the susceptibility of prediction markets to manipulative or deceptive devices relative to other derivative markets. Clear prohibitions on government employee participation, combined with mandatory auditability and transparent oracle requirements, would meaningfully advance the statutory objectives of CEA section 6(c)(1) by strengthening deterrence, improving detectability of misconduct, and preserving market integrity. These safeguards should therefore inform the Commission's regulatory approach to prediction markets going forward.

> *32. CEA section 4c(a)(3) provides that "[i]t shall be unlawful for any employee or agent of any department or agency of the Federal Government or any Member of Congress or employee of Congress . . . or any judicial officer or judicial employee . . . who, by virtue of the employment or position of the Member, officer, employee or agent, acquires information that may affect or tend to affect the price of any commodity in interstate commerce, or for future delivery, or any swap, and which information has not been disseminated [or disclosed] . . . in a manner which makes it generally available to the trading public, . . . to use the information in his personal capacity and for personal gain to enter into, or offer to enter into [a futures contract, option on a futures contract, commodity option, or swap]." Similarly, CEA section 4c(a)(4) provides that it is unlawful for any such Federal Government employee or official to impart such information in his personal capacity and for personal gain with intent to assist another person in entering into a futures contract, option on a futures contract, commodity option, or swap, and it is unlawful for the other person who receives such information from any such Federal Government employee or official to knowingly use the information in such transactions. How are prediction markets likely to be affected by non-public information that is available to Federal Government employees or officials? How should the potential for application of this statute inform the Commission's regulation of prediction markets?*

RESPONSE

Prediction markets are particularly vulnerable to the effects of government officials trading on non-public government information because their core social and economic value depends on broad participation by private actors who believe prices reflect dispersed, arm's-length information rather than privileged access. If federal government employees or officials are perceived to be trading on non-public information, the resulting erosion of trust would materially impair the viability of prediction markets as liquid and effective price-discovery mechanisms.

Many event contracts relate directly to government action, regulatory decisions, enforcement priorities, or geopolitical developments. When market participants believe that certain traders have informational advantages rooted in public office rather than superior analysis or risk-taking, rational private participants will reduce participation or exit altogether. This dynamic leads to thinner order books, wider spreads, and more volatile prices—precisely the opposite of the conditions required for efficient price discovery.

Reduced confidence also creates a self-reinforcing negative feedback loop. As informed private traders withdraw, prices become less reliable signals of collective belief, making the market less attractive even to participants without concerns about insider trading. Lower liquidity further increases susceptibility to manipulation and price distortion, exacerbating the very risks the Commodity Exchange Act is designed to prevent. In this way, even a small amount of perceived insider trading by government employees can have outsized effects on market integrity.

Moreover, prediction markets differ from many traditional commodity or financial derivatives markets in that retail participation often plays a larger, more meaningful role in liquidity and informational aggregation. Retail participants are particularly sensitive to perceptions of unfairness and rigged outcomes. Allowing government employees to trade while in possession of non-public information would signal that the market rewards access rather than insight, undermining the legitimacy of the market in the eyes of ordinary investors.

There have discouraging media reports alleging government officials using privileged information to inform prediction market transactions involving the Iran War,[3] Venezuelan

[3] Multiple media outlets reported in March–April 2026 that unusually successful and precisely timed bets on U.S. prediction markets were placed shortly before public announcements concerning U.S. military actions involving Iran, prompting concerns that individuals with access to non-public government information may have traded on prediction markets. These concerns led the White House Management Office to issue a staff-wide ethics warning reminding employees that trading on prediction markets using non-public information could constitute a serious offense. https://www.cbsnews.com/news/white-house-staff-email-warning-bets-prediction-markets-kalshi-polymarket/

military action[4], a California political candidate[5], and an Israeli Air Force Reservist[6]. These are all examples of the types of alleged conduct the Commission must prohibit as market manipulation in order for the public to gain confidence in these nascent markets.

The risk posed by non-public government information in prediction markets is not limited to discrete instances of unlawful trading. It threatens the foundational conditions necessary for prediction markets to function at all. Preventing government employees and officials from using or conveying non-public information—consistent with CEA sections 4c(a)(3) and 4c(a)(4)—is therefore not only an enforcement concern but a structural necessity to preserve liquidity, fairness, and effective price discovery in prediction markets.

Accordingly, the Commission's regulation of prediction markets should treat the misuse of non-public governmental information as a direct threat to market integrity and should prioritize clear, enforceable safeguards that protect public confidence in these markets, including prohibiting government employees from participating in prediction markets.

Respectfully Submitted,

/s/
Steven Mickelsen
5 Tunis
Laguna Niguel, CA 92677
mickelsenlaw@gmail.com

[4] Public reporting has highlighted multiple instances in which anonymous traders earned substantial profits by accurately predicting geopolitical outcomes—such as the capture or removal of Venezuelan President Nicolás Maduro and the timing of U.S. military actions involving Iran—shortly before those events became publicly known. Media coverage and expert commentary raised concerns that such trades would be implausible absent access to privileged government or military information. https://www.cbsnews.com/news/polymarket-insider-trading-rules-iran-war-venezuela/

[5] In February 2026, Kalshi disclosed that it banned and fined a California political candidate for trading on prediction markets related to his own candidacy, concluding that the trades involved improper use of privileged information and violated the exchange's insider-trading rules. The enforcement action included a multi-year suspension and financial penalties and was reported by multiple national media outlets. https://www.msn.com/en-us/news/politics/white-house-warns-staff-against-placing-bets-on-polymarket-kalshi/ar-AA20zmHx

[6] Media reports in 2026 cited the arrest of an Israeli Air Force reservist accused of using classified military information to profit on prediction markets, earning more than $100,000. The case has been referenced in U.S. reporting and commentary as evidence that prediction markets can be exploited by government or military insiders with access to non-public information. https://www.gov.ca.gov/2026/03/27/governor-newsom-strengthens-bans-on-insider-betting-by-state-officials-takes-aim-at-corruption-fueled-by-trump/