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April 30, 2026

- via Electronic Mail (secretary@cftc.gov)

Mr. Christopher Kirkpatrick, Secretary
Commodity Futures Trading Commission (CFTC)
Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581

- via Electronic Mail (rule-comments@sec.gov)

Ms. Vanessa Countryman,
Secretary U.S. Securities and Exchange Commission (SEC)
100 F Street NE., Washington, DC 20549

Re: CFTC Advance Notice of Proposed Rulemaking (ANPRM) to regulate Prediction Markets – Release Number 9194-26 (RIN 3038-AF65)[1] / SEC Roundtable on Options Market Structure Reform (File Number 4-887)[2]

Dear Mr. Kirkpatrick and Ms. Countryman,

On behalf of Data Boiler Technologies, I am pleased to provide the CFTC with our comments on the captioned release about ANPRM to regulate **Prediction Markets**, in attempt to inform potential future agency action. In parallel, this comment letter is relevant to the SEC Roundtable on Options Market Structure Reform – **0DTE Options** in particular.

Data Boiler is a Pioneer in FinTech with patented inventions in signal processing, trade analytics, machine learning, time-lock cryptography, etc. We frequently comment on regulatory policy both domestically and abroad with over 12 years in business. Please see the BOX below for an Executive Summary of our comments:

(a) Prediction is a backbone of AI and Quantum amid blurring line between trading and gambling. Let go of prejudice. The ability to predict the future drives productivity and economic growth.

(b) Favorite-longshot bias is the core problem that harms retail per Whelan Paper. The "Volume versus Integrity Paradox" have too much friction. It starves out "*healthy*" speculators. Lack arbitrageurs to engage in price improvement to reduce the "*stupid tax*" or "*overpriced lottery ticket effect*" due to market operator's high fee-to-contract-value ratio.

(c) Subjectivity of Economic Purpose Test; Natural hedger is NOT a formal regulatory category under CFTC Rule 40.2. For better certainty and objectivity to differentiate a *game of chance/ entertainment* from a *market with economic purpose*, we recommend using the powers of two logic (binary search) to serve as a practical litmus test.

(d) Liquidity is a "Catch-22"; Makers widen spreads to protect against being "*picked off*". We advocate for a Copyright Licensing mechanism to rebalance the "*Information Tax*". This structure turns the zero-sum game into a Sovereign Information Hedging Utility (SIHU) aligning everyone's "*selfish*" interests toward a "*collective*" public good.

(e) The applicability of Core Principle 2 (access requirements) in Prediction Markets is questionable. Mandating impartial access but NOT curbing "*initial bias*" is *self-conflicting*. Concerns with *DCM, DCO, FCM Vertical integration*, the overuse of leverage, and bundle pricing. Would *standardized liquidity rebates* be flagged as an *unreasonable restraint of trade*?

(f) To combat bot-driven fake accounts, misinformation, and catch alleged misuse of MNPI, build partnerships with online platforms and communication infrastructures to track suspects' digital trails. Deterring fraudsters and adversaries requires diverse, collective efforts (connecting the intelligence community) rather than bureaucracy.

(g) CAPITULATION: Stress RENTD to preserve market integrity. Market Ostracism (turning the "*Proprietary Poisoning*" threat into a Strategic Defense Mechanism) to deter suspicious foreign adversaries through makers collective actions.

[1] https://www.cftc.gov/media/13476/FederalRegister031226/download
[2] https://www.sec.gov/newsroom/meetings-events/options-market-structure-roundtable

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CONTEXT – Blurring line between Trading and Gambling, or Backbone of AI / Quantum

Prediction Markets is **NOT NOVEL**. Intellectual groundwork was laid by Economists who viewed markets as information processors since the 1940s-1970s.[3] University of Iowa pioneered the design of an experiment to test whether a real-money market could outperform traditional polling with great success in the 1980s.[4] Hewlett-Packard have long employed their own prediction markets to produced more accurate forecasts of printer sales than traditional forecasting methods (e.g. polls, expert predictions, or survey). In turn, it improved their decision making.[5]

Amid the centuries old practice of betting on events was and still is being criticized by those who misunderstood or despise it, the **related Economic works should commence everyone's respect in advancing societal development**.

Formalizing a regulatory framework is better than an outright complete ban. Most debates center around *who should have authority* – a fight between Federal agencies (SEC/CFTC) and the STATES' Gaming Commissions. Few talk about casino gaming being central to the economic development model of Tribes and Native Americans.[6] Not enough attention is given to the ***noumenon of market structure***.[7]

We applaud the CFTC Division of Market Oversight for issuing the **Staff Advisory 26-08**.[8] It encourages growth and innovation in Prediction Markets while reminding Designated Contract Markets (DCMs) of their regulatory obligations pursuant to the Commodity Exchange Act (CEA) and Commission regulations. We agree with the withdrawal of the 2024 proposal.[9] The "**Economic Purpose Test**" may remain a regulatory tool for the CFTC to distinguish between derivatives and gambling if its objectivity can be improved.

Irony is – the online gaming industry widely adopts the use of Time-Lock Encryption (TLE)[10] and related distributed ledger technologies to achieve "**Provable Fairness**."[11] It provides players the tools and information to verify the integrity and fairness of the games but also delivers a high level of transparency and trust. On the contrary, Securities and Futures trading at Stock and Option Exchanges and DCMs are behind.[12] The big get bigger in an *Animal Farm* (NMS leaned in favor of the elites).[13] Average investors cannot comprehend and navigate the complexities of TradFi, plus countless high-profile scandals. Mistrust rises with no sign of slowing since the 2008 crisis. Main Street turns to online gaming and DeFi.

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[3] https://home.uchicago.edu/~vlima/courses/econ200/spring01/hayek.pdf ; https://mises.org/mises-wire/mistaken-identity-prediction-markets ; https://www.britannica.com/money/prediction-markets

[4] https://www.newswise.com/articles/commercial-prediction-markets-are-growing-and-an-expert-is-available-to-talk-about-them-from-the-university-of-iowa-where-the-prediction-market-was-invented

[5] https://divisions-prod-assets.resources.caltech.edu/hss70/working_papers/wp1131.pdf

[6] https://www.brookings.edu/articles/the-prediction-market-boom-is-posing-an-existential-threat-to-american-indian-gaming/

[7] https://www.linkedin.com/pulse/noumenon-equity-market-structure-kelvin-to/

[8] https://www.cftc.gov/csl/26-08/download

[9] https://www.federalregister.gov/documents/2026/02/06/2026-02454/event-contracts-withdrawal-of-proposed-regulatory-action

[10] https://www.linkedin.com/pulse/market-data-available-securely-synchronized-time-kelvin-to/

[11] https://gamingtec.com/news/provably-fair-explained

[12] Without TLE to make market data available securely in synchronized time, it causes "**initial bias**" that exacerbates the gap between subscribers of proprietary feeds and the public consolidated tape. NYSE's rooftop antenna service is a controversy, it is used by high frequency trading (HFT) firms such as Virtu, as well as McKay Brothers and its sister company Quincy Data that advocate for *"level the playing field."* NASDAQ's equalization project in removing its GPS antenna may ease conflicts among subscribers of collocation service. Yet, a directive like China banning HFTs from using client-dedicated servers co-located within exchange data center, it merely pushes the latency arms race to the nearest neighborhood. We criticize the SEC for not going far enough with the latency requirement (same manner and using the same methods) in Market Data Infrastructure Rules. Not until a mandate of market data available securely in synchronized time and the questions of who owns the data being addressed, inequitable situations would remain.

[13] https://www.linkedin.com/pulse/animal-farm-market-data-negotiate-more-equal-kelvin-to/ e.g., Elites are able to negotiate with the exchanges for order flow and get some "premium rebates" in return. Unfortunately, others who also contributed do not get the

Market design problems and unfairness concerns are applicable to the SEC regulated Stock and Option Exchanges as well as the CFTC regulated DCMs. Both are Self-Regulatory Organizations (SROs), typically utilizing a Central Limit Order Book (CLOB). They are required to maintain high standards of operational resilience, conduct rigorous surveillance monitoring, and implement volatility interruption mechanisms to ensure market integrity and prevent manipulation.

In 2012, the CFTC prohibited the listing or trading of political event contracts on North American Derivatives Exchange, Inc. (Crypto.com [via its parent company Foris DAX Markets, Inc.] acquired NADEX from IG Group in 2022).[14] In March 2026, NASDAQ proposes to list and trade Outcome-Related Options (OROs) on the Nasdaq-100.[15] Framing *binary contracts* as *securities* under the jurisdiction of the SEC. This should NOT escape scrutiny as it might be an attempt to bypass the CFTC's "**gaming**" and "**public interest**" prohibitions that ban political betting.

The line between trading and gambling, as well as derivatives versus cash markets are blurring.[16] Per CBOE, *"Dealers are no longer just intermediating risk; through continuous gamma hedging, they are actively shaping the price path of the underlying."*[17] Zero Days to Expiration (**0DTE**) **Options** now drive 59% of S&P 500 Index options (SPX) trading volume.[18] **Prediction Markets** and 0DTE Options markets are becoming increasingly intertwined.[19] Traders use 0DTE Options and Prediction Markets as dual layers of protection by separating the "**event outcome**" from the "**market reaction**." While prediction markets hedge against the occurrence of the event itself (exposure to the **"cause"**), 0DTE Options hedge against price volatility (exposure to the **"effect"**).

For a **decoupling** of event and **price risk** example, buy a "*No*" contract on a prediction market for a Federal Reserve rate cut while simultaneously buying 0DTE S&P 500 (SPX) calls. If the cut happens, the 0DTE calls likely surge. If the cut fails to happen, the "*No*" contract payouts offset the loss of 0DTE premiums.

For another example, if a prediction market shows a 90% probability of an event, but 0DTE options are priced for a 50/50 move, a trader may buy the "*underpriced*" options as a high-leverage hedge. The later example demonstrated an arbitrage and signal confirmation hedging strategy.

When choosing between a 0DTE Protective Put[20] and an Iron Condor[21] the decision depends on whether one is hedging against a **directional crash** or seeking to offset the **cost-of-waiting** in a stagnant market. 0DTE options is analogous to precision scalpels with complexity of the Greeks (Gamma, Theta), Time Decay, and utilize high leverage. Prediction Market

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same rewards. Reduced access fee cap is an attempt to "FINESSE" the situation, but NOT addressing the root cause (i.e., LACK OF STANDARDS across different market centers' rebate and incentive systems). WHAT GETS PAID and WHO GETS WHAT should NOT be dictated by regulators NOR by a small group of people in a "governance committee". We advocate for a 4-Part test that taken directly from the music industry's copyright laws for objective rate setting.

[14] https://www.cftc.gov/sites/default/files/stellent/groups/public/@rulesandproducts/documents/ifdocs/nadexorder040212.pdf

[15] https://www.sec.gov/files/rules/sro/mrx/2026/34-104966.pdf

[16] https://www.linkedin.com/pulse/digital-asset-portals-akin-stock-exchanges-casinos-kelvin-to/

[17] https://tabbforum.com/researches/gamma-hedging-of-0dte-options-managing-extreme-risk-onexpiration-day/

[18] https://ir.cboe.com/news/newsdetails/2026/Cboe-Global-Markets-Reports-Trading-Volume-for-Decemberand-Full-Year-2025/default.aspx

[19] https://ir.cboe.com/news/news-details/2026/Cboe-Introduces-Innovative-Prediction-Markets-Framework-Expanding-Choice-Beyond-Yes-Or-No-Outcomes/default.aspx

[20] 0DTE Protective Put is a buying strategy used as a "one-day insurance policy," where the bid-ask spread can be wide, making it expensive to enter or exit the hedge precisely when needed. A 0DTE put loses value every time the market stays flat or moves higher. If the market price does not drop, the entire premium is typically lost by the end of the day.

[21] 0DTE Iron Condor is a market-neutral options strategy opened and closed on the same day the contracts expire. It is primarily used to profit from rapid time decay (theta) and intraday price stability by selling both a call spread and a put spread. It has Gamma Risk (small price moves can cause massive fluctuations in option values). The risk-reward ratio is out of proportion.

is relatively cheaper and easier to navigate because of its breadth wide coverage of real-world outcomes and efficiency in aggregate information. 0DTE options and Prediction Markets both **compete** and **complement** each other.

It is a slippery slope when the CFTC in 2024/2025 updated its No-Action Relief to grant Derivatives Clearing Organization (DCO) platforms (Kalshi Klear and MIAXdx) from Part 45 reporting requirement to Swap Data Repositories (SDRs) for fully collateralized binary options,[22] citing *"these contracts are fully collateralized, they lack significant counterparty credit risk and have minimal impact on systemic risk, rendering Part 45 reporting less critical."* On March 24, 2026, Kinetic Markets LLC – a Futures Commission Merchant (FCM) affiliated with Kalshi, secured a license from CFTC (through the NFA) to offer margin trading that lets users open positions without putting up full capital.

Checks and balances between DCM – the venue (KalshiEx), DCO – the Guarantor (Kalshi Clear), and FCM – the brokerage arm (Kinetic) are key to preserve US derivatives market's integrity (preventing market manipulation, minimizing operational risks, and mitigating conflicts of interest). DCM maintains fair and orderly markets and ensures open access. DCO sets the minimum margin requirements for the exchange to ensure there is enough *skin in the game* to cover potential losses and eliminates bilateral counterparty risk. FCM safeguards customer assets.

Separation of duties prevents a DCO from using one customer's funds to cover another's or the house's obligations. Integration can lead to an entity using its FCM as a *loss-leader*, reducing customer choices. Conflating respective functions of DCM, DCO, and FCM in a **vertically integrated model** poses significant threat to financial stability. E.g., the failure of an affiliated FCM could trigger a *run* on the DCO, potentially leading to a catastrophic collapse of the entire clearing system.

Amid Kinetic Markets' new product will only be available to institutions initially and a Bloomberg news suggest that *"the prediction market is not expected to launch margin on event contracts immediately,"*[23] we have reservations. Our variated version of a quote by Bill Ackman, *"such instruments* [Triple-levered ETFs, 0DTE Options]*, and the **overuse of leverage*** [e.g. if allowing partially collateralized trading for event contracts] *in general — could be a danger to the health of financial markets. The heavy use of leverage is **driving dramatic market moves** and has made markets **increasingly unreliable as short-term indicators of the impact of policy changes.**"*[24]

Amid 0DTE Options and Prediction Markets are zero-sum games today; it can be transformed into a *positive-sum healthy ecosystem*. We encourage crossover learnings from different sectors to further advancement of best practices (e.g. *provable fairness*,[11] *volatility interruption mechanisms*,[25] *copyright licensing system*,[26] *operational resiliency*,[27] etc.). See later section - COLLECTIVE for our suggestions in improving ***market/ game designs***.

Integrating intelligence about real-world probabilities enhances performance to **manage uncertainty**. It allows Artificial Intelligence (AI) to move beyond deterministic "*yes/no*" outputs to more nuanced "*shades of uncertainty*," making systems more robust in messy, real-world environments (*noise handling, context awareness*). The model requires less data to reach accuracy. Also, it is the "*backbone*" of quantum computing. AI models are now used to predict and correct "*qubit noise*." *Qubits* exist in a superposition of states **defined by probability** amplitudes rather than fixed *binary bits*.

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[22] https://content.next.westlaw.com/practical-law/document/I1a77f71fadbb11ebbea4f0dc9fb69570/Updated-CFTC-Grants-No-Action-Relief-for-Certain-Binary-Option-Transactions ; https://www.cftc.gov/csl/25-02/download
[23] https://www.bloomberg.com/news/articles/2026-03-27/kalshi-approved-for-margin-trading-as-it-lures-wall-street-pros
[24] https://www.bloomberg.com/news/articles/2025-04-11/bill-ackman-calls-out-triple-levered-etfs-zero-day-options-boom
[25] https://www.fia.org/sites/default/files/2023-09/FIA_WP_Exchange%20Controls_Final.pdf ; https://wfe-live.lon1.cdn.digitaloceanspaces.com/org_focus/storage/media/Circuit%20breakers%20taxonomy%20paper%20March%202021.pdf
[26] https://www.databoiler.com/index_htm_files/DataBoiler%20Copyright%20Licensing.pdf ; https://www.copyright.gov/ai/Copyright-and-Artificial-Intelligence-Part-2-Copyrightability-Report.pdf
[27] https://www.whitecase.com/insight-our-thinking/financial-regulatory-observer-2022-operational-resilience-uk-eu-and-us

CORE PROBLEMS – Favorite-longshot bias, Volume versus Integrity Paradox

Prediction markets and gambling both involve speculating on future events with financial risk and the potential for total loss of capital. Betting $10.00 at 50/1 odds feels more direct than buying 1,000 shares at $0.02, though the mathematical outcome is identical. Not all gambling involves betting against a "*house*" that takes the opposite side of one's wager. In many modern and traditional gambling models, the operator acts as a rent-seeking intermediary rather than a participant.

This empirical research (thereafter refers to as the **Whelan Paper**)[28] identified a number of issues applicable to any Prediction Markets, binary options, event contracts or the like:

(I) The "*Friction*" – high fee-to-contract-value ratio

From the perspective of an exchange like Kalshi or the NYSE, arbitrageurs perform a vital service: ***Price Discovery***.

- If a contract is priced at 20¢ but the "*real*" probability is 30¢, an arbitrageur buys it up.
- This "*speculating*" pushes the price to 30¢, making the market **accurate**.
- If a market cannot be "*arbitraged away*," its prices become "*stale*" or "*wrong*," and users lose trust in the market's predictive power.

However, Prediction Market or the like uses a **high fee-to-contract-value ratio** that acts as a financial "*speed bump*." **The Result:** On Kalshi, if a contract is mispriced by 3%, but the taker fee is 2% and the maker spread is 2%, the total ***friction*** is 4%. A "*rational informed trader*" sees a 3% profit opportunity but a 4% cost, so they stay home. This leaves the "*noise traders*" (*the Takers*) to trade against each other at "*wrong*" prices.

(II) *Phantom* versus *Natural Liquidity* – the Incentive Design

Most modern markets use a ***Maker-Taker model*** specifically to prevent the market from becoming "*non-viable*":

- **Makers** (Liquidity Providers) are often given lower fees or even "rebates" (payments) to stay in the market. This ensures there is always a price available.
- **Takers** pay higher fees because they are "*consuming*" the certainty of an immediate trade.

The Whelan Paper suggests Kalshi's liquidity is **"*asymmetric*."**

- Because Kalshi is a ***fully collateralized*** market (one must put up the $1 for the contract upfront), the liquidity is NOT "*phantom*" in the sense that it cannot be filled, but it is ***thin***.
- The Whelan Paper found that ***Makers*** are effectively the ONLY ones providing "*natural*" liquidity, but they demand a massive premium (*the spread*) to compensate for the risk of being "*picked off*" by someone with *better information* (e.g., someone who sees a news headline 5 seconds before they can update their limit order).

(III) The ***Economic Viability*** Trap – the Revenue Conflict (The "*Fee Wall*")

While markets want accuracy, they also want to get paid. A market must be economically viable for the operator.

- **Transaction Fees:** If Kalshi charges a 2¢ fee on a trade, and an arbitrage opportunity is only worth 1¢, the trader won't execute it.
- **The Outcome:** The Whelan Paper found that Kalshi's fee structure created a *friction* or **"*Limit to Arbitrage*."** Because the fees were high relative to the mispricing, the "*wrong*" prices (the ***favorite-longshot bias***) persisted. The market stayed "*inaccurate*" because it was too expensive for smart traders to fix it.

Kalshi, as a CFTC-regulated entity, has significant compliance costs. To cover those costs, Kalshi's fees might be set so high that they inadvertently prevent the very "*arbitrage*" needed to make the market's predictions accurate. If the

[28] https://www.karlwhelan.com/Papers/Kalshi.pdf

fees are too high, the market does not attract "*Smart Money*" (*arbitrageurs*); it only attracts "*Entertainment Money*" (*retail gamblers*).

(IV) The *Volume* versus *Integrity* Paradox

The only time a market wants to prevent "*speculation*" is when it involves ***Latency Arbitrage***. This does not help ***price discovery***; it just "*taxes*" other investors. The Whelan paper argues that Kalshi's market is NOT "*rigged*," but rather constrained. The ***favorite-longshot bias*** exists because the cost of trading (fees + bid-ask spread) is greater than the potential profit from correcting the price. Consequently, the "***Takers***" (often retail hobbyists) keep buying overpriced "*lottery ticket*" contracts, and no one "*arbitrage*" them away because the fees eat the profit. The "***Takers***" are essentially paying a "*stupid tax*" that is split between the ***Makers*** and the operator of Prediction Market **(*the exchange*)** via fees.

Unconventional, or to some extent counter-intuitive, is – the Whelan Paper concludes that the market design of Kalshi is opposite to thwart "*toxic*" high-frequency arbitrage, its structure actually ***starves out*** "***healthy***" ***arbitrage*****.** In a *perfect market*, if a market cannot be gamed (arbitraged), it means the prices are stuck. In another word, the market is "*inefficient*". Per the Economist – ***Don't shoot the Messenger***.[29]

CRITERIA – Definitions, Discernment

One cannot jump to the "*How*" when the "*What*" has NOT been properly defined. The SEC defines a *binary option* as a type of options contract with an *all-or-nothing* payout structure. The CFTC classifies *event contracts* (also called prediction or information contracts) as a category of *derivatives*. Yet, there lacks a single, catch-all Federal definition of "*Prediction Market*." Without a Federal unified definition to preempt States' Laws,[30] what event contracts may or may not involve "*gaming*" or are "*contrary to the public interest*," are controversial debates (social norms evolve overtime) that eventually will be decided by the Supreme Court.

Some high-level boundaries are drawn based on existing SEC and CFTC rules. If the contract is classified as *financial derivatives* or *swaps* under CEA, then it would be regulated by the CFTC. For the SEC, we believe the Howes test can be used to discern if the underlying assets are *securities*, versus a *real-world occurrence*. In general, specific categories of contracts that fall outside the CFTC/SEC's classifications if they are deemed NOT to have an "*economic purpose*" or if they are explicitly prohibited from Federal markets, they are either banned or outside scope of the CFTC/SEC.

NASDAQ is seeking the SEC approval to introduce a new class of contracts called *Outcome-Related Options* (*OROs*) tied to the Nasdaq-100 and its micro counterpart.[31] It is structured with binary *all-or-nothing* payouts. It is viewed as a test case for regulating high-speed, binary trading under SEC oversight rather than through the CFTC event contracts.

Meanwhile, CBOE observed *"vertical spread trades averaged nearly 580,000 contracts per day in 0DTE SPX options in 2025,"* and intended to further boost the business by filing SR-CBOE-2026-032 that seeks the SEC approval to permit binary options on all (narrow- and broad-based) indexes, updating position limit rules, streamlining settlement rules, etc.[32] CBOE is also proposing a new proprietary and patent-pending framework that introduces a *three-dimensional payout model*, including the "*payout zone*" for *partial payout* if a prediction is *directionally correct but not precisely on target*.[33]

[29] https://www.economist.com/leaders/2007/01/18/dont-shoot-the-messenger
[30] https://www.jdsupra.com/legalnews/prediction-markets-v-state-gaming-laws-3592242/
[31] https://www.govinfo.gov/content/pkg/FR-2026-03-16/pdf/2026-05019.pdf
[32] https://cdn.cboe.com/resources/regulation/rule_filings/pending/2026/SR-CBOE-2026-032.pdf
[33] https://ir.cboe.com/news/news-details/2026/Cboe-Introduces-Innovative-Prediction-Markets-Framework-Expanding-Choice-Beyond-Yes-Or-No-Outcomes/default.aspx

There are countless variations and continued evolution of rulebooks, payouts, incentive models, etc. Some challenge the appropriateness to retrofit Prediction Markets into existing SEC/CFTC regulatory frameworks. Academic and legal critics argued that certain *"prediction products"* only *track the likelihood* of an event with no underlying cash market, i.e. *lack of economic goal*, suggesting they should be considered a *distinct class of instrument* rather than a *derivative*.[34] In addition, simple "*if-then*" agreements that do *NOT involve a trading exchange or a standard swap structure* may be viewed as *private commercial contracts*, in turn, the CFTC lacks jurisdiction to require oversight.

Nevertheless, the primary goal of "*Second-Generation Prediction Markets for Information Aggregation*" (G2)[35] is to surface a consensus value or probability rather than to wage on specific binary event. There may not be a real-world settlement event when no outcome is ever realized in these G2 *preference markets* (trade concepts of products to forecast expected market shares), and/or *idea markets* (trade concepts to evaluate the success of different product or design alternatives).

Today, not just major US corporates but smaller players can work with or partner with Prediction Markets instead of building their own platforms to conduct better forecasts, test their product ideas, and what-not. Predicting the color of a Gatorade drink being pour at a Superbowl event is important to Pepsi, its competitors, and others (e.g. sellers of detergent). Let go of prejudice. The ability to predict the future drives productivity and economic growth.

It is understandable that SEC regulated securities exchanges do not want to lose out on lucrative opportunities but compete with CFTC regulated DCMs and non-US regulated prediction markets. Yet, related pricing complexity raised investor protection concerns. Standard options **disclosures** deem insufficient to explain the *all-or-nothing* nature, *partial payouts*, or *G2 preference*/ *idea* market structure.

Prediction Markets differ from Casinos/ Betting Exchanges primarily in structure and purpose, see **Table 1** below.

Key Differences	Prediction Markets	Casinos / Betting Exchanges
Counterparty	Peer-to-peer, "scalping" price movement, trading a liquid asset	Bet against the "house" (bookmaker) and/or operator acts as a rent-seeking intermediary
Primary Goal	Price discovery: aggregate information and forecast the true probability of an event	Wagering and Entertainment: facilitate efficient betting and risk management
Odds are set by	Supply and Demand (crowd-driven bids-asks)	Bookmaker to ensure a profit margin
Asset Form	Buy "shares" in an outcome (e.g., $0.65 for "Yes") that can be traded like a stock	Matching a wager with a counterparty at agreed-upon odds
Cost Basis	Percentage of contract price or flat per share	Your loss is House's gain and/or Profit-based that takes a % of your net winnings
Fee Timing	Usually at time of trade (entry/exit)	Usually at settlement
Exit Strategy	Allow off-loading position before the event ends	Often "lock in" until the event ends
Regulation	Derivatives/financial contracts by CFTC/ SEC	State-by-State
Payout Structure	Frequently use a fixed-value settlement (binary) model – price itself is the implied probability	Varying fixed-odds and/or stake multiplied by the odds model – Raw odd minus commission
Incentives	Make money through transaction fees	Profit from customer losses

[34] https://businesslawreview.uchicago.edu/sites/default/files/2025-01/Beylin.pdf

[35] https://www.marketing.uni-frankfurt.de/fileadmin/user_upload/dateien_abteilungen/abt_marketing/Bilder/Professor_Skiera/Publikationen/Second_Generation_Prediction_Markets_for_Information_Aggregation__A_Comparison_of_Payoff_Mechanisms.pdf

Reference to our August 2025 comment letter to the CFTC,[36] *"Sport bets, lottery, and other forms of consumer goods and services that provide '**entertainment**' or '**use value**' (tangible features of a '**commodity**') other than having resale or for commercial purposes, or motives or the pursuit of capital accumulation, then such buy, sell, or borrow activities over digital assets should be guarded under Casino and consumer rights laws rather than subjected to investor protection rules…"*

Table 2 below compares the criteria for defining an activity as having *economic purpose* versus being *entertainment*.

	Economic/ Business Purpose	Entertainment
Intent	Create value, generate revenue, or achieve a profit	Pleasure, joy, relaxation, distraction, recreation
Process	Dedicating and Investing labor driven by incentives	Spending driven by leisure, satisfaction, or emotion
Output	Production, Tax deductibility	Consumption, Nondeductible per Tax Cut Jobs Act
Subjective, no certainty	*May lean towards efficiency and/or effectiveness*	*May lean towards irrational and/or produce waste*
	Discretionary, Sunk Cost, Size/ Scale of Activities, Involve Skills/ Faith/ Risks, Non-Profit, Actual Gain/Loss	

The above illustrates the *subjectivity* of Economic Purpose Test and its limitations – *NO absolute certainty*.

One commentor suggested the CFTC to require *"any event contract listed on a CFTC exchange to demonstrate a credible class of participants with real economic exposure to hedge. If no natural hedger exists, the contract doesn't belong in a federal derivatives framework,"*[37] which we respectfully disagree.

Natural hedger is NOT a formal regulatory category under CFTC Rule 40.2. When one hedges stock trading using options it is NOT a natural hedge, when a bank uses options on forex trading to hedge risk, it is not natural hedging either. To limit hedging to only those who have an actual role in commodities is self-limiting as well.

When a DCM ***self-certifies*** a new event contract, it must provide a concise explanation and analysis of the contract's compliance. The CFTC should NOT be in the business of deciding what is "*useful*" for a trader – the "**Paternalism Problem**".[38] For example, ticket brokers, licensed sportsbooks underwriters, stadium and event vendors, local small businesses in sports towns could be natural hedgers in sports. Defining a "***natural hedger***" for a political or sports event is much harder or *subjective* than for wheat or oil.[39]

That commentor pointed out that *"Because prediction markets are peer-to-peer, the person on the other side of your trade is not 'the house,' but another market participant. This counterparty is typically: A Speculator … An Arbitrageur … A Market Maker… Speculation itself is not the problem… The question is not whether speculation exists in a market — it is whether the market is grounded in it."*

Reference to the Whelan Paper mentioned earlier,[28] the "**Volume versus Integrity Paradox**" discourage informed traders to participate. In other words, current prediction market has ***too much friction*** and *lack speculators* (*arbitrageurs*) to engage in *price improvement* to reduce the "*stupid tax*" or "*overpriced lottery ticket effect*" caused by market operator's **high fee-to-contract-value ratio**. **Core Principle 5**, of §5(d) of the CEA already requires DCMs to *"adopt speculative position limits or position accountability for speculators, where necessary and appropriate, to reduce the potential threat of market manipulation or congestion."* [40] There is no single *objective* one-size-fits-all number that makes a market

[36] https://www.databoiler.com/index_htm_files/DataBoiler%20CFTC%2020250818.pdf
[37] https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=114099
[38] https://commoditychallenge.com/learn/assets/AAGM/AAGM-Chapter-13.pdf
[39] https://www.steptoe.com/en/news-publications/Proposed-CFTC-Event-Contract-Rule-Creates-Uncertainty-Could-Stifle-Markets-with-Consequential-Commercial-Value.html
[40] https://www.cftc.gov/IndustryOversight/MarketSurveillance/SpeculativeLimits/speculativelimits.html

"*speculative*." If the CFTC bans a market because it's *too speculative*, which is NOT true per Whelan, it would destroy the very ***liquidity*** needed for a market to serve an "***economic purpose***." For a market to work for serious ***hedgers***, it ***needs speculators***. CFTC should refrain from a federal determination to mandate every position limit of every contract that creates ***enforcement challenges***.[41] DCM as an SRO should have discretions to operate within its empowered authorities.

If the CFTC wants to further strengthen the §5c(c) and Core Principle 1 about "*self-certify*" new rules or contracts for *better certainty* and *objectivity* to differentiate a ***game of chance/ entertainment*** from a ***market*** with ***economic purpose***, we recommend using the **powers of two logic** (*binary search*)[42] to serve as a practical ***litmus test***.

A. Fixed vs. Moving Information

- **Gaming (Fixed):** In a number guessing game, the target number is static. Binary event prices fluctuate constantly based on new information. The 2^n logic works because the "*truth*" is hidden but unchanging. Success comes from the efficiency of the search algorithm itself.
- **Markets (Dynamic):** In binary options or prediction markets, the "*truth*" (e.g., an election result or stock price) is a moving target influenced by global events. If 9 "*guesses*" (trades) were all it took to find the price, the market would be perfectly efficient, and no profit opportunity would exist.

B. Entertainment vs. Economic Utility

- **Gaming (Suspense):** Entertainment thrives on "*suspense and surprise*". A player might intentionally avoid the optimal 9-guess binary search to prolong the game or experience the "*underdog*" thrill. The value is in the ***process*** (*the play*).
- **Markets (Discovery):** Prediction markets exist to aggregate information for a purpose. Their value is in the ***result*** (*the price signal*). Participants are incentivized to reach the "*correct*" probability as fast as possible to capture "alpha" before others do.

C. Strategy: Algorithm vs. Analysis

- **Gaming (Algorithmic):** If one can always win in a set number of moves using a mathematical formula like $2^9 \geq 300$, it is a ***mechanical puzzle*** or "*gaming*". There is no "*risk*" in financial sense, only execution of a known optimal strategy.
- **Markets (Analytical):** Trading requires fundamental or technical analysis of external forces (e.g., politics, weather, economics). You are not just "*halving a range*"; you are betting that your estimation of a probability (P_{true}) is more accurate than the crowd's (P_{market}).

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[41] https://resdojournals.com/index.php/jbeo/article/download/451/846

[42] https://www.khanacademy.org/computing/computer-science/algorithms/intro-to-algorithms/a/a-guessing-game ; E.g., In a number guessing game from 1 to 300, you should take no more than 9 guesses because of a mathematical strategy called *binary search*. Using this method, each guess eliminates exactly half of the remaining possibilities. Mathematically, the number of guesses is the binary logarithm of the range, rounded up to the nearest whole number: Roundup[log2(300)] ≈ 8.23 = 9.

Market Information is NOT Static. The number guessing game has a fixed target. Binary event prices fluctuate constantly based on new information. Because the target moves, a trader might "*place order*" multiple times as the market's perceived probability of the event changes. High Spreads Indicate Low Liquidity. in illiquid markets, one CANNOT always "*halve the range*" effectively because there may be no buyers or sellers at the midpoint.

In a number game, feedback is free. In trading, the bid-ask spread is a direct cost. Every "*trade*" requires participant to pay the ask and sell at the bid. If one trade frequently to narrow down the "*true*" price, one may lose more in spread costs than one gain from finding the correct value. Given information asymmetry in markets, a more informed market maker might move price against you, forcing more trades to reach a fill. Traders often take smaller position to manage risk, rather than one large binary search bet.

Whether the Commission will or will not adopt a ***litmus test***, the industry rejects any *"guilty until proven otherwise"* clause. *Pay-to-play* in "*educating*" the regulators or else be ban is a *binary prejudice* leading to possible corruptions. Regulators should refrain from overburdening the SROs to stifle innovations unless there are exploitations or systemic risks. We all *seek clarity of rules to follow*.

Regarding other enumerated categories of activities besides "*gaming*" that are generally NOT allowed for event contracts:

- **Terrorism**: Contracts that provide a financial reward for acts that threaten national or international security are prohibited to avoid potentially financing or incentivizing such acts.
- **Assassination**: Similar to terrorism, these are barred to prevent profiting from or incentivizing violent crimes against individuals.
- **War**: Contracts based on the occurrence or outcome of armed conflict are typically viewed as contrary to the public interest.
- **Unlawful Activity**: Any contract involving an activity that is illegal under federal or state law cannot be listed.

Unlike *"economic/ natural causes"* that can be hedged as part of normal economic activity, the above are prohibited *"causes"* having zero social utility (i.e., *risk of incentivizing the event outweighs the benefit of the hedge*). Typical assessment factors include:

a. The concentration of payout and whether the underlying event is susceptible to influence by a small group.
b. Evaluating if the potential payout (*P*) is large enough to motivate a bad actor/ foreign adversary to trigger the event. If *P* > cost of committing the act + legal risk, the contract is likely contrary to the **public interest**.
c. Availability of substitute hedging tools* (e.g. the risk is already manageable through regulated insurance channels).
d. Evaluate the potential for asymmetric information to cause harm from leakage of MNPI or cause undue public panic or economic destabilization that exceeds the value of the information provided.

* NOTE: Policy makers should take a step back to consider what actuaries and underwriter of insurance do – dealing with probabilities of event outcomes. The objective and primary function of insurance is to **manage uncertainty**. Reference to our earlier discussion about integrating intelligence from Prediction Markets about real-world probabilities, it enhances the actuarial/ quantitative models used by insurance companies and facilitates advancement of AI/ Quantum Computing. Insurance contracts and Prediction Markets/ 0DTE Options' event contracts both **compete** and **complement** each other. 98% → 99.9% incremental improvement is better than 85% → 90% because it is 95% error reductions vs just 33%. It is a race to reduce *unknown unknowns*.[43] A chicken-and-egg scenario: *will the availability of superior insurance products be driven by better predictive forecasts, or will actuary roles eventually be rendered obsolete by pre-cognitive AI and quantum computing — optimizing risk to the point where society no longer requires insurance at all?*

We understand the concerns about unintended structural incentives for agency problem and moral hazard. If the market's payout becomes a more powerful motivator for a decision-maker than their professional or ethical duty, then it is a **red flag**. This parallels the securities market, where routing orders for *proprietary gain* over client best interests is a *conflict of interest*.[44] For that, we hope the Commission can clarify whether ***trade intent*** would or would not be required as part of the assessment.

[43] https://en.wikipedia.org/wiki/There_are_unknown_unknowns
[44] https://www.sec.gov/newsroom/press-releases/2018-108 ; https://www.sec.gov/newsroom/press-releases/2018-159 ; https://www.finra.org/sites/default/files/fda_documents/2022073414301%20BofA%20Securities%2C%20Inc.%2C%20CRD%20283942%20AWC%20ks.pdf

COLLECTIVE Public Good – Addressing the Catch-22

As noted in the Whelan Paper, ***liquidity*** is a "**Catch-22**" because **Makers** widen their spreads to protect against being "*picked off*" by informed traders, which in turn makes the market too expensive for **Genuine Hedgers** to use.

To address the Catch-22 and "***favorite-longshot bias***" that harms retail, operators of Prediction Markets must realign the incentives or **rebalance** the "*Information Tax*" with "**intent-based pricing** (**IBP**)". For that, we advocate for a **Copyright Licensing** mechanism, that analogous to Sound Exchange royalties' administration in the Music industry,[45] to eliminate the "*Animal Farm*" (*selective rebates*) issues[46] in typical Maker-Taker model of securities and futures markets.

- **Makers** and any participants who provides the same signal for quoting "*longshot*" contracts (Intellectual Property owners) are rewarded for **Transparency**: If they share their info, they get a **copyright royalty** "**dividend**."
- **Hedgers** (utility consumers) get **Execution Certainty**: They pay a fair, committee-vetted fee to transfer their risk.
- **Speculators** pay for the Information they extract. **The System** gains **Predictive Fidelity**: By punishing "**Masquerading**" and rewarding "**Verified Intent**," the **favorite-longshot bias** identified by the Whelan Paper is naturally arbitraged away by the very people (the **Hedgers**) who need the price to be accurate.

This structure turns the zero-sum game into a **Sovereign Information Hedging Utility** (**SIHU**) aligning everyone's "**selfish**" interests toward a "**collective**" **public good**. To qualify for the 0% license fee allowing "**Natural Hedger**" to execute at Midpoint price, participants must satisfy a Three-Pronged Attestation: correlation, size limitation, and maintain a hedging ledger readily available for a "**Masquerading**" audit by an industrywide represented operating committee.

Voting rights for the committee and **dispute resolutions** are tied to a **Vested Period** (e.g. 90-day) and a "**Reputation Score**". Any participant found "**masquerading**" as a hedger while extracting signal-alpha faces fee reclassification and reputation decay. A **dispute resolution** mechanism would resolve any challenges to "Hedging Intent" or "FRAND Violations" (**Market Squatting**) via a weighted vote (e.g. 51%) of the reputation-bearing community (members of the Exchange). To prevent "*Animal Farm*" capture, the committee follows a **Staggered Term** model.

To ensure that "**Reputation**" does NOT become a rigid, algorithmic trap during black-swan events, adding a **Stress RENTD** (Reasonable Expected Near-Term Demand) *safe harbor* under the direction and discretion of the CFTC, where participants can transfer risk without the friction of licensing fees, keeping the market from seizing up. For example, if the price move exceeds a ***Reputation-Weighted Threshold*** (e.g., 15% move in 1 hour), the smart contract automatically suspends the **Copyright Royalty** (the **signal** is too noisy to be licensed fairly) and enters **Stress RENTD**. This ensures that ***price discovery*** does NOT collapse into a "***lottery***" during high-stakes geopolitical or economic shifts.

This SIHU framework solves the **Whelan Paper's** observation of market bias by replacing "*blind*" transaction fees with a **Dynamic IP License**.

- **Normal Times:** A vibrant marketplace where **Information Contributors** earn royalties.
- **Stress Times:** A protected Public Utility where the CFTC ensures the "*Hedging Intent*" is the priority.
- **Cool-Down:** A gradual return to market-clearing prices that prevents "flash" re-imposition of high fees.

If a **Maker** or any participants who provides the same signal for quoting "*longshot*" contracts believes the Operating Committee has set the Fair Reasonable and Non-Discriminative (FRAND) fee too low, they don't have to quit the market.

[45] https://www.databoiler.com/index_htm_files/DataBoiler%20Copyright%20Licensing.pdf
[46] https://www.linkedin.com/pulse/animal-farm-market-data-negotiate-more-equal-kelvin-to/

By giving them a "**Choice**" between losing "**Royalty**" but protecting their "**Proprietary**" secret sauce, it generates an indicator to the Operating Committee when too many flip to proprietary mode simultaneously that the FRAND fee is "*unreasonably low*." The market corrects itself though **Willing Seller / Willing Buyer** (**WSWB**) behavior rather than bureaucratic intervention. **Accuracy** is the byproduct of a fair exchange of licensed data.

SIHU's benefits for the Public:

1. **Positive-Sum Outcomes:** Unlike zero-sum gambling, SIHU rewards the **creation of data**, separating **"Signal Extraction"** from **"Risk Transfer."** **Makers** are paid for their intelligence; **Hedgers** are protected for their utility.
2. **Unbiased Price Discovery:** By removing the "*Lottery Tax*" for Natural Hedgers, the market price reflects true fundamental probability, providing a high-fidelity "Oracle" for the public. I*.e., r*etail gets true ***price discovery*** and the ability to trade with closer spreads.
3. **Capital Efficiency:** Through the 90-day vesting and proprietary-toggle options, the market naturally filters for high-quality, long-term liquidity providers over predatory "*phantom*" liquidity.

Proposed Regulatory Oversight:

→ **Market Data Ownership:** SIHU seeks CFTC recognition of market data as the property of the contributor.

→ **Exogenous Shock Waiver:** The Operating Committee retains the power to waive "*adverse selection*" penalties during major news events to ensure market continuity.

→ **Cross-Venue Integrity:** Adjudication of systemic bad actors is deferred to the **CFTC** to maintain multi-venue standards without overstepping committee authority.

Additional Remarks and Comparison Summary:

- To curb speculators from buying a tiny amount of an inversely correlated asset to "*justify*" (**Masquerade**) an outsized (e.g. 100X) "*hedge*" to avoid paying royalties, the Operating Committee can enforce a desired "Hedge Ratio", where smart contract automatically "*clips*" the 0% fee and applies the royalty to the excess portion.
- Implement Reputation Decay for Correlation. For example, if a firm or affiliated group creates e.g. 50 accounts for "*Sybil Attack*" and always vote the same way and trade in the same patterns, the smart contract flags them as a single "*Economic Interest Group*" and caps their combined voting power at a fixed percentage (e.g., 10%).

Stakeholder	Weakness of the "*Old*" Model	Advantages of the NEW "SIHU" Framework
Makers (Alpha-Creators)	Lose money on "cheap" contracts; vulnerable to "sniping" & info leakage.	Earn Royalties as data providers; protected by the Proprietary Toggle; 90-day vest builds long-term equity.
Takers (Natural Hedgers)	Pay high fees + "Longshot Bias" premium; usually lose >60% on low-priced trades.	0% License Fees; Midpoint execution; Auditable and protects their "*Utility*" from predatory pricing.
Market (Venue)	Relies on volume-based fees; struggles with thin books and "*phantom*" liquidity.	Data Utility Status; Becomes a "*Safe Harbor*" for institutional capital; earns a stable % of all royalties without taking "*Animal Farm*" risks.
Regulator (CFTC)	"Wild West" that necessitates intense oversight, yet the CFTC is hampered by inadequate tools and incompatible laws making it difficult for enforcement over event contracts.	The market corrects itself through WSWB, Staggered Governance & Reputation Staking for Checks and Balances; Contextual - Stress RENTD discretionary authority; uses the 90-day vest to ensure a "*Clean*" participant pool; align with enforcement priorities.

CORE PRINCIPLES – Need New Exemptions

DCMs must comply with §5(d) of the CEA that enumerates 23 Core Principles that DCMs, and Swap Execution Facilities (SEFs), must comply with §5h(f) enumerates 15 Core Principles to obtain and maintain their respective registration. DCMs and SEFs are different ecosystems with different access (all-encompassing exchange model versus restricted to *Eligible Contract Participants* [ECPs] – Institutional only), products (***Futures*** versus ***Swaps***), execution method (CLOB versus *Request for Quote* [RFQ]), and Clearing and Credit Risk (trades must be cleared through a Central Counterparty [CCP] versus *bilateral*). Amid we see business benefits for a Prediction Market to hold both DCM and SEF registrations to operate on a hybrid mode for flexibility to solicit crowd wisdom from everyone while facilitating bilaterial deals for ECPs, **mandating an arm's-length relationship between DCM and SEF is recommended**.

- Without strict separation, employees or board members might access data from institutional SEF trades to inform or influence retail prediction markets on the DCM. Operating at arm's length prevents the misuse of MNPI.
- Separated independent governance preserves market integrity. If conflated within the same corporate family, there is a heightened risk that the platform may fail to enforce its own rules against an affiliated entity or prioritize the commercial interests of one segment over another.
- The separation helps prevent contagion, where collapse of a risky institutional swap segment on the SEF side could directly harm the retail participants on the DCM side.
- The regulatory "*burden*" of a DCM is intentionally higher because it serves the general public. ECPs are presumed to have the expertise to evaluate complex risks in SEFs without the same "*handholding*" investor protection in DCMs.

The applicability of **Core Principle 2 Access requirements** **(Subpart C §38.151** for DCMs and **Subpart C §37.202** for SEFs**)** in Prediction Markets are our focus. A DCM can offer different rebate or fee structures to different participants, yet they must be **impartial, transparent, and non-discriminatory**. Per DCM's **Core Principle 9** **(Subpart J §38. 500)**, trades must be executed in a "*competitive, open, and efficient manner*" to ensure the ***price discovery*** process is NOT undermined.

Under the withdrawn CFTC proposal §38.503, the only permissible IBP in "*off-exchange*" private negotiated trades (NO interacting with the public order book) are Block Trades and Exchange for Related Positions (EFRPs, e.g. Exchange for Physical [EFPs] and Exchange for Risk [EFRs]). The substance of non-codified §38.503 is currently active, given the CFTC's "*no-action*" positions, assuming the DCM's rulebook is approved and incorporated CME Group and ICE's "**de facto**" *fair and reasonable pricing and reporting standards.*[47] It infers that the "**signal**" (the price) produced on a DCM as a **public good**. The "**de facto**" reporting standards require:

- **Immediate Submission**: Trades must be submitted to the exchange "as soon as possible" after execution.
- **Prescribed Windows**: Depending on the asset and liquidity, reporting deadlines typically range from a time-bound of **5 to 15 minutes**.
- **Single-Price Requirement**: Each leg of a multi-leg block or combination must be executed at a single price rather than an average price to prevent "***splitting***" quantities to mask the true trade price.
- **Public Dissemination**: Block trade prices are reported to the market separately from the central order book and do not trigger conditional orders like stop losses.

[47] https://www.cmegroup.com/rulebook/files/cme-group-Rule-526.pdf ; https://www.marketscreener.com/quote/stock/INTERCONTINENTAL-EXCHANGE-14931198/news/Intercontinental-Exchange-Block-Trade-FAQ-46136167/

CFTC should clarify whether a DCM charges "Speculators" a higher fee (**a royalty**) to ***access that signal/ liquidity*** while letting "Hedgers" in for FREE within a time-bound, would this be in violation of any ***barrier to entry*** requirements?

Today's securities and futures' market structure are increasingly shaped by latency speed, algorithmic trading, and AI technologies.[48] Reference to footnote 12, without TLE to make market data available securely in synchronized time, it causes "**initial bias**" that exacerbates the gap between the *haves* and *have-nots*. The traditional view of **Market Data** as signal is distorted (e.g. Exchanges optimally restricted access to price information).[49] Whereas onset signals detection of natural versus toxic liquidity and adverse selection are the "**real signals**" that count. **Speculators** benefit from reduced ***slippage*** provided by **Market Makers**. The royalty is a ***standardized liquidity rebate*** to the Makers.

DCM and DCO **bundled pricing** (***vertical integration***) is an insurmountable industry practice. How DCM's rules for clearing and settlement must be **uniform** and **non-discriminatory** where all market participants —regardless of size or status — are subject to the same financial safeguards and margin requirements? Also, would such ***standardized liquidity rebates*** be flagged as imposing financial or operational requirements that act as an ***unreasonable restraint of trade***[50] in violation of DCM's **Core Principle 19 (Subpart T §38.1000 Antitrust Consideration)** or SEF's **Core Principle 12 (Subpart J §37.1200 Conflicts of Interest)**?

Mandating **impartial access** but NOT curbing "**initial bias**" is **self-conflicting**. The Music Industry's copyright licensing framework has over a half century of litigations experience to align rights and obligations globally. Copyright is indeed a **standardized**, **impartial** way to define rights. Over emphasized on **price** itself produced on a DCM as a **public good** but undermine the real signals about ***liquidity*** and ***adverse selection*** are **problematic**. NOT protecting the copyright of **real signals** once the settlement prices and "*ideas*" behind index values are published[51] is an **outdated** and **non-compatible** views with the noumenon of 21st century financial markets.

Without updating the respective Core Principles or absent of a "No Action" letter, a responsible Prediction Market who aims to address the **Catch-22** would likely need to restructure the "**copyright royalty**" into existing regulatory categories.

- For example, the Market Maker license their proprietary "*fair value*" model or data stream to the Exchange, the Exchange then charges a market data fee to participants who want *real-time access* to that real signal.
- A DCM may offer a higher rebate to Market Makers and any participants who provides the same signal for quoting "*longshot*" contracts, effectively subsidizing the Market Maker's risk of being "*picked off*" by informed speculators.
- ECPs of SEF would use a bilateral agreement where speculator pays a "*premium*" (the royalty) directly to a hedger to take the other side of a trade off-exchange, which is ten submitted to the DCM/SEF for *clearing*.

We are not sure of the CFTC's view about this "**Exchange of Futures for Swaps** (**EFS**)" in *bypassing* of "***impartial access***" rules of the public order book. We despise contaminating the two ecosystems between DCMs and SEFs while remaining practical to follow the lead of the CFTC. We seek additional guidance with respect to our suggested SIHU framework. Our preference would be codifying the CEA for explicit permission of "**intent-based pricing**" with **new exemptions for Prediction Markets** (updating relevant DCM/SEF Core Principles). In turn, requiring all operators of Prediction Markets (+ SEC regulated 0DTE Options Exchanges) that they must properly address and rectify the "**Volume versus Integrity Paradox**" as identified in the Whelan Paper.

[48] https://www.linkedin.com/pulse/from-latency-ai-algo-driven-capital-markets-kelvin-to-xu5te/
[49] https://www.bayes.citystgeorges.ac.uk/__data/assets/pdf_file/0011/366599/sale-price-information-cass-knowledge.pdf
[50] https://www.cftc.gov/LawRegulation/FederalRegister/ProposedRules/2011-4707.html ; https://www.cftc.gov/sites/default/files/opa/speeches04/opalukken-10.htm
[51] https://www.illinoiscourts.gov/Resources/56c6405d-33b7-4db2-9e0d-a9fcc3030edb/1102228.pdf

COMPLIANCE – Collective Efforts

Unlike securities markets defined by continuous ***price discovery***, trading in Prediction Markets function as short-lived exposures to the "*cause*" while 0DTE Options provide exposure to the "*effect*." The beauty of simultaneous hedging strategies is the **decoupling** of **Event** and **Price Risk**. For example, one can buy a "*No*" contract on a prediction market for a Federal Reserve rate cut while simultaneously buying 0DTE SPX calls. If the cut happens, the 0DTE calls likely surge. If the cut fails to happen, the "*No*" contract payouts offset the loss of 0DTE premiums. Yet, the "**decoupling**" breaks the direct causal link traditional models rely on to identify manipulation.

In Prediction Markets, the "**asset**" is a **forecast**, meaning the value shifts based on ***information velocity*** rather than just *buying/selling pressure*. There is NO *fundamental value* of an "**asset**" to compare related order flow if it might or might not cause a price bias (e.g. spoofing). The "***worth***" of a contract is a **probability**. A massive trade might NOT be a "*bias*" or manipulation. It could be a substantial player acting on a genuine information edge. Using *price-based metrics* alone CANNOT distinguish *permissible* activities and from a *prohibited* manipulation attempt.

Traditional surveillance uses "*Z-score*" anomalies to flag *spikes*.[52] However, decoupled risks introduce noise. A price shift often happens in response to **alternate data**[53] rather than internal trade mechanics. A gradual deterioration of odds (*chronic*) and sudden anomalies (*acute*) caused by *misinformation campaigns* or the use of MNPI are not easily distinguishable even after the fact. High capital **concentration** can move prices faster than official news **disclosures**, especially in "*thin*" markets with *low liquidity*. Small, legitimate trades can look like aggressive manipulation (*price bias*) under traditional rules, leading to a flood of **false positives**.

Prediction market participants can directly influence the real-world outcomes to influence sentiment in a much larger, related equity or commodity market. Director Miller is spot on, in laying out the following CFTC Enforcement priorities for Prediction Markets: [54]

(1) Insider Trading – Section 4c(a)(4) of the CEA "*Eddie Murphy Rule*" on those government employees who hold material non-public information (MNPI), and those who trade on or tip others with misappropriated information;

(2) Market Manipulation – geopolitical events "*tempting to would-be manipulators*" on commodity price that can have broad inflationary effects, such as energy costs ripple through the economy;

(3) Disruptive Trading – spoofing, wash trading, and disruptive trading, especially during a closing period that reduces efficiency, distorts price signals, and can raise prices;

(4) Retail Fraud – Ponzi schemes, "*pig butchering*" schemes, impersonation fraud, and phishing attacks targeting at-risk populations; and

(5) Willful AML/KYC Violations – combatting terrorism, narcotrafficking (growing, producing, transporting, smuggling, and selling controlled substances), fraud, and other serious illegal activity.

To curb illicit activities in both traditional securities and futures markets as well as prediction markets, legacy surveillance systems must be upgraded or replaced with more powerful AI **machine learning** and **simulation** techniques. It would need to assess profile (check for consistency if anyone may act out of character), gauge RENTD, and reveal **trade intents** through onset signals detection that consists of, but not limited to, multi-dimensional analysis, simulation back-testing in

[52] https://arxiv.org/pdf/2308.08683
[53] https://corpgov.law.harvard.edu/2024/04/23/alternative-data-a-coso-perspective/
[54] https://www.lw.com/en/insights/new-cftc-enforcement-director-speaks-on-priorities-insider-trading-in-prediction-markets-and-coop

reconstructing not only the trade sequence but also the dynamics, back-stop assurance for synthetic created trades, etc. For example, beyond life of hedge is a "***trigger***" of concern. Any single "***trigger***" may not be a violation; however, the legitimacy of trade activities may be challenged if they occur in an order resembling *a set of triggers* (***pattern***) in the lessons database. Data Boiler pioneered in accurate detection of onset signals / trade irregularities at accelerated speed and more tolerable to unsynchronized clocks/ timestamp issues with related patents that claim priority since 2014. [55]

To enrich surveillance functionalities against **bot-driven** fake accounts, misinformation, and catch alleged misuse of MNPI, it is essential to build partnerships with online platforms and communication infrastructures to track suspects' digital trails of where, when, and with whom. Public-Private partnership (e.g. CISA's IEP) should be encouraged.[56] Connecting the **intelligence community**, including FinCEN, TFI, and other law enforcement and intelligence agencies, such as the Egmont Group of 100+ FIUs[57] domestically and internationally. Deterring fraudsters and adversaries requires diverse, collective efforts rather than bureaucracy.

Consolidated Audit Trail (CAT) had set a BAD precedent with significant privacy and security issues,[58] as well as civic concerns about **Massive Government Surveillance**.[59] It is incompatible with Vice President JD Vance's remarks about *"American AI will not be co-opted into a tool for authoritarian censorship."*[60] Congress confers the authority to the Department of Commerce to conduct census, NOT the SEC. We hope CFTC can heed the lesson to avoid intruding privacy[61] and prevent ***functional creep***.[62] Be creative and use decentralized edge computing to examine **alternative** and **meta data** for **context awareness** intelligence gathering to achieve Director Miller's five enforcement priorities.

Authenticating who is who, who is doing what, where and when via Decentralized Public Key Infrastructure Metaverse is good, but insufficient.[63] 21st century's challenges or "*chaos*" include: content moderation versus censorship, rogues hop around, "**Street Kids**" uprise with MEME stock phenomenon, digital "**Nomads**" could care less about ethics (conflict and the use of predictive data analytics), "**Corpo**" rent seeks in the Cyberpunk era, and/or allegedly cahoots activities.

Reference to my 2016 presentation to FSR/BITS (now renamed as Bank Policy Institute),[64] reverse engineering is inevitable. Privacy defenders use obfuscation to make things incompatible, introduce noise, separate and scramble, etc. Over time, best practice sharing becomes the new norm, while new algorithm development will emerge in seeking distinct competitive edges. It is a race against hackers, bad actors and foreign adversaries. Today's algorithms are improved through **Crowd collective intelligence**, which **Prediction Markets are an integral part tied to the broader intelligence ecosystem**. It addresses limitations with any standalone silo algorithm.

Learn, **unlearn**, and **relearn** – dynamic upgrades make the overall system smarter and more resilience than ever. Given the massiveness to create an **intelligence network**, where every jurisdiction or faction (including Pepe, Grassroot Unions, Anonymous Fawkes) is in the race. Some adversaries may get sponsorships from Sovereign Regime. In order for the US to remain on top of the world, be **creative**[65] is the key.

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[55] https://www.databoiler.com/products.htm
[56] https://www.cisa.gov/news-events/news/cisa-launches-new-platform-strengthen-industry-engagement-and-collaboration
[57] https://egmontgroup.org/faqs/
[58] https://www.linkedin.com/pulse/cat-through-z-security-privacy-requirements-kelvin-to/
[59] https://cs.stanford.edu/people/eroberts/cs181/projects/ethics-of-surveillance/ethics.html
[60] https://www.presidency.ucsb.edu/documents/remarks-the-vice-president-the-artificial-intelligence-action-summit-paris-france
[61] https://www.linkedin.com/pulse/privacy-security-concerns-cais-cat-consolidated-audit-kelvin-to-yqoee/
[62] https://www.schneier.com/blog/archives/2010/02/security_and_fu.html
[63] https://www.linkedin.com/pulse/improving-trust-amid-race-technologies-kelvin-to-8vxrc/
[64] https://www.databoiler.com/index_htm_files/DataBoilerInMotion.pdf
[65] https://www.ias.edu/sites/default/files/library/UsefulnessHarpers.pdf

CAPITULATION – Unwavering recognition of higher authorities

True wisdom cannot be bought, measured, or traded for any earthly treasure, no matter how rare or pure. The "*price*" of wisdom is NOT just about its cost, but its **origin**. Recognizing the originality of "***real signals***" with **SIHU** copyright licensing framework (see earlier section) make sense. While participants (**Makers**, **Takers**) can mine alternative and meta data through AI and other means, they cannot "*manipulate*" the event outcomes (blind person and an elephant + randomness and serendipity).

CFTC authority under §2(c)(2)(D) of CEA and COMEX Rule 7 help curb and mitigate situations such as the *Monex case*,[66] *retail metal fraud cases*,[67] and *Silver Thursday event*.[68] This reflects an unwavering recognition that the CFTC's word is final. Regarding to what extent is **soliciting crowd wisdom** from DCMs or be limited only to the professionals at SEFs? At what point does the continuing collection of probabilities to an event be a detriment rather than helpful to relevant authorities, sports leagues, and governing bodies and in turn, the general public?

There is no single party in a better position than the relevant authorities that have *skin in the game* to make that judgement in answering the above questions. Operating a prediction market (DCM or SEF) is always **a privilege rather than a right** conferred by the CFTC, which the CFTC has explicitly entrusted relevant authorities, sports leagues, and governing bodies for co-oversight. We applaud the CFTC's **Staff Advisory 26-08** for suggesting Prediction Markets to partner with relevant authorities, sports leagues, and governing bodies to ensure **market integrity**.

Now, with prediction markets being an integral part tied to the broader FinCEN, TFI, and other law enforcement and intelligence agencies, such as the Egmont Group of 100+ FIUs domestically and internationally, the "***decree***" is at the disposal of the US Executive Branch in properly advancing the "***America First***" agenda.[69] Would this "***decree***" include the use of prediction markets by the Executive branch to initiate trading halt, cancel trades, redrawn relevant rules, or even "*influence the outcomes*" *if in case foreign adversaries are causing flash crashes or destabilizing US financial supremacy*? It will be extremely effective if it is rightfully be used for **financial stability** purpose to ***shun evil***, but not others.

Therefore, the declaration of **Stress RENTD** per suggestions in earlier section require appropriate checks and balances to prevent ***functional creep***. For that, we *seek clarity of rules to follow*. Meanwhile, a couple of consideration factors:

- If more than X% of the book flips to **Proprietary Mode**, the **CFTC** can trigger a "*Market Integrity Intervention*" or a **mini-Stress RENTD**, forcing a compulsory license at the last FRAND rate to ensure the market remains a utility.
- During **Stress RENTD**, the market may shift from a **Continuous Book** to a **Randomized Batch Auction** (every 10-60 seconds). This eliminates the latency advantage and ensures the "*Stress Period*" actually helps the hedgers rather than the snipers.

Under normal circumstances, the CFTC would step in to stop "***Proprietary Poisoning***" with a **Stress RENTD** to preserve market integrity. Alternatively, if a foreign adversary tries to enter the market to manipulate a US-centric outcome (e.g., an election or a specific regulatory event), the **Makers** use their **Proprietary Toggle** to "*go dark*" as a signal, where CFTC observes the refusal and stands down (i.e. "***discretionary override***" to *NOT* intervene). It allows the market's organic "***Willing Seller***" refusal to act as a **National Security Filter** (turning the "***Proprietary Poisoning***" threat into a **Strategic Defense Mechanism**). This is a sophisticated use of **Realpolitik within market microstructure**, where the US government can deter a suspicious foreign adversary *through makers collective actions*. See below for a discussion.

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[66] https://www.secactions.com/two-significant-losses-for-the-cftc/
[67] https://www.fincen.gov/system/files/case_example/040.pdf
[68] https://www.scottsdalemint.com/articles/2024/the-hunt-brothers-how-two-billionaires-broke-the-silver-market/
[69] https://www.whitehouse.gov/presidential-actions/2025/01/america-first-policy-directive-to-the-secretary-of-state/

1. Centralized Discretionary Claw backs

The **Operating Committee** of a Prediction Market (with their **90-day Vested Skin in the Game**) identifies if a participant is a "Toxic Adversary" and their suspicious activity during a **Stress RENTD**, but they have no power to seize funds. They must present a "**Case for Intervention**" to the CFTC.

- **The Power:** Only the **CFTC** can trigger a **Retroactive Royalty Claw back**. By making this a purely regulatory discretionary tool, it prevents the "*Animal Farm*" elites from using "*predatory behavior*" as a pretext to settle scores with competitors.
- **For example**, If the 90-day Vested Jury determines a trade was predatory, the "**Royalty**" is not just the FRAND fee—it is 100% of the trade's alpha. This turns the predator's "*gaming*" into a forced donation to the Reputation Pool, benefiting the very participants they tried to exploit. Any profit "*mistakenly*" captured by a sniper during a **Stress RENTD** can be subject to **Claw back**.
- **The Logic:** This ensures that "***Alpha Seizure***" is a high-level regulatory act of Realpolitik, not a tool for market participants to cannibalize each other. If a sniper is caught extracting value during a crisis, the CFTC can reallocate those gains to the **Reputation Pool** to stabilize the system.

2. Market Ostracism as the Primary Defense

Instead of "***Tactical Latency***" (which can be gamed or lead to phantom liquidity), the defense remains the **Sovereign Right of Refusal**:

- The market remains a **Continuous Limit Order Book** for all.
- However, if Makers (the ***Willing Sellers***) collectively suspect "***Adverse Intent***" or "*Sniping*," they simply **withhold their quotes** from those specific counterparties by toggling to ***Proprietary Mode*** (i.e. forfeit royalties than provide a signal or liquidity to an adversary).
- **The Result:** The market does not "*lag*" or "pivot"—it simply **thins out** for the bad actor. If the actor is a foreign adversary, the CFTC's "*stand down*" (choosing not to declare a Stress RENTD override) allows the Makers' collective refusal to succeed.

3. The "Realpolitik" Balance to create a Triple-Lock System

a) **Makers** provide the initial defense via the **Proprietary Toggle**.

b) **The Operating Committee** provides the intelligence/monitoring.

c) **The CFTC** provides the "*Executive Hammer*" (Claw backs and Stress Period Overrides).

In the Whelan paper, Prediction Market is a "*passive*" venue where the rules are static. In our recommended model, it turns the market into an ***Active Defense*** environment**.** This Realpolitik within market microstructure can also be used to address the ***Midpoint Sniping*** issue during a **Stress RENTD** period, that. For the sake of keeping the market's technical execution clean and non-discriminatory, while centralizing the **"Executive Power"** within the **CFTC.**

- **Predators** face the risk of **Regulatory Claw backs** if they exploit a crisis.
- **Adversaries** face **Market Ostracism** from Makers who value their "*90-day Vested*" reputation over a one-time trade with a bad actor.
- **Fairness** is preserved because the "**rules**" of execution do not change—only the **willingness** of participants to engage.

Lastly, we recommend the following clause to be added to any Prediction Markets' **Governance Charter**:

✉ info@databoiler.com https://www.databoiler.com

"The Operating Committee, in consultation with the CFTC, may designate specific 'Adverse Actors.' For such actors, the Compulsory Licensing and Stress RENTD provisions shall be suspended, preserving the fundamental right of a Willing Seller to withhold information and liquidity in the interest of National Market Integrity."

Healthy capital markets development requires both TradFi and DeFi to be united while maintaining positive tensions in the technology arms race. Trust will be earned over time if we can reduce chaos and shape a safer and fair environment for all! Please see Annex 1 for our response to specific CFTC questions. Feel free to contact us with any questions and please keep us posted where our expertise might be helpful.

Sincerely,

Kelvin To

Founder and President
Data Boiler Technologies, LLC

This letter is also available at: https://www.DataBoiler.com/index_htm_files/DataBoiler%20CFTC%20SEC%2020260430.pdf

CC: The Honorable Michael S. Selig, Chairman of the CFTC
Mr. Rahul Varma, Director of Market Oversight, CFTC
Mr. Frank Fisanich, Deputy Director of Market Oversight, CFTC
Mr. David I. Miller, Director of Enforcement, CFTC
Mr. Jorge Herrada, Director of the Office of Technology Innovation, CFTC
Mr. Mel Gunewardena, Director of International Affairs / Senior Markets Advisor to the Chairman, CFTC
Ms. Nancy Markowitz, Deputy Director of Market Review, CFTC
Ms. Meghan Tente, Deputy Director of Product Review, CFTC
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The Honorable Hester M. Peirce, Commissioner of the SEC
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Mr. Jesse Brady, Division's Office of Analytics and Research, SEC
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ANNEX 1 – Data Boiler's response to specific CFTC questions

A. Core Principles and Commission Regulations

1. *What factors should the Commission consider in determining whether to provide guidance or amend its regulations regarding how the DCM Core Principles in CEA section 5(d) apply to prediction markets? Are there specific points on which the Commission should provide guidance or adopt rule amendments? Why or why not?*

The applicability of **Core Principle 2 Access requirements (Subpart C §38.151** for DCMs and **Subpart C §37.202** for SEFs**)** in Prediction Markets are our focus. A DCM can offer different rebate or fee structures to different participants, yet they must be **impartial, transparent, and non-discriminatory**. Per DCM's **Core Principle 9 (Subpart J §38. 500)**, trades must be executed in a "*competitive, open, and efficient manner*" to ensure the **price discovery** process is NOT undermined.

Under the withdrawn CFTC proposal §38.503, the only permissible IBP in "*off-exchange*" private negotiated trades (NO interacting with the public order book) are Block Trades and Exchange for Related Positions (EFRPs, e.g. Exchange for Physical [EFPs] and Exchange for Risk [EFRs]). The substance of non-codified §38.503 is currently active, given the CFTC's "*no-action*" positions, assuming the DCM's rulebook is approved and incorporated CME Group and ICE's "**de facto**" *fair and reasonable pricing and reporting standards.*[70] It infers that the "**signal**" (the price) produced on a DCM as a **public good**. The "**de facto**" reporting standards require:

- **Immediate Submission**: Trades must be submitted to the exchange "*as soon as possible*" after execution.
- **Prescribed Windows**: Depending on the asset and liquidity, reporting deadlines typically range from a time-bound of **5 to 15 minutes**.
- **Single-Price Requirement**: Each leg of a multi-leg block or combination must be executed at a single price rather than an average price to prevent "***splitting***" quantities to mask the true trade price.
- **Public Dissemination**: Block trade prices are reported to the market separately from the central order book and do not trigger conditional orders like stop losses.

CFTC should clarify whether a DCM charges "Speculators" a higher fee (**a royalty**) to access that signal/ liquidity while letting "Hedgers" in for FREE within a time-bound, would this be in violation of any ***barrier to entry*** requirements?

Please refer to earlier section – CORE Principles for a discussion and see below for our additional thoughts:

Under Section 5(d) of the CEA, the CFTC confers significant self-regulatory authority to DCMs through a framework of 23 Core Principles. Under this framework, SROs act as the front-line defense. By leveraging SROs' specialized market knowledge in real-time, it provides greater operational flexibility than a federal determination to mandate every detail of every nuances. The CFTC maintains oversight authority and can perform Rule Enforcement Reviews (RERs) to ensure the SRO is effectively using its conferred powers to satisfy its obligations.

In contrast with the SEC that focuses on specific rule-filing compliance and how securities exchanges handle *listings*, *arbitration*, and *order execution*, the CFTC's RERs are heavily focused on how a DCM satisfies the Core Principles, such as market surveillance (Core Principle 4) and position limits (Core Principle 5). We see merits in both approaches. For example, it was proposed that the SEC be the primary sales regulator of self-certified "*ancillary assets*" while CFTC be

[70] https://www.cmegroup.com/rulebook/files/cme-group-Rule-526.pdf ; https://www.marketscreener.com/quote/stock/INTERCONTINENTAL-EXCHANGE-14931198/news/Intercontinental-Exchange-Block-Trade-FAQ-46136167/

the secondary trading regulator for such fungible tokens sold via SAFT used by crypto developers to raise capital from accredited investors before the token is live or functional.[71]

We have reservations if the SEC approves trading of any binary contracts solely based on an exchange's proposal to set a very low **position limit**. A low limit does not necessarily prevent insider trading or manipulation if the underlying event is susceptible to influence by a small group. Indexes such as Nasdaq-100 or Mini S&P 500 would not be extremely difficult, if not impossible, to be influenced by a small group. We respect the distinct statutory mandates and regulatory philosophies, where the SEC regulated securities markets are meant to facilitate "*capital formation*" with comprehensive investor protection, while binary event contracts may serve no such purpose.

CFTC framework is designed to allow DCMs to list products more fluidly through self-certification. The *permissible presumption* under the CFTC rule is about **market integrity**, which is different than the SEC's *affirmative process*. The CFTC relies on the DCM's front-line expertise to set limits that manage risks unique to each event, such as weather or economic data, without requiring a lengthy federal approval for every listing.

On top of maintaining adequate risk management tools, system and operational safeguards, as well as providing dispute resolution mechanisms for customers, per the CFTC's Staff Advisory 26-08, DCMs will coordinate with relevant authorities, sports leagues, and governing bodies to implement specific integrity standards to manage jurisdictional sensitivity matters as appropriate. Picture these relevant authorities, sports leagues, and governing bodies as the 2nd Line of Defense (LOD). They would set boundaries, policies and risk appetite in guiding the DCMs.

Meanwhile, the CFTC acts as the 3rd LOD for objective evaluation of DCMs' control effectiveness via RERs. Like an EDP audit, it is inevitable that the CFTC's RERs would need to develop some AI assist/ automated review capabilities to scan through thousands of newly self-certified contracts each day.

2. *With respect to the following DCM Core Principles, what factors are relevant to prediction markets?*

   a. *What aspects of prediction markets affect how a DCM provides impartial access and prohibits abusive trade practices? Are there potential barriers to impartial access that the Commission should consider? Are there particular risks of abusive trading?*

   Core Principle 2 states that a *DCM "shall establish, monitor, and enforce compliance with the rules of the [DCM], including- (i) access requirements; … and (iii) rules prohibiting abusive trade practices."* Regulation 38.151, adopted under this core principle, requires that a DCM provide *"impartial access to its markets and services, including … access criteria that are impartial, transparent, and applied in a non-discriminatory manner."*

   The applicability of **Core Principle 2 Access requirements (Subpart C §38.151** for DCMs and **Subpart C §37.202** for SEFs**)** in Prediction Markets is questionable. Per DCM's **Core Principle 9 (Subpart J §38. 500)**, trades must be executed in a "*competitive, open, and efficient manner*" to ensure the **price discovery** process is NOT undermined. Yet, the traditional view of **Market Data** as signal is distorted (e.g. Exchanges optimally restricted access to price information). Whereas onset signals detection of natural versus toxic liquidity and adverse selection are the "**real signals**" that count. Mandating impartial access but NOT curbing "*initial bias*" is *self-conflicting*.

   To address the Catch-22 CORE problems and "***favorite-longshot bias***" that harms retail, we hope the Commission can clarify:

[71] https://www.databoiler.com/index_htm_files/DataBoiler%20CFTC%2020250818.pdf

- Whether a DCM charges "Speculators" a higher fee (**a royalty**) to *access that signal/ liquidity* while letting "Hedgers" in for FREE within a time-bound, would this be in violation of any ***barrier to entry*** requirements?
- Given DCM and DCO **bundled pricing** (***vertical integration***) is an insurmountable industry practice, how DCM's rules for clearing and settlement must be **uniform** and **non-discriminatory** where all market participants — regardless of size or status — are subject to the same financial safeguards and margin requirements?
- Would ***standardized liquidity rebates*** be flagged as imposing financial or operational requirements that act as an ***unreasonable restraint of trade*** in violation of DCM's **Core Principle 19 (Subpart T §38.1000 Antitrust Consideration)** or SEF's **Core Principle 12 (Subpart J §37.1200 Conflicts of Interest)**?

We are not sure of the CFTC's view about this "**Exchange of Futures for Swaps** (**EFS**)" in *bypassing* of "***impartial access***" rules of the public order book. We despise contaminating the two ecosystems between DCMs and SEFs while remaining practical to follow the lead of the CFTC. We seek additional guidance with respect to our suggested SIHU framework. Our preference would be codifying the CEA for explicit permission of "**intent-based pricing**" with **new exemptions for Prediction Markets** (updating relevant DCM/SEF Core Principles). In turn, requiring all operators of Prediction Markets (+ SEC regulated 0DTE Options Exchanges) that they must properly address and rectify the "**Volume versus Integrity Paradox**" as identified in the Whelan Paper.

b. What factors should the Commission consider regarding a DCM's rules related to resolution criteria for event contracts? For example, if there is a dispute regarding how an event contract is resolved or how the trigger event for an event contract is determined (such as a dispute regarding whether an event underlying a contract has occurred), what factors should the Commission consider in setting expectations for DCMs to have rules to resolve the dispute? Are dispute resolution procedures for other types of swaps, such as credit default swaps, helpful precedents? Also, what considerations under Core Principle 14, which requires a DCM to have "rules regarding, and provide facilities for alternative dispute resolution as appropriate for, market participants and any market intermediaries," are relevant in this regard?

Given, Core Principle 2 already requires a DCM to *"establish, monitor, and enforce compliance with … the terms and conditions of"* contracts traded on the DCM (i.e., a concise explanation and analysis of the contract's compliance must be provided when a DCM ***self-certifies*** a new event contract), the Commission's consideration factors regarding a DCM's rules related to resolution criteria for event contracts are:

- Is the event contract a zero-sum game that fails our suggested ***litmus test*** – **powers of two logic**.
- "**Masquerading**" audit on correlation, size limitation, and whether a Taker maintains a hedging ledger readily available for review. If any participant found "**masquerading**" as a hedger while extracting signal-alpha, would they face fee reclassification and reputation decay.
- The effectiveness of a DCM's **dispute resolution** mechanism in resolving challenges to "Hedging Intent" or "FRAND Violations" (**Market Squatting**). What weighted vote (e.g. 51%) would be assigned to the reputation-bearing community (members of the DCMs).
- Is the DCM's Operating Committee broadly represented by diversified participants and do they use a **Staggered Term** model to prevent "*Animal Farm*" capture.
- How to avoid "Natural Hedgers" from being penalized by Mark-to-Market (MTM) Drift just because they were fast to react to a headline if the Operating Committee (with their **Vested Skin in the Game**) determines that a price move was driven by a public news event (an "*Exogenous Shock*").

- Contextual "Adverse Selection" and Market Stress. To ensure that "**Reputation**" does NOT become a rigid, algorithmic trap during black-swan events, adding a **Stress RENTD** *safe harbor* under the direction and discretion of the CFTC is recommended. This helps the market from seizing up, and participants can transfer risk without the friction of licensing fees.

We acknowledge the merits of dispute resolution mechanism for Credit Default Swap (CDS) with regards to buy- and sell-side representation in determinations committees, and reliance on public information to maintain objectivity. However, CDS are primarily traded by professional institutional firms. Afraid its mandatory arbitration and standardized "*Big Bang*" protocols would NOT ensure fairness and accessibility for retail.

Instead, the focus should be about **rebalancing** the "*Information Tax*" (see earlier sections – CORE Problems and COLLECTIVE Public Good). It is better than complicated Alternative Dispute Resolution that dominated by the Elites. To protect retail and preserving market integrity, there should be checks and balances between DCM – the venue, DCO – the Guarantor, and FCM – the brokerage arm. *Vertical integration* and the overuse of leverage could be a danger to the health of financial markets if the market for a "*cause*" may become an outsized risk in itself.

c. *How should a determination of whether an event contract is "readily susceptible to manipulation" be made? What factors should be considered? Are there particular aspects of event contracts that make this determination different from the determination with respect to other listed contracts? Do any existing rules for other types of exchanges and platforms (i.e., not prediction markets) limit or mitigate the potential for manipulation? If so, how and to what extent are these rules appropriate as requirements for prediction markets?*

Core Principle 3 states that a DCM may list *"only contracts that are not readily susceptible to manipulation."* Typical assessment factors include:

a. The concentration of payout and whether the underlying event is susceptible to influence by a small group.
b. Evaluating if the potential payout (*P*) is large enough to motivate a bad actor/ foreign adversary to trigger the event. If *P* > cost of committing the act + legal risk, the contract is likely contrary to the **public interest**.
c. Availability of substitute hedging tools (e.g. the risk is already manageable through regulated insurance channels).
d. Evaluate the potential for asymmetric information to cause harm from leakage of MNPI or cause undue public panic or economic destabilization that exceeds the value of the information provided.

We understand the concerns about unintended structural incentives for agency problem and moral hazard. If the market's payout becomes a more powerful motivator for a decision-maker than their professional or ethical duty, then it is a **red flag**. CFTC's RERs should review whether the risk of incentivizing the event outweighs the benefit of the hedge and the DCM's long-term betting odds. **NOTE:** Prediction Market is not prophecy, but it should generally be a reliable indicator of forthcoming activities, contributing to the accuracy of AI forecast.

d. *Do any aspects of prediction markets pose challenges to compliance with this Core Principle or, on the other hand, facilitate compliance? Are there market surveillance, compliance, or enforcement practices on which the Commission should focus? Are there existing surveillance practices for detecting suspicious activity in other types of exchanges and platforms that would be useful in prediction markets?*

Core Principle 4 states that a DCM "shall have the capacity and responsibility to prevent manipulation, price distortion, and disruptions of the delivery or cash settlement process through market surveillance, compliance, and enforcement practices and procedures."

Traditional surveillance uses "*Z-score*" anomalies to flag *spikes*. However, decoupled risks introduce noise. A price shift often happens in response to **alternate data** rather than internal trade mechanics. A gradual deterioration of odds (*chronic*) and sudden anomalies (*acute*) caused by *misinformation campaigns* or the use of MNPI are not easily distinguishable even after the fact. High capital **concentration** can move prices faster than official news **disclosures**, especially in "*thin*" markets with *low liquidity*. Small, legitimate trades can look like aggressive manipulation (*price bias*) under traditional rules, leading to a flood of **false positives**.

Director Miller is spot on, in laying out the CFTC enforcement priorities for Prediction Markets. To curb illicit activities in both traditional securities and futures markets as well as prediction markets, legacy surveillance systems must be upgraded or replaced with more powerful AI **machine learning** and **simulation** techniques. It would need to assess profile (check for consistency if anyone may act out of character), gauge RENTD, and reveal trade intents through onset signals detection. Please refer to earlier section – COMPLIANCE for a discussion.

e. *What factors should the Commission expect a DCM to consider in adopting position limitations or position accountability for prediction markets? For example, what factors should the Commission consider regarding how position limits across similar event contracts should be aggregated (e.g., whether there is the same underlying reference, or whether there are similar references)? Are there reasons why event contracts, as compared to other swaps and futures contracts, should, or should not, be subject to different position limitations or position accountability? Are existing position limitation or position accountability provisions helpful as precedent for determining how prediction markets should implement such measures?*

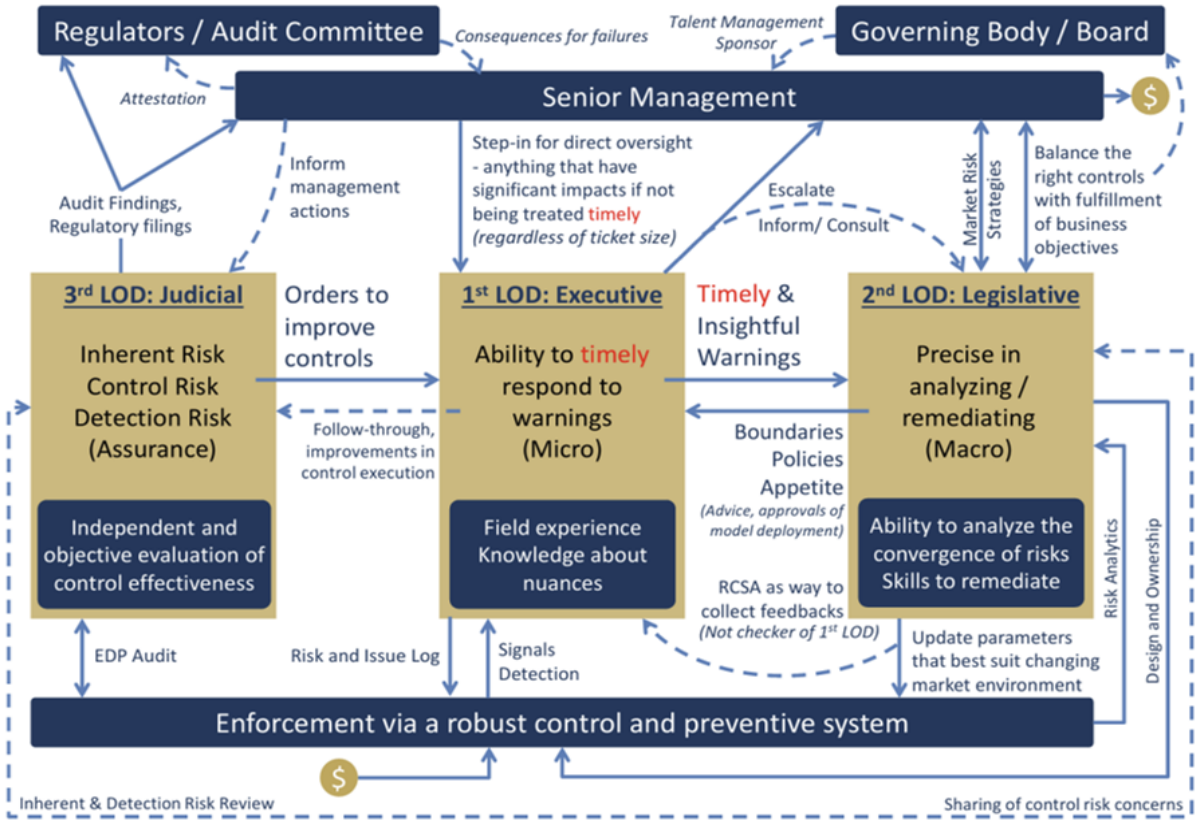
Core Principle 5 states that a DCM shall, for each contract, adopt position limitations or position accountability for speculators as is necessary and appropriate to *"reduce the potential threat of market manipulation or congestion."* There is no single *objective* one-size-fits-all number that makes a market "*speculative*." If the CFTC bans a market because it's *too speculative*, which is NOT true per Whelan, it would destroy the very ***liquidity*** needed for a market to serve an "***economic purpose***." For a market to work for serious ***hedgers***, it ***needs speculators***. CFTC should NOT be in the business of deciding what is "*useful*" for a trader – the "**Paternalism Problem**". Natural hedger is NOT a formal regulatory category under CFTC Rule 40.2. DCM as an SRO should have discretions to operate within its empowered authorities.

Unlike securities markets defined by continuous price discovery, trading in Prediction Markets function as short-lived exposures to the "*cause*" while 0DTE Options provide exposure to the "*effect*." The beauty of simultaneous hedging strategies is the **decoupling** of **Event** and **Price Risk**.

Again, a low limit does not necessarily prevent insider trading or manipulation if the underlying event is susceptible to influence by a small group. The CFTC relies on the DCM's front-line expertise to set limits that manage risks unique to each event, which is different than the SEC's *affirmative process*. The SEC regulated securities markets are meant to facilitate "*capital formation*" with comprehensive investor protection, while binary event contracts may serve no such purpose. Hom DCM handles *listings*, *arbitration*, and *order execution* should NOT be consideration factors for CFTC's RERs with regards to compliance with Core Principle 5.

We want to emphasize that the "**asset**" in Prediction Markets is a **forecast**, meaning the value shifts based on ***information velocity*** rather than just *buying/selling pressure*. There is NO *fundamental value* of an "**asset**" to compare related order flow if it might or might not cause a price bias (e.g. spoofing). The "***worth***" of a contract is a **probability**. A massive trade might NOT be a "*bias*" or manipulation. It could be a substantial player acting on a genuine information edge. Using *price-based metrics* alone CANNOT distinguish *permissible* activities and from a *prohibited* manipulation attempt.

SROs as 1st Line of Defense (LOD) know more of the nuances and glitches than anyone seating at the 2nd LOD – the diversified operating committee and the 3rd LOD – the CFTC. Somehow, certain risk treatments are better to handle with immediacy than over analyze for a perfect solution. No doubt that 2nd LOD should set boundaries, policies and risk appetite to curb *"misaligned incentive"* in 1st LOD. The 2nd and 3rd LOD do need to tell 1st LOD exactly when to inform, consult, and escalate. If these are not well defined and 1st LOD are not supported by implementable procedures, then do not judge the ability and integrity of 1st LOD.[72]



f. What factors should the Commission consider in determining whether prediction markets should be permitted to offer trading on margin, and should such factors be different for retail as opposed to institutional customers? If margin is provided to retail customers, what disclosure, if any, should the Commission consider to ensure that customers are fully informed of the consequences and potential losses resulting from the customer's failure to meet margin requirements? If prediction markets are allowed to offer trading on margin, what factors should be involved in the calculation of initial margin, such as concentration, or liquidity (i.e., the cost to the DCM to liquidate a defaulting member's portfolio)? What methods should be involved, such as a flat percentage rate or a statistical analysis? Given that some event contracts resolve quickly and others may not resolve for years, what time series of data and other time period considerations should be involved when calibrating appropriate margin? What factors should be involved in considering other issues such as whether daily variation margin should be required, the time intervals for collecting margin, and the instruments permitted for posting initial margin and exchanging variation margin? What products should be eligible for cross-margin with event contracts if trading on margin is allowed?

Core Principle 11 requires that a DCM have *"rules and procedures for ensuring the financial integrity of transactions entered into on or through facilities of the* [DCM] *(including the clearance and settlement of the*

[72] https://databoiler.com/index_htm_files/Revitalize%203LOD.pdf

transactions with a derivatives clearing organization [DCO]*); and rules to ensure the financial integrity of any* [intermediary] *and the protection of customer funds."*

It is a slippery slope when the CFTC in 2024/2025 updated its No-Action Relief to grant DCO platforms (Kalshi Klear and MIAXdx) from Part 45 reporting requirement to SDRs for fully collateralized binary options, citing *"these contracts are fully collateralized, they lack significant counterparty credit risk and have minimal impact on systemic risk, rendering Part 45 reporting less critical."* On March 24, 2026, Kinetic Markets LLC – a Futures Commission Merchant (FCM) affiliated with Kalshi, secured a license from CFTC (through the NFA) to offer margin trading that lets users open positions without putting up full capital.

Checks and balances between DCM – the venue (KalshiEx), DCO – the Guarantor (Kalshi Clear), and FCM – the brokerage arm (Kinetic) are key to preserve US derivatives market's integrity (preventing market manipulation, minimizing operational risks, and mitigating conflicts of interest). DCM maintains fair and orderly markets and ensures open access. DCO sets the minimum margin requirements for the exchange to ensure there is enough *skin in the game* to cover potential losses and eliminates bilateral counterparty risk. FCM safeguards customer assets.

Separation of duties prevents a DCO from using one customer's funds to cover another's or the house's obligations. Integration can lead to an entity using its FCM as a *loss-leader*, reducing customer choices. Conflating respective functions of DCM, DCO, and FCM in a **vertically integrated model** poses significant threat to financial stability. E.g., the failure of an affiliated FCM could trigger a *run* on the DCO, potentially leading to a catastrophic collapse of the entire clearing system. Amid Kinetic Markets' new product will only be available to institutions initially, we have reservations that *overuse of leverage could be a danger to the health of financial markets.*

Meanwhile, DCM and DCO **bundled pricing** (***vertical integration***) is an insurmountable industry practice. How DCM's rules for clearing and settlement must be **uniform** and **non-discriminatory** where all market participants — regardless of size or status — are subject to the same financial safeguards and margin requirements?

g. *What sources of operational risk related to prediction markets should the Commission consider? What operational risk analysis and other measures do prediction markets currently employ? Are there challenges to the reliability, security or scalable capacity of the systems used by prediction markets?*

Core Principle 20 requires a DCM to *"establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk, through the development of appropriate controls and procedures, and the development of automated systems, that are reliable, secure, and have adequate scalable capacity."* While DCMs do not require to comply with SEC Reg. SCI, DCMS must demonstrate system resiliency" through several comparable standards outlined in Part 38 – e.g. Exhibit V "*Technology Questionnaire*" regarding automated systems, risks analysis, and oversight; *BCP/DR*; *Cybersecurity*; next-business-day *recovery* for critical *third-party dependencies*. Certain DCMs operate globally; they should observe different standards and best practices for continuous improvements.[73]

h. *In general, under the DCM Core Principles, what factors should the Commission consider with respect to blockchain-based prediction markets? Are there challenges or advantages in applying existing regulations and guidance to blockchain-based prediction markets? Which areas, if any, would benefit from Commission guidance or rule amendments for blockchain-based prediction markets?*

Factors to be considered:

[73] https://www.whitecase.com/insight-our-thinking/financial-regulatory-observer-2022-operational-resilience-uk-eu-and-us ; https://www.linkedin.com/pulse/improving-trust-amid-race-technologies-kelvin-to-8vxrc/

- Whether using crypto assets as collateral meets the financial integrity requirements of Core Principle 11 and if initial margin can safely be held in stablecoins.
- Monitoring "*wash trading*" or insider trading across pseudonymous wallets.
- May lack a "*compliance officer*" or central DCM to hold accountable for rule enforcement.
- Reconciling "*smart contract*" finality with the CFTC's need for dispute resolution facilities.
- How decentralized markets should report trader-level data to the Commission to satisfy Core Principle 4 surveillance requirements.

3. *Are there aspects of the clearing of event contracts that the Commission should consider in applying the DCO Core Principles in CEA section 5b(c)(2)? Are there specific points on which the Commission should provide guidance or adopt rule amendments? If so, why?*
   a. *The following DCO Core Principles may be relevant in this regard: (C) participant and product eligibility, (D) risk management, (H) rule enforcement, and (I) system safeguards. What factors should the Commission consider in applying these Core Principles?*
   b. *Are there relevant differences in how the Core Principles and underlying regulations for DCMs and DCOs apply to prediction markets? If so, how should the differences factor into the Commission's consideration of these issues?*
   c. *What implications for DCOs should the Commission consider if event contracts were traded on prediction markets on margin? Are there any issues arising with respect to, for example, the requirements in DCO Core Principle D that "(iv) … [t]he margin required from each member and participant of a [DCO] shall be sufficient to cover potential exposures in normal market conditions" and "(v) … [e]ach model and parameter used in setting margin requirements under clause (iv) shall be- (I) risk-based; and (II) reviewed on a regular basis"? What factors should the Commission consider regarding the clearing silo, if any, that would be appropriate for event contracts? What factors should the Commission consider regarding whether event contracts should be eligible for margin credit or cross margin, both on DCOs, and when cross-margined with securities exchanges?*

Please see our response to Q.2f. In addition, DCO acts as the critical backstop and "central counterparty" for block trades executed by ECPs. The DCO novates the contract, calculates and collects collateral from the ECPs to cover potential future losses, performs "*mark-to-market*" daily, and moving cash between accounts to reflect price changes in the block position, ensure the clearing members handling the ECPs' accounts have sufficient capital, provide SDR reporting, etc. Block trades can pose a concentration risk. Yet, the "**asset**" is a **forecast** in Prediction Markets, meaning the value shifts based on ***information velocity*** rather than just *buying/selling pressure*. There is NO *fundamental value* of an "**asset**" to compare related order flow. The "***worth***" of a contract is a **probability**. Traditional margin models (which rely on historical volatility) might fail, potentially threatening the DCO's solvency.

4. *Are there aspects of prediction markets that the Commission should consider in applying these Core Principles? How is trading on prediction markets by institutional traders the same, or different from, retail trading on prediction markets?*

   How would or does prediction market trading on DCMs and SEFs impact liquidity in both types of exchanges?

   What factors should the Commission consider in determining whether any public disclosure requirements should apply to prediction market trading on SEFs?

   For example, would public disclosure help to mitigate, or exacerbate, adverse selection? Are there specific points on which the Commission should provide guidance or adopt rule amendments? If so, why?

Please see earlier sections – CORE Problems and COLLECTIVE Public Good.

5. *What factors should the Commission consider in determining whether to provide guidance or amend any other of its regulations with respect to the listing, trading, and clearing of event contracts on prediction markets?*

1) CEA section 2(a)(13) authorizes the Commission *"to make swap transaction and pricing data available to the public in such form and at such times as the Commission determines appropriate to enhance price discovery."* CEA section 2(a)(13)(G) states that each swap *"shall be reported to a registered swap data repository."*
What factors should the Commission consider in applying these provisions to prediction markets listing event contracts as swaps? Are there aspects of event contract swaps that hinder or facilitate their reporting to a swap data repository or the public availability of the relevant transaction and pricing data? To what extent should such reporting and data availability be standardized in order, for example, to facilitate Commission analysis and to detect potential cross-market activity from a risk or manipulation perspective? Are public identifiers (e.g. CUSIP/ISIN/LEI) appropriate for event contracts? How does such reporting and data availability relate to enhanced price discovery?
Binary contracts for both 0DTE Options and Prediction Markets often lack traditional "*notional*" values used in swap reporting. Relying on decentralized or private oracles complicates the "*reporting of record*" if sources conflict. Anonymity or deferred transparency is necessary for block trades.

"*Trade reporting*" is outdated. Frequent transmittal of data in-and-out and within DCM/DCO, unnecessary data-in-motion[74] traffics, is wastage and more susceptible to defects. When data is "*at-rest*" rather than "*in-use*," it serves no value other than one must pay for storage of the data. As data is redundantly stored on SDRs' systems and at the DCM/DCO system and then is regurgitated in bulk to the CFTC or make public, causing significant wastages. Instead of "*SEND*," "*OBTAIN*" or directly analyze the data at its source is a substantially better approach.

CUSIP/ ISIN are typically for securities; its licensing fees are controversial.[75] LEI are used for identifying the platforms and ECPs involved in event contract swaps. We have no objection with LEI. "*Forecast*" does not belong to any of the existing five asset classes for UPI. Modern technologies track every digital trail including metadata, rather than relying on an old-school data structure.

2) CEA section 4c(a)(1) and (2)(A) provide that it is unlawful to enter into a transaction involving a futures contract, option thereon, or swap, if the transaction is a pre-arranged or noncompetitive trade, or a wash sale.
What factors should the Commission consider in applying these provisions to prediction markets? Are there aspects of prediction markets that make them more or less susceptible to pre-arranged or noncompetitive trades, or wash sales?
It would be good if the CFTC can issue further guidance about "*Fictitious*" and "*Wash trades*" in specifying where the line is drawn for legitimate liquidity provision versus prohibited "*accommodation trades*." Automated Market Makers (AMMs) in decentralized prediction markets is a controversy if section 4c(a) is strictly enforce – the protocols or "*peer-to-pool model*" may involve "*trading with themselves*" to provide liquidity.[76] To satisfy Core Principle 12, a DCM must ensure it automated surveillance programs, where Prediction Markets must apply heightened controls in the following areas:

- **Monitoring for Asymmetric Information**: Detecting potential **insider trading** by investigating traders who may have non-public knowledge of an event outcome.

[74] https://www.databoiler.com/index_htm_files/DataBoilerInMotion.pdf
[75] https://www.waterstechnology.com/data-management/7952899/where-have-four-years-of-cusip-legal-drama-gone
[76] https://www.zealynx.io/blogs/amm-security-foundations-p1

- **Inquiry Authority**: If anomalies are detected, DCMs must have the authority to obtain **trader-level data** and take disciplinary action.
- **Intervention Rights**: DCMs must maintain the authority to adjust trade prices or cancel trades to mitigate disruptions caused by platform malfunctions or erroneous orders.

3) CEA section 4c(a)(5) provides that it is unlawful to engage, on any CFTC registered entity, in disruptive trading practices. *What factors should the Commission consider in applying this provision to prediction markets? Are there aspects of prediction markets that make them more or less susceptible to disruptive trading practices?*

Implement real-time monitoring, maintain audit trails, conduct surveillance are the basic for DCMs in deterring disruptive trading. For Prediction Markets, DCMs should consult with relevant bodies (e.g., sports leagues or government agencies) to verify the integrity of settlement data and detect fraud, as well as enforce disciplinary rules against violators and escalate to the attention of CFTC for any systemic suspicious activities. See below for consideration factors:

Factors Increasing Susceptibility	Factors Decreasing Susceptibility
Underlying event can easily be influenced by a small group	Full Collateralization
Payout or incentive for leaks > cost + legal risk	Real-Time Monitoring
favorite longshot bias, high fee-to-contract-value ratio	build-in mechanism to punish "Masquerading"
Asymmetric information; insurance as alternate hedge	Community Watchdogs, Whistle blowers

6. *With respect to any rule changes that the Commission may propose for the foregoing reasons, what are the relevant considerations of costs and benefits? What less costly alternatives should the Commission consider?*

A less costly alternative would be – subject all the probabilities generated out of Prediction Markets and 0DTE Options to feed into AI to see whether they can enable the AI to move beyond deterministic "*yes/no*" outputs to more nuanced "*shades of uncertainty*" for enhance performance in manage uncertainty. If the platform cannot add-value to the advancement of AI/ Quantum computing, its usefulness for hedging is in doubt. We recommend using the **powers of two logic** (*binary search*) to serve as a practical ***litmus test*** to check if an event contract serves entertainment or economic purposes and whether the platform is more akin to Casino or not).

B. Public Interest

7. *What factors should the Commission consider in making a public interest determination under Section 5c(c)(5)(C)?*

CEA section 5c(c)(5)(C) provides for the Commission to make a determination that event contracts are *"contrary to the public interest"* if the event contracts involve any of five listed activities or *"other similar activity determined by the Commission, by rule or regulation, to be contrary to the public interest."* If the CFTC wants to further strengthen the §5c(c) and Core Principle 1 about "*self-certify*" new rules or contracts for *better certainty* and *objectivity* to differentiate a ***game of chance/ entertainment*** from a ***market*** with ***economic purpose***, we recommend using the **powers of two logic** (*binary search*) to serve as a practical ***litmus test***. Please refer to earlier section - CRITERIA for a discussion.

Regarding other enumerated categories of activities besides "*gaming*" that are generally NOT allowed for event contracts:

- **Terrorism**: Contracts that provide a financial reward for acts that threaten national or international security are prohibited to avoid potentially financing or incentivizing such acts.

- **Assassination**: Similar to terrorism, these are barred to prevent profiting from or incentivizing violent crimes against individuals.
- **War**: Contracts based on the occurrence or outcome of armed conflict are typically viewed as contrary to the public interest.
- **Unlawful Activity**: Any contract involving an activity that is illegal under federal or state law cannot be listed.

Unlike *"economic/ natural causes"* that can be hedged as part of normal economic activity, the above are prohibited *"causes"* having zero social utility (i.e., *risk of incentivizing the event outweigh the benefit of the hedge*). Typical assessment factors include:

a. The concentration of payout and whether the underlying event is susceptible to influence by a small group.

b. Evaluating if the potential payout (*P*) is large enough to motivate a bad actor/ foreign adversary to trigger the event. If *P* > cost of committing the act + legal risk, the contract is likely contrary to the **public interest**.

c. Availability of substitute hedging tools (e.g. the risk is already manageable through regulated insurance channels).

d. Evaluate the potential for asymmetric information to cause harm from leakage of MNPI or cause undue public panic or economic destabilization that exceeds the value of the information provided.

We understand the concerns about unintended structural incentives for agency problem and moral hazard. If the market's payout becomes a more powerful motivator for a decision-maker than their professional or ethical duty, then it is a **red flag**. This parallels the securities market, where routing orders for *proprietary gain* over client's best interests is a *conflict of interest*. For that, we hope the Commission can clarify whether ***trade intent*** would or would not be required as part of the assessment.

We respectfully disagree with the proposed "**DEATH BETS Act**"[77] that seeks a broader statutory ban on contracts referencing death, war, or assassination, removing case-by-case discretion. Amid there should be heightened scrutiny for contracts on *non-objective outcomes* that can be triggered by a single person's action or inaction, the CFTC is in no position to limit, for example on what the executive branch can or cannot exercise its authority to use prediction markets to gauge sentiment of markets and/or use event contracts as means to signal or disguise foreign adversaries if necessary to advance or skew a combating situation in America's favors.

CFTC as an agency of the US government may bring case(s) against key officials in executive branch to fulfill its mandate to prevent insider trading and market manipulation, while the Presidential immunization and authority to pardon should be observed. If it ends up still requiring the judicial branch to handle the situation on a case-by-case basis that drags for years and waste taxpayers' money, we recommend a **Stress RENTD** and **claw back mechanism** for a powerful deterrent against moral hazards. Please refer to earlier section - CAPITULATRION for a discussion. In short, our recommended SIHU neutralizes perverse incentives, solving agency problems, and strengthening public interest protections.

Reference to this Institute of Economic Affairs (IEA) Report – ***The Myth of Social Cost*** by acclaimed Economist Steven N.S. Cheung, *"Any analysis which predicts the outcomes of a given policy will throw light on its desirability. Thus, the fallacies regarded here as having marred the interpretation of behavior cannot be the result of analyses of policy… The question is … why public policies exist in the way they do, and why they vary in different economic systems. The answer*

[77] https://www.schiff.senate.gov/wp-content/uploads/2026/03/RYA26191.pdf

to this question of the economic interpretation of political behavior requires an understanding of the real-world constraints relevant to government decision-making."[78]

In measuring harm to **public interest**, one must shift from using an abstract formula to "*in-depth investigation of the real-world situation*." Harm is reciprocal. The goal is to avoid greater harm, so:

(1) First, identify the "*reciprocal*" nature of harm. Compare the *total value of production* (the *total economic benefit* of an activity *minus the costs of the damage it produces*) with the harm to determine which arrangement (*efficient allocation of resources*) yields the highest net value, rather than focusing solely on reducing harm.

(2) Next, any "*friction*" or transaction costs preventing a private deal should be measured. For that, "*externalities*" only exist because the cost of negotiating or enforcing a contract are too high. If transaction costs to fix a harm are higher than the cost of damage caused by the harm, then allowing the "*harm*" to continue is technically the most *efficient outcome* (i.e., sometimes "*unpleasant*" outcomes are economically rational when *resources are scarce*).[79]

(3) Given "*interventions*" often serve the goal of political agents rather than the public, and a central authority lacks the low-cost decentralized information that market prices provide; thus, any inherent costs – such as *information, rent-seeking, and compliance failures*—that governments generate when *intervening* in the market, ought to be deducted from any theoretical benefit of a policy to determine its true net impact.

(4) Afterall, the "*measure*" of **public interest** might be the *cost of re-drawing property right boundaries* to allow private trading or negotiation.

We recommend both the legislators and the CFTC to consider the above 4-points in providing relevant guidelines, rather than using over-prescriptive rules to intervene in the market.

8. *How should the public interests set out in CEA section 3 inform the Commission's public interest determination under CEA section 5c(c)(5)(C)?*

Please see our response to Q7.

9. *Are there any elements of the former "economic purpose" test that should or should not be applied in the Commission's public interest determination under CEA section 5c(c)(5)(C)?*

Please refer to earlier section - CRITERIA (Table 2 in particular) for a discussion.

10. *What role do event contracts play in "managing and assuming price risks, discovering prices, or disseminating pricing information" as contemplated by CEA section 3(a)? How are event contracts used in hedging, which is one aspect of managing price risks? How should the Commission incorporate considerations of hedging, price risk, price discovery, and price dissemination in its public interest determination under CEA section 5c(c)(5)(C)?*

Unlike securities markets defined by continuous ***price discovery***, trading in Prediction Markets function as short-lived exposures to the "*cause*" while 0DTE Options provide exposure to the "*effect*." The beauty of simultaneous hedging strategies is the **decoupling** of **Event** and **Price Risk**. Please refer to earlier sections – CONTEXT , COLLECTIVE Public Good, and CORE Principles for a discussion.

[78] https://iea.org.uk/wp-content/uploads/2016/07/THE MYTH OF SOCIAL COST.pdf
[79] https://no86.fedsoc.org/posts/the-problem-of-social-cost

11. *CEA section 3(b) lists several purposes of the CEA, including to prevent price manipulation, to protect all market participants from fraudulent or other abusive sales practices, and to promote responsible innovation and fair competition.56 What factors should the Commission consider in its effort to fulfill these purposes with respect to prediction markets? Is there any potential conflict between these purposes, and if so, how should they be balanced?*
    Please refer to earlier section – COMPLIANCE for a discussion.

12. *How do event contracts compare to, or substitute for, insurance contracts? Should the liquidity and availability of insurance with respect to a particular event be a factor in the Commission's public interest determination?*
    Using the availability of substitute hedging tools (e.g. the risk is already manageable through regulated insurance channels) as one of the assessment factors has its merit. Please refer to earlier section – CRITERIA for a discussion.

    Policy makers should take a step back though to consider what actuaries and underwriter of insurance do – dealing with probabilities of event outcomes. The objective and primary function of insurance is to **manage uncertainty**. By integrating intelligence from Prediction Markets about real-world probabilities, it enhances the actuarial/ quantitative models used by insurance companies and allows AI to move beyond deterministic "*yes/no*" outputs to more nuanced "*shades of uncertainty*," making systems more robust in messy, real-world environments (*noise handling, context awareness*). The model requires less data to reach accuracy. Also, it is the "*backbone*" of quantum computing. AI models are now used to predict and correct "*qubit noise*." *Qubits* exist in a superposition of states **defined by probability** amplitudes rather than fixed *binary bits*.

    Insurance contracts and Prediction Markets/ 0DTE Options' event contracts both **compete** and **complement** each other. 98% → 99.9% incremental improvement is better than 85% → 90% because it is 95% error reductions vs just 33%. It is a race to reduce *unknown unknowns*. A chicken-and-egg scenario: *will the availability of superior insurance products be driven by better predictive forecasts, or will actuary roles eventually be rendered obsolete by pre-cognitive AI and quantum computing — optimizing risk to the point where society no longer requires insurance at all?*

13. *Why, or why not, would it be appropriate for the Commission to propose any changes to its regulations related to its public interest determination?*
    Please see our response to Q7.

14. *If the Commission were to propose any changes to its regulations related to its public interest determination, what considerations of costs and benefits would be relevant to those changes? What less costly alternatives should the Commission consider?*
    Please see our response to Q6 for our suggested less costly alternatives.

C. Activities Listed in CEA Section 5c(c)(5)(C)

15. *CEA section 5c(c)(5)(C) lists five activities, and provides that if an event contract involves any such activity, the Commission may determine that the event contract is contrary to the public interest. What factors should the Commission consider in determining the scope of these five listed activities? What aspects of these activities would be relevant to the Commission's public interest determination?*
    Please refer to our earlier section – CRITERIA and our response to Q7 for a discussion.

16. *What types of event contracts could potentially involve "activity that is unlawful under any Federal or State law"? What steps should the Commission appropriately take in order to determine which State laws may be involved in a particular event contract? What steps should the Commission appropriately take in order to determine which Federal laws, such as the Exchange Act, may be involved in a particular event contract? If an event contract involves an activity that is unlawful under some State laws, but not others, how should this conflict be resolved? What public interest factors should the Commission consider for event contracts involving unlawful activity?*

States act as community-based laboratories of democracy, trying new policies that can later be adopted by other States or the Federal government. Yet, modern technologies break interstate boundaries and Federal runs *regulatory sandboxes* is proven to be effective and efficient in providing a controlled "*safe space*" that allows businesses to test innovative products, services, or business models in a live environment without immediately complying with all standard regulatory requirements.

Both States and Federal Policy Makers should NOT merely base on whether "*the outcomes of events are uncertain and outside the control of the bettor, or hinge on a game of chance, to label prediction market platforms fitting the legal definition of gambling."* Please refer to earlier sections – CONTEXT and CRITERIA for a discussion. We understand States' tax revenue from casinos and mobile sports gambling platforms does currently "*fund public schools, sports programs for underserved youth, and problem gambling education and treatment.*" Also, we acknowledge that casino gaming being central to the economic development model of Tribes and Native Americans. However, United States ought to be united rather than divided.

Reference to our response to Q7, if policy goal is to avoid greater harm, let's identify the "reciprocal" nature of harm, compare and determine which arrangement States or Federal is more *efficient in allocation of resources*, or which consumes the least resources from the judicial branch to handle disputes on a case-by-case basis that drags for years and waste taxpayers' money. Either the Federal or States, it is about producing positive social impacts (e.g. develop treatments to addictive gambling behaviors), rather than letting "*middleperson*" indulge with money. Blaming prediction markets or the wider capital markets as "*speculative*" while lacking concrete actions to improve the betting odds and develop education programs to truly help treat addictive gambling behaviors at a local level is irresponsible.

Rather than picking fights with the Federal, States should be more proactive to attract investments in operating licensed entertainment business at their local State, as well as showcase what fieldwork they have done to ensure wealth of their residents is NOT being destroyed by local gambling. Platform operators should be given **choice** to choose between whether a Federal or State license is more economically viable for their respective business models.

In addition, we recommend a **Stress RENTD** and **claw back mechanism** for a powerful deterrent against moral hazards. The CFTC's Staff Advisory 26-08 is constructive. On top of maintaining adequate risk management tools, system and operational safeguards, as well as providing dispute resolution mechanisms for customers, DCMs will coordinate with relevant authorities, sports leagues, and governing bodies to implement specific integrity standards to manage jurisdictional (STATES) sensitivity matters as appropriate.

Facilitating bilaterial deals for ECPs is a CFTC regulated matter. States lack the sophistication to regulate prediction markets that compete and solicit crowd wisdom nationally and internationally. Soliciting crowd wisdom may expose how well a State or Federal government is being run, where the State/ Federal authorities may resist such activities. *The nosy loves to gossip about everyone's private business, except himself or herself*. Would this be a ***taboo*** for what event contracts are permissible versus prohibited? Prediction markets should NOT be used to promote any ideology because any ideology is the enemy of ***free will*** in the US long standing heritage.

17. *The second and third listed activities are terrorism and assassination. Are the meanings of these terms self-evident, or are there any ambiguities that the Commission should consider? Are specific definitions in other contexts, such as insurance, helpful? Would event contracts involving cyberterrorism be covered by the terrorism provision, and if so, what factors distinguish cyberterrorism from other cyber-attacks? What public interest factors should the Commission consider for event contracts involving terrorism or assassination?*

To what extent is **soliciting crowd wisdom** from DCMs or be limited only to the professionals at SEFs? At what point does the continuing collection of probabilities to an event be a detriment rather than helpful to relevant authorities and in turn, the general public? There is no single party in a better position than the relevant authorities – in this case, the FinCEN, Federal Bureau of Investigation (FBI), Department of Homeland Security (DHS), National Counterterrorism Center (NCTC), etc. that have *skin in the game* to make that judgement about terrorism and assassination.

With prediction markets being an integral part tied to the broader FinCEN, TFI, and other law enforcement and intelligence agencies, such as the Egmont Group of 100+ FIUs domestically and internationally, the "***decree***" is at the disposal of the US Executive Branch in properly advancing the "***America First***" agenda.

Would this "***decree***" include the use of prediction markets by the Executive branch to initiate trading halt, cancel trades, redrawn relevant rules, or even "*influence the outcomes*" *if in case foreign adversaries are causing flash crashes or destabilizing US financial supremacy*? What if the Bureau of Counterterrorism (US Department of State) or FinCEN can jointly agree with the CFTC to instruct a prediction market to offer "*baits*" to catch traitors and any misuse of MNPI for insider trading. It will be extremely effective if it is rightfully be used for **financial stability** purpose to ***shun evil***, but not others.

Operating a prediction market (DCM or SEF) is always **a privilege rather than a right** conferred by the CFTC, which the CFTC has explicitly entrusted relevant authorities for co-oversight. Unwavering recognition of the CFTC authority under §2(c)(2)(D) of CEA. Please refer to earlier section – CAPITULATION for a discussion.

18. *The fourth activity is war. Does this activity encompass all military actions, or are there military actions that do not constitute war? What factors distinguish war from, for example, civil unrest? What factors distinguish war from political actions, or other actions as part of international relations? Are specific definitions in other contexts, such as insurance, helpful? What public interest factors should the Commission consider for event contracts involving war?*

"*Cold war*" and "*arms race*" are distinct but deeply connected concept, are they considered as "*war*"? Would weapon test, military drill, or recruitment of solders be classified as "*military actions*" or not? Words are flimsy and invite defiance. We despise linguistic camouflage. Ambiguity in event contracts should be discouraged. Following the logics mentioned earlier – *the nosy loves to gossip about everyone's private business, except himself or herself*, misuse of MNPI and unintentionally reveal US military intentions to adversaries should be unlawful. Instead of event contracts on specific tactics of the US or its enemy, would predictions and simulations using *broad geometric ontologies* for warfare ONLY on US enemies be permissible?

Professional surveys on the topic of war are allowed and regularly conducted in the US, while the conduct of these surveys is subject to specific regulations and ethical standards.[80] For example, the US Navy does not allow offering of incentives for completing survey that violate the "*dual compensation*" rule.[81] *"Also, since not everyone in a command*

[80] https://www.surveylegend.com/types-of-surveys/12-reasons-to-conduct-military-surveys-bonus-tips/ ; https://thebulletin.org/2010/03/do-professional-ethics-matter-in-war/ ; https://www.armyupress.army.mil/Journals/Military-Review/Online-Exclusive/2023-OLE/Roadmap-to-Launching-Survey-Operations/
[81] https://www.mynavyhr.navy.mil/Support-Services/Culture-Resilience/Survey-Policy/FAQs/

is selected for a survey, it would be unfair to offer an incentive just to those who are selected." What can be learnt and crossover apply in Prediction Markets? Academic and professional simulations that categorize tactical maneuvers are standard practice in the US defense community. It should NOT be a complete ban to run predictions and simulations on wars or geopolitics matters but finding ways where these predictions and simulations can work towards the competitive advantages for the US.

Per our comment letter to the White House Office of Science and Technology Policy on regulatory reform on AI,[82] "*bias*" in many domains – especially competitive ones like **defense** or finance – bias is not just inevitable, it is essential to: prioritize certain outcomes (e.g. speed over accuracy, stealth over transparency), reflect strategic performance (e.g. risk tolerance, adversary modeling), and/or to exploit asymmetries (e.g. alpha in trading, **deception in war**). Trying to "*neutralize*" biases in pursuit of consensus or fairness can dilute the US strategic advantage, especially when foreign adversaries are not playing by the same rules.

Per the Art of War: (1) *All warfare is based on deception;* (2) *Why destroy when you can win by stealth and cunning;* (3) *let your plans be dark and impenetrable as night, and when you move, fall like a thunderbolt;* (4) *One who exercises no forethought but makes light of his opponents is sure to be captured by them;* (5) *For to win one hundred victories in one hundred battles is not the acme of skill, to subdue the enemy without fighting is the acme of skill;* (6) *All players can see the tactics whereby one conquered, but what none can see is the strategy out of which victory is evolved.*[83]

Reference to our response to Q7, the "*measure*" of **public interest** might be the *cost of re-drawing property right boundaries* to allow private trading or negotiation. We want to be practical for a sophisticated use of **Realpolitik within market microstructure**, where the US government can deter a suspicious foreign adversary ***through makers collective actions***. For that, we recommend a **Stress RENTD** and **claw back mechanism**.

Under normal circumstances, the CFTC would step in to stop "***Proprietary Poisoning***" with a **Stress RENTD** to preserve market integrity. Alternatively, if a foreign adversary tries to enter the market to manipulate a US-centric outcome (e.g., an election or a specific regulatory event), the **Makers** use their **Proprietary Toggle** to "*go dark*" as a signal, where CFTC observes the refusal and stands down (i.e. "***discretionary override***" to *NOT* intervene). It allows the market's organic "***Willing Seller***" refusal to act as a **National Security Filter** (turning the "***Proprietary Poisoning***" threat into a **Strategic Defense Mechanism**). Please refer to earlier section – CAPITULATION for a discussion.

19. *The fifth activity is gaming. What factors should the Commission consider in determining the scope and public interest implications of this activity?*

    Please refer to earlier section – CRITERIA for a discussion.

    a. *What sources should inform the Commission's determination of the scope of the term "gaming"? For example, is gaming synonymous with, or more or less extensive than, the scope of activities covered by State and Federal gambling statutes? Are there characteristics – such as an entertainment purpose, or an element of chance – that distinguish gaming from other activities?*

       See Table 1 and Table 2 in earlier section.

    b. *In this regard, how should the Commission distinguish between various types of contests? For example, should a sports competition be treated differently than an award competition, and if so, what factors support this distinction? What other types of contests should or should not be considered to be gaming?*

[82] https://www.databoiler.com/index_htm_files/DataBoiler%20WHOSTP%2020251027R.pdf
[83] https://en.wikipedia.org/wiki/The_Art_of_War

We recommend using the **powers of two logic** (*binary search*) to serve as a practical ***litmus test*** to differentiate a ***game of chance/ entertainment*** from a ***market*** with ***economic purpose***.

c. *What aspects of event contracts involving gaming should the Commission consider in a public interest determination? For these event contracts, are there any challenges to the deterrence of manipulation and protection from abusive sales practices contemplated by CEA section 3(b)? If so, how could these challenges be mitigated? How are the responsible innovation and fair competition goals in CEA section 3(b) served by event contracts involving gaming?*

Section 3(b) aims to protect market participants from "*abusive sales practices*." Research from the American Gaming Association indicates that 28% of sports event contract bettors believe they are "*investing*," compared to only 9% of sportsbook users.[84] This framing can mislead consumers about the risks and the level of regulatory protection available. Only 34% of event contract users report seeing "*responsible gaming*" messages, compared to 78% of traditional sportsbook users. Standard options **disclosures** deem insufficient to explain the *all-or-nothing* nature, *partial payouts*, or *G2 preference*/ *idea* market structure. Please refer to earlier sections – CONTEXT and CRITERIA and our response to Q16 for a discussion.

d. How should the Commission factor into its public interest determination the characteristics of market participants that trade event contracts involving gaming? For example, do these market-participants tend to be younger than those trading other financial instruments, and if so, how should this inform the Commission's consideration?

Americans are highly competitive in gaming. Nearly two-third of the US population play video games weekly as of 2025. US ranked 3rd globally in terms of hosted esports prize pools, bringing in $23.12 million, trailing Saudi Arabia ($39.66M) and China ($34.82M).[85] Approximately 32% of Gen Z and 24% of Millennials are invested in or considering sports betting and prediction markets, whereas only 7% of users are over the age of 50.[86] Educate and equip the youngers to be diligent in deploying their resources. History has shown that no force can destroy a generation except the previous one. The CFTC should NOT be in the business of deciding what is "*useful*" for a trader – the "**Paternalism Problem**". If gaming skills can be nurtured and used for the right purposes in contributing to the public good and well-being of society, then the responsible thing to do is proper guidance.

e. *What aspects of responsible gaming standards, such as self-exclusion programs, monetary or time limits, or advertising limits, disclaimers, or warnings, should the Commission consider in its public interest determination?*

Social Media Algorithms and Teen Addiction: Neurophysiological Impact and Ethical Considerations.[87]

f. *How do the various types of event contract that involve gaming differ from each other? How are these differences relevant to the Commission's public interest determination?*

Please refer to earlier section – CRITERIA for a discussion.

[84] https://www.americangaming.org/resources/sports-event-contracts-selling-sports-betting-as-investing/
[85] https://www.prnewswire.com/news-releases/where-the-esports-money-went-in-2025-esportranker-ranks-top-prize-pool-countries-302713522.html
[86] https://finance.yahoo.com/news/gen-z-betting-big-prediction-222343228.html
[87] https://assets.cureus.com/uploads/review_article/pdf/304975/20250207-625924-2s0rma.pdf

20. *What factors should the Commission consider in determining whether an activity is similar to the activities listed in CEA section 5c(c)(5)(C)? Are there any examples of existing event contracts involving potentially similar activities that should be a factor in the Commission's determination on this issue? Are there any differences in how the public interest determination should be applied to such similar activities, as compared to the listed activities?*

CFTC should refrain from a federal determination to mandate every position limit of every contract. The CFTC acts as the 3rd LOD for objective evaluation of DCMs' control effectiveness via RERs. Like an EDP audit, it is inevitable that the CFTC's RERs would need to develop some AI assist/ automated review capabilities to scan through thousands of newly self-certified contracts each day. Bias depends on social norm. Social norm evolves overtime.

CEA's §5c(c)(5)(C)(i)(VI) provides that the Commission may determine that an event contract is contrary to the public interest if it involves another *"similar activity determined by the Commission, by rule or regulation, to be contrary to the public interest."* It is better for the CFTC to retain broad authorities rather than being over prescriptive in here if §2(c)(2)(D) of CEA may ever be used again to curb and mitigate situations such as the Silver Thursday event.

21. *Why, or why not, would it be appropriate for the Commission to propose any changes to its regulations related to the activities listed in CEA section 5c(c)(5)(C)?*

CFTC's guidelines are helpful. Yet, there is a dedicated balance between the legislative branch and the CFTC as a Federal agency of the executive branch. It is better for the Commission to turn the focus on the use of **Realpolitik within market microstructure**, where the US government can deter a suspicious foreign adversary. Again, we recommend a **Stress RENTD** and **claw back mechanism**.

22. *If the Commission were to propose any changes to its regulations related to the activities listed in CEA section 5c(c)(5)(C), what considerations of costs and benefits would be relevant to those changes? What less costly alternatives should the Commission consider? Please provide any relevant specific information, data, or studies that you may have regarding the costs and benefits of such regulations or rule changes.*

Please see our response to Q6 for our suggested less costly alternatives.

D. Procedural Aspects of CEA Section 5c(c)(5)(C)

23. *CEA section 5c(c)(5)(C)(i) provides that the Commission may make a public interest determination "in connection with the listing" of event contracts by prediction markets. What aspects of the prediction market listing process are relevant to deciding at what point in the listing process the public interest determination could occur? What factors should inform the Commission's interpretation of what occurs "in connection with the listing" by a prediction market of an event contract? For example, why would it be appropriate, or not, for the Commission to make a public interest determination when a listing application is reasonably expected, but not yet filed?*

The timing of a public interest determination is shaped by these specific procedural stages:

- **Submission Type**:
  - **Self-Certification (17 CFR § 40.2)**: An exchange (DCM or SEF) certifies the contract complies with the CEA and listings occur as early as the next business day. Determination here often happens *after* listing if the CFTC initiates a stay.
  - **Voluntary Approval (17 CFR § 40.3)**: An exchange requests the CFTC's affirmative approval, giving the Commission **45 days** (extendable to 90) to make a public interest determination *before* the contract is listed.

- **The 90-Day Review Trigger**: Under 17 CFR § 40.11(c), the Commission may initiate a formal 90-day review if a contract "*may involve, relate to, or reference*" an activity like gaming. The determination must be finalized by an order of approval or disapproval by the end of this period.
- **Suspension of Trading**: If a review is triggered for an already-listed self-certified contract, the Commission typically requests that the exchange **suspend or stay trading** until the determination is complete.

Factors to interpret what constitutes an event occurring "*in connection with the listing*" of a contract:

- **The** "***Involves***" **Test**: whether the underlying event falls within the scope of the enumerated activities, see Q25.
- **Game of Chance vs. Economic Purpose**: we recommend using the **powers of two logic** (*binary search*) to serve as a practical ***litmus test***. Please refer to earlier section – CRITERIA for a discussion.
- **CEA Section 3 Objectives**: The Commission weighs whether the contract's listing would undermine core objectives such as deterring manipulation, protecting market participants, or ensuring financial integrity.
- **Influence and Control**: the concentration of payout and whether the underlying event is susceptible to influence by a small group (inherent risk of manipulation).
- **Impact on Existing Regulations**: whether the listing would interfere with the sovereign right of **states** or **tribes** to regulate gaming within their territories.

24. *What factors should inform the Commission's interpretation of whether CEA section 5c(c)(5)(C) contemplates that elements of a public interest determination could be made with respect to a category of event contracts, rather than a specific event contract? For example, what factors should the Commission consider in determining whether to provide guidance regarding how it expects to make any public interest determination? Would it be useful for the Commission to provide illustrative examples of event contracts that do, or do not, involve the listed activities? Why or why not?*

    Please see our response to Q7.

25. *CEA section 5c(c)(5)(C)(i) provides that the Commission may make a public interest determination for event contracts that "involve" the listed activities. What elements are relevant to determining what event contracts "involve"? What factors should inform the Commission's interpretation of when event contracts are sufficiently tied to a listed activity in order to say that the event contracts "involve" that activity?*

    Typical assessment factors include:

    a. The concentration of payout and whether the underlying event is susceptible to influence by a small group.

    b. Evaluating if the potential payout (*P*) is large enough to motivate a bad actor/ foreign adversary to trigger the event. If *P* > cost of committing the act + legal risk, the contract is likely contrary to the **public interest**.

    c. Availability of substitute hedging tools* (e.g. the risk is already manageable through regulated insurance channels).

    d. Evaluate the potential for asymmetric information to cause harm from leakage of MNPI or cause undue public panic or economic destabilization that exceeds the value of the information provided.

    * NOTE: Policy makers should take a step back to consider what actuaries and underwriter of insurance do – dealing with probabilities of event outcomes. The objective and primary function of insurance is to **manage uncertainty**. Reference to our earlier discussion about integrating intelligence from Prediction Markets about real-world probabilities, it enhances the actuarial/ quantitative models used by insurance companies and facilitates advancement of AI/ Quantum Computing. Insurance contracts and Prediction Markets/ 0DTE Options' event contracts both **compete** and **complement** each other. 98% → 99.9% incremental improvement is better than 85%

→ 90% because it is 95% error reductions vs just 33%. It is a race to reduce *unknown unknowns*. A chicken-and-egg scenario: *will the availability of superior insurance products be driven by better predictive forecasts, or will actuary roles eventually be rendered obsolete by pre-cognitive AI and quantum computing — optimizing risk to the point where society no longer requires insurance at all?*

26. *CEA section 5c(c)(5)(C)(iv) provides that the Commission must take final action regarding its public interest determination "not later than 90 days from the commencement of* [the Commission's] *review unless the party seeking to offer the contract or swap agrees to an extension." How should this time limit inform the Commission's procedure for making public interest determinations? Considering this limitation, what steps would be appropriate, or not, for the Commission to take prior to making its determination?*

Under regulations like 17 CFR § 40.2 (self-certification) and 17 CFR § 40.3 (voluntary approval), the Commission evaluates individual product submissions rather than relying solely on categorical definitions. We recommend using the **powers of two logic** (*binary search*) to serve as a practical ***litmus test***. Please refer to earlier section – CRITERIA for a discussion. The CFTC acts as the 3rd LOD for objective evaluation of DCMs' control effectiveness via RERs. Like an EDP audit, it is inevitable that the CFTC's RERs would need to develop some AI assist/ automated review capabilities to scan through thousands of newly self-certified contracts each day.

17 CFR § 40.11 is the procedure rule that tells the CFTC how to hit the "*pause*" button to investigate whether an event contract is prohibited or not. Should the scope of §40.11(a) be broaden from current focus on the listing to also prohibited from trading prohibited contracts? Again, we recommend a **Stress RENTD** and **claw back mechanism**. Please refer to earlier section – CAPITULATION for a discussion.

27. *Why, or why not, would it be appropriate for the Commission to propose any changes to its regulations related to procedures under CEA section 5c(c)(5)(C)?*

Please see our response to Q25.

28. *If the Commission were to propose any changes to its regulations related to procedures under CEA section 5c(c)(5)(C), what considerations of costs and benefits would be relevant to those changes? What less costly alternatives should the Commission consider? Please provide any relevant specific information, data, or studies that you may have regarding the costs and benefits of such regulations or rule changes.*

Please see our response to Q6 for our suggested less costly alternatives.

E. Inside Information

29. *Is there some public interest utility if people with an asymmetric information advantage on a particular event contract are able to trade on prediction markets? Does the public interest utility depend on the type of event in question? What factors should the Commission consider in evaluating and balancing the public interest in this scenario?*

Amid *the price on a prediction market could be viewed as an indication of how likely the underlying event is to occur*, the traditional view of **Market Data** as signal is distorted (e.g. Exchanges optimally restricted access to price information). Whereas onset signals detection of natural versus toxic liquidity and adverse selection are the "**real signals**" that count. **Speculators** benefit from reduced ***slippage*** provided by **Market Makers**. Regardless of securities

markets or prediction markets, any markets would comprise both the informed (fundamentalists) and uninformed (chartists) per Grossman-Miller model.[88]

A low position limit does not necessarily prevent insider trading or manipulation if the underlying event is susceptible to influence by a small group. The "*Eddie Murphy Rule*" §4c(a)(4) of the CEA is key to curb insider trading on those government employees who hold MNPI, and those who trade on or tip others with misappropriated information. Challenge is – Prediction Markets have NO *fundamental value* of an "**asset**" to compare related order flow if it might or might not cause a price bias (e.g. spoofing). The "**asset**" is a **forecast** or the "***worth***" of a contract is a **probability**. Value shifts based on ***information velocity*** rather than just *buying/selling pressure*. A massive trade might NOT be a "*bias*" or manipulation. It could be a substantial player acting on a genuine information edge. Using *price-based metrics* alone CANNOT distinguish *permissible* activities and from a *prohibited* manipulation attempt.

According to the Whelan Paper, Makers get "*picked off*" by informed traders, causing them to widen spreads. One possible way to address the challenge is utilizing automated **Price Pegs**. For example, linking an "*inflation*" contract to the related liquid markets, such as CPI-swaps. If the exchange-provided price automatically adjusts to macro data, Makers do not have to bake a "*risk of being scooped*" premium into their spreads. This lowers the cost for the end-user (the hedger). Yet, such external markets link may not be available or have a weak correlation.

Prediction markets hedge against the occurrence of the event itself, is an exposure to the **"cause".** 0DTE Options hedge against price volatility, is an exposure to the **"effect"**. For a **decoupling** of event and **price risk** example, buy a "*No*" contract on a prediction market for a Federal Reserve rate cut while simultaneously buying 0DTE S&P 500 (SPX) calls. If the cut happens, the 0DTE calls likely surge. If the cut fails to happen, the "*No*" contract payouts offset the loss of 0DTE premiums. Traditional surveillance uses "*Z-score*" anomalies to flag *spikes*. However, decoupled risks introduce noise. A price shift often happens in response to **alternate data** rather than internal trade mechanics.

A gradual deterioration of odds (*chronic*) and sudden anomalies (*acute*) caused by *misinformation campaigns* or the use of MNPI are not easily distinguishable even after the fact. High capital **concentration** can move prices faster than official news **disclosures**, especially in "*thin*" markets with *low liquidity*. Small, legitimate trades can look like aggressive manipulation (*price bias*) under traditional rules, leading to a flood of **false positives**.

To curb illicit activities in both traditional securities and futures markets as well as prediction markets, legacy surveillance systems must be upgraded or replaced with more powerful AI **machine learning** and **simulation** techniques. It would need to assess profile (check for consistency if anyone may act out of character), gauge RENTD, and reveals **trade intents** through onset signals detection that consists of, but not limited to, multi-dimensional analysis, simulation back-testing in reconstructing not only the trade sequence but also the dynamics, back-stop assurance for synthetic created trades, etc. For example, beyond life of hedge is a "***trigger***" of concern. Any single "***trigger***" may not be a violation; however, the legitimacy of trade activities may be challenged if they occur in an order resembling *a set of triggers* (***pattern***) in the lessons database.

To enrich surveillance functionalities against **bot-driven** fake accounts, misinformation, and catch alleged misuse of MNPI, it is essential to build partnerships with online platforms and communication infrastructures to track suspects' digital trails of where, when, and with whom. Public-Private partnership (e.g. CISA's IEP) should be encouraged. Connecting the **intelligence community**, including FinCEN, TFI, and other law enforcement and intelligence agencies,

[88] https://www.researchgate.net/publication/388351070_The_Grossman-Miller_Market_Making_Model_with_and_without_Trading_Costs

such as the Egmont Group of 100+ FIUs domestically and internationally. Deterring fraudsters and adversaries requires diverse, collective efforts rather than bureaucracy. Please refer to earlier section – COMPLIANCE for a discussion.

We are against insider trading as they may lead to manipulation, unfairness, and the misuse of inside information. The Bureau of Counterterrorism (US Department of State) or FinCEN may even joint force with the CFTC to instruct a prediction market to offer "*baits*" to catch traitors and any misuse of MNPI for insider trading. With DCMs being the 1st LOD, relevant authorities being the 2nd LOD, and the CFTC being the 3rd LOD, Public anxiety regarding insider trading is overblown. The parable of ***"blind people and an elephant"*** *– different people may use different phenomena that they experienced to describe the big picture differently,* yet, Laozi's Taoism said, *"A semblance great, the shadow of a shade"* (**big picture is formless**).

30. *Some events underlying event contracts are under the control of a single individual or small group of individuals. What role should this aspect of event contracts play in the Commission's consideration of how prediction markets should be regulated? Do the considerations change depending on the type of event in question? Are there particular challenges related to cross-market manipulation – for example, where an individual or small group of individuals seeks to move the prediction market to influence another market, or vice versa? Are prediction markets more likely than other DCMs or SEFs to be susceptible to manipulation? Why or why not?*

Opportunists may seek to move the prediction market to influence another market, or vice versa. CEA §6(c)(1) calls for compliance that *"it 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…, provided no rule or regulation … shall require any person to disclose to another person nonpublic 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."* It is totally legal and permissible for traders to use 0DTE Options and Prediction Markets as dual layers of protection by separating the "**event outcome**" from the "**market reaction**." While prediction markets hedge against the occurrence of the event itself (exposure to the **"cause"**), 0DTE Options hedge against price volatility (exposure to the **"effect"**).

Unconventional, or to some extent counter-intuitive, is – the Whelan Paper concludes that the market design of Kalshi is opposite to thwart "*toxic*" high-frequency arbitrage, its structure actually ***starves out*** "***healthy***" ***arbitrage*****.** Kalshi's fees were high relative to the mispricing, the "*wrong*" prices (the ***favorite-longshot bias***) persisted. It prevents the very "*arbitrage*" needed to make the market's predictions accurate. In a *perfect market*, if a market cannot be gamed (arbitraged), it means the prices are stuck. In another word, the market is "*inefficient*". To address the Catch-22 (Volume versus Integrity Paradox), ***Don't shoot the Messenger***.

Yes, the challenges in detecting cross-market manipulation are heightened. Again, decoupling of event and price risk introduces noise. A price shift often happens in response to alternate data rather than internal trade mechanics. Take the butterfly effect as an analogy. It is rooted in chaos theory and dictates that small, initial differences in a complex, non-linear system can amplify over time, leading to vastly different outcomes. The extent of this change is directly proportional to the time allowed for the small change to cascade.

For one day, the butterfly effect has negligible or at most – ONLY localized effects that one need not worry. For one week, things may start to diverge. Similar to the time decay in Options, different event contracts with different durations may have different susceptible risks. Trading in Prediction Markets function as **short-lived** exposures to the

"*cause*". Even if the value shifts based on ***information velocity*** as fast pace as the Moore's Law (double every 18 months), Public anxiety regarding insider trading is overblown. Please see earlier sections – COLLECTIVE and COMPLIANCE, plus our response to Q29 for suggestions in addressing the problems.

See who rises to **Rogue's Hall of Fame**.[89] Slackers may indeed be the real rogues. Control compromises when losses compounded and pressures heightened. Risk models and metric reports are sinking sand. Capital adequacy ONLY works up to a certain degree. Out-sized bets and the overuse of leverage could be a danger to the health of financial markets. Details and speed (a good decision, made now and pursued aggressively is substantially superior than a perfect decision made too late) are keys to address modern-day challenges.

31. *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 the potential for application of this statute inform the Commission's regulation of prediction markets?*
CEA section 4c(a)(3) provides that *"it 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].

CFTC Director Miller is spot on to focus on geopolitical events "*tempting to would-be manipulators*" on commodity price that can have broad inflationary effects, such as energy costs ripple through the economy. To combat "any manipulative or deceptive device or contrivance" or bot-driven fake accounts, misinformation, and catch alleged misuse of MNPI, build partnerships with online platforms and communication infrastructures to track suspects' digital trails. Deterring fraudsters and adversaries requires diverse, collective efforts (connecting the intelligence community) rather than bureaucracy. Please refer to earlier section – COMPLIANCE for a discussion.

32. *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 nonpublic 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?*
Please see our response to Q29.

[89] https://www.databoiler.com/index_htm_files/DataBoiler%20Rogue%20HOF.pdf

F. Types of Event Contracts and Other Issues

33. *What aspects of prediction markets are relevant to whether event contracts should, or should not, appropriately be classified as swaps? What aspects, if any, distinguish event contracts from other types of swaps? The definition in CEA section 1a(47)(A)(ii) includes an event contract that "is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence." What potential financial, economic, or commercial consequences underlie event contracts? Similarly, CEA section 1a(47)(A)(i) includes an event contract that is an option "based on the value, of … financial or economic interests or property of any kind." How are any event contracts based on the value of financial or economic interests or property? What idiosyncratic risks embedded in event contracts differentiate them from other commodity derivative instruments? How should the Commission take these risks into account when considering how to regulate event contracts and prediction markets? Commodity options are also covered by the statutory swap definition in CEA section 1a(47)(A)(i). How are event contracts similar to, or different from, other types of commodity options?*

Event contracts may or may not be covered by the statutory definition of the term "*swap*" in CEA section 1a(47)(A). As mentioned in earlier section – CONTEXT, certain *"prediction products"* only *track the likelihood* of an event with no underlying cash market, i.e. *lack of economic goal*, suggesting they should be considered a *distinct class of instrument* rather than a *derivative*. In addition, simple "*if-then*" agreements that do *NOT involve a trading exchange or a standard swap structure* may be viewed as *private commercial contracts*. Nevertheless, the primary goal of "*Second-Generation Prediction Markets for Information Aggregation*" (G2) is to surface a consensus value or probability rather than to wage on specific binary event. There may not be a real-world settlement event when no outcome is ever realized in these G2 *preference markets* (trade concepts of products to forecast expected market shares), and/or *idea markets* (trade concepts to evaluate the success of different product or design alternatives). So, payouts do not necessarily depend on the "*occurrence, nonoccurrence, or extent of occurrence of an event*." These complicated the different classifications or what should be excluded from the definition of "*swap*" under different circumstances.

1. The "Outcome vs. Occurrence" Distinction

Recent judicial interpretations in late 2025 have created a critical distinction based on exactly what is being predicted.

- **Outcome-Based Contracts**: A federal court recently ruled that certain sports-related contracts are **NOT swaps** because they depend on the *outcome* of an event (e.g., who wins the game) rather than just the *occurrence* of the event itself (e.g., whether the game happens).[90]
- **Occurrence-Based Contracts**: Conversely, a contract based on whether an event—like a parade or a presidential inauguration—simply takes place *at all* fits comfortably within the CEA definition of a swap.

2. Traditional Insurance Products

According to joint guidance from the SEC and CFTC,[91] products historically treated as **insurance** are excluded from the swap definition. Even if a contract has a payoff based on an event (like a hurricane or death), it is not a swap if it is regulated as insurance by state or federal authorities.

3. Classification as Futures Contracts

Some event contracts may be classified as **contracts for the future delivery of a commodity** (i.e., **futures**, not swaps).

[90] https://www.manatt.com/insights/newsletters/client-alert/what-happens-in-nevada-may-impact-prediction-markets-and-sports-gambling-across-the-u-s

[91] https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/fd_factsheet_final.pdf

- **DCM Listing**: If an event contract is listed for trading by the general public on a DCM, it may be governed under futures regulations rather than the specific reporting requirements for swaps.
- **Leveraged Retail Trading**: Volume driven by retail participants in leveraged contracts can sometimes lead to treatment as futures to ensure specific consumer protections are met.

4. Commercial "Spot" Transactions and Consumer Agreements

Agreements primarily for personal or household purposes are not considered swaps, see Q36 and Q37. This includes:

- **Personal Property**: Contracts to acquire real estate, provide services, or assign rights.
- **Fixed-Price Goods**: Agreements to purchase household products (like heating fuel) at a future date for personal use rather than financial speculation.

Contracts referencing changes in the price, rate, or level of certain indices are often excluded from prohibited categories because they serve legitimate hedging and price discovery functions.

- **Economic Indicators**: Contracts based on the Consumer Price Index, unemployment rates, or GDP measures allow businesses to hedge against macroeconomic shifts that affect their operational costs and revenue.
- **Financial Indicators**: Measures such as the federal funds rate, 30-year fixed mortgage averages, or stock index levels (e.g., S&P 500) provide a direct way to manage interest rate or equity risk.
- **Property-Related Events**: Contracts referencing hurricane damage dollar values or snowfall levels serve as a form of non-traditional insurance, helping property owners hedge against specific weather-related financial losses.

Idiosyncratic risks in event contracts based on the *value of financial or economic interests or property* are related to specific microeconomic influences or discrete events rather than systematic market factors. Unlike securities markets defined by continuous price discovery, trading in Prediction Markets function as short-lived exposures to the "*cause*" while 0DTE Options provide exposure to the "*effect*." The beauty of simultaneous hedging strategies is the **decoupling** of **Event** and **Price Risk**. Standard options **disclosures** deem insufficient to explain the *all-or-nothing* nature, illiquid, expiration timing, susceptibility to be influenced by a small group, etc. We recommend a **disclaimer** that states *"the event contract do not track the precise fluctuations of a referenced asset. Instead, its price reflects the market's perceived probability of an event, which may NOT perfectly correlate with a hedger's actual financial exposure"* or something similar along the line.

See below for similarities and differences between Event Contracts and Traditional Commodity Options:

	Event Contracts	Traditional Commodity Options
Similarities	Both are CFTC regulated derivatives and can be used as hedge or speculate on future outcomes	
Payout Structure	Binary, with or without partial payout if directionally correct but not on target	Difference between the strike price and the asset's final price
Underlying Asset	Can be non-price events	Typically tied to the price of physical goods
Risk Profile	Lose =< the initial cost if fully collateralized	Variable, complex, market volatility, outsized P&L
Pricing Basis	Reflects the market's perceived probability	Asset price movements, time decay (Greeks)
Exercise	Automatically at expiration	A right to buy or sell the underlying asset

34. *Event contracts are also traded on DCMs as futures contracts. What aspects of prediction markets are relevant to whether event contracts should, or should not, appropriately be classified as futures contracts? What aspects, if any, distinguish event contracts from other types of futures contracts?*

Please see our response to Q33.

35. *The event underlying an event contract is typically within the definition of the term "excluded commodity" in CEA section 1a(19). Are there any event contracts that are based on events that are not within this statutory definition? If so, how are those event contracts similar to, or different from, event contracts based on events that are within the statutory definition of "excluded commodity"? How are such differences, if any, relevant to the Commission's regulation of event contracts and prediction markets?*

Contracts based on price, rate, or value of macroeconomic measures (described in Section 1a(19)(i)) are generally viewed as legitimate hedging tools and are not typically subjected to the same heightened "*public interest*" scrutiny as those based on discrete, non-economic contingencies. The distinction of "*non-excluded*" versus "*excluded commodity*" is critical. Event contracts rely on CEA § 5c(c)(5)(C), where the CFTC has authority to ban them for being "*contrary to the public interest*" if the contact is classified as "*excluded commodity*" that "*involves*" any of five enumerated categories: gaming, war, terrorism, assassination, or unlawful activity. Please also see our response to Q7.

36. *Are there any agreements, contracts or transactions that are significantly similar to event contracts, but are not listed on a DCM or SEF? If so, how are those agreements, contracts or transactions similar to, or different from, event contracts listed on DCMs and SEFs?*

In the 2012 joint rulemaking[92] to further define the term "*swap*," the CFTC and the SEC adopted an interpretation which, in part, listed certain types of agreements, contracts, or transactions that *"will not be considered swaps or security-based swaps when entered into by consumers (natural persons) … primarily for personal, family, or household purposes."* The CFTC and SEC stated that they *"do not believe that Congress intended to include these types of customary consumer and commercial agreements, contracts, or transactions in the swap or security-based swap definition, to limit the types of persons that can enter into or engage in them, or to otherwise to subject these agreements, contracts, or transactions to the regulatory scheme for swaps and security-based swaps."* We are good with this. Please also see our response to Q33 and Q37.

37. *Are any event contracts similar to, or different from, the types of agreements, contracts and transactions that are excluded from the swap definition under this* [Agreements primarily for personal or household purposes] *interpretation? How are such similarities or differences, if any, relevant to the CFTC's regulation of those event contracts?*

CEA §15(a) requires that the Commission consider the costs and benefits of its action, including an evaluation *"in light of- (A) considerations of protection of market participants and the public; (B) considerations of the efficiency, competitiveness, and financial integrity of futures markets; (C) considerations of price discovery; (D) considerations of sound risk management practices; and (E) other public interest considerations."*

Reference to this Institute of Economic Affairs (IEA) Report – ***The Myth of Social Cost*** by acclaimed Economist Steven N.S. Cheung, *"Any analysis which predicts the outcomes of a given policy will throw light on its desirability. Thus, the fallacies regarded here as having marred the interpretation of behavior cannot be the result of analyses of policy… The*

[92] https://www.govinfo.gov/app/details/FR-2012-08-13/2012-18003

question is … why public policies exist in the way they do, and why they vary in different economic systems. The answer to this question of the economic interpretation of political behavior requires an understanding of the real-world constraints relevant to government decision-making.".

38. *How are these five considerations relevant to the Commission's regulation of prediction markets? In general, what other costs and benefits should the Commission consider as it determines whether to adopt or amend any regulations with respect to prediction markets? Are there less costly alternatives that the Commission should consider?*

CEA section 15(b) requires that the Commission *"take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of* [the CEA]*, as well as the policies and purposes of* [the CEA]*, in issuing any order or adopting any Commission rule or regulation."*

Please see our response to Q6 for our suggested less costly alternatives.

39. *What aspects of prediction markets are relevant to the Commission's consideration of the public interest to be protected by the antitrust laws as it determines whether to adopt or amend any regulations with respect to prediction markets? It may be appropriate to consider the scope of the relevant market in this regard; in that case, what factors should the Commission take into account? Also, it may be appropriate for the Commission to "endeavor to take the least anticompetitive means," as contemplated by CEA section 15(b), with respect to prediction markets; in that case, what factors should the Commission take into account?*

The CFTC considers antitrust principles — primarily through §15(b) of the CEA — to ensure its regulations do not result in unnecessary or inappropriate anti-competitive burdens on prediction markets. We understand the Commission evaluates the following key aspects when determining the "*public interest*" protected by antitrust laws: ***Impartial Market Access*** **(Principle 2)**, ***Arbitrary Participation Bans***, promotion of "***responsible innovation***", and ***Competitive Execution and Transparency*** to prevent disruptive trading practices, such as **wash sales** or pre-arranged trades, that can distort real-time prices and stifle fair competition.

The applicability of **Core Principle 2 Access requirements** **(Subpart C §38.151** for DCMs and **Subpart C §37.202** for SEFs**)** in Prediction Markets is questionable. Per DCM's **Core Principle 9** **(Subpart J §38. 500)**, trades must be executed in a "*competitive, open, and efficient manner*" to ensure the **price discovery** process is NOT undermined. Yet, the traditional view of **Market Data** as signal is distorted (e.g. Exchanges optimally restricted access to price information). Whereas onset signals detection of natural versus toxic liquidity and adverse selection are the "**real signals**" that count. Mandating impartial access but NOT curbing "*initial bias*" is *self-conflicting*.

To address the Catch-22 CORE problems and "***favorite-longshot bias***" that harms retail, we hope the CFTC can clarify:

- Whether a DCM charges "Speculators" a higher fee (**a royalty**) to *access that signal/ liquidity* while letting "Hedgers" in for FREE within a time-bound, would this be in violation of any ***barrier to entry*** requirements?
- Given DCM and DCO **bundled pricing** (***vertical integration***) is an insurmountable industry practice, how DCM's rules for clearing and settlement must be **uniform** and **non-discriminatory** where all market participants — regardless of size or status — are subject to the same financial safeguards and margining requirements?
- Would ***standardized liquidity rebates*** be flagged as imposing financial or operational requirements that act as an ***unreasonable restraint of trade*** in violation of DCM's **Core Principle 19** **(Subpart T §38.1000 Antitrust Consideration)** or SEF's **Core Principle 12** **(Subpart J §37.1200 Conflicts of Interest)**?

We are not sure of the CFTC's view about this "**Exchange of Futures for Swaps** (**EFS**)" in *bypassing* of "***impartial access***" rules of the public order book. We despise contaminating the two ecosystems between DCMs and SEFs while remaining practical to follow the lead of the CFTC. We seek additional guidance with respect to our suggested SIHU framework. Our preference would be codifying the CEA for explicit permission of "**intent-based pricing**" with **new exemptions for Prediction Markets** (updating relevant DCM/SEF Core Principles). In turn, requiring all operators of Prediction Markets (+ SEC regulated 0DTE Options Exchanges) that they must properly address and rectify the "**Volume versus Integrity Paradox**" as identified in the Whelan Paper.

40. *What projected cost increases would there be for any small entities impacted by a potential rule change? What less costly alternatives or flexibilities should the Commission consider? In general, how do small entities use prediction markets?*

Large entities, such as Hewlett-Packard have long employed their own prediction markets to produce more accurate forecasts of printer sales than traditional forecasting methods (e.g. polls, expert predictions, or survey). In turn, it improved their decision making. Small entities want to be equipped with the same capabilities as their larger counterpart at the lowest possible costs. So, entities of all sizes would be able to use Prediction Markets to predict, gauge, and/or project how their innovative products, services, or business models would be perceived in a live environment. For example, local small businesses in sports towns could be natural hedgers in sports if Prediction Markets offer them a lower cost choice than buying insurance or hedge through the securities markets. Indirectly, small entities would also benefit if Prediction Markets can enhance the actuarial/ quantitative models used by insurance companies and facilitates cheaper and broader access to advanced AI/ Quantum Computing.

To achieve the above benefits, as well as addressing the CORE Problems (*favorite longshot bias*, *high fee-to-contract-value ratio*), the optimal market integrity with the least compliance cost for DCMs is recommended. Please refer to earlier section – CORE Principles (New Exemptions) and our response to Q6 for our suggested less costly alternatives.