July 29, 2026

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

Re: Comment on Proposed Rulemaking, *Data Reporting Requirements for Certain Event Contracts*, RIN 3038-AF73, 91 Fed. Reg. 40,102 (July 1, 2026)

Dear Mr. Kirkpatrick:

I submit this comment in my individual capacity. I am an attorney admitted in New York whose practice is civil litigation defense. I write solely on my own behalf and not for any client, employer, or organization, and this comment is offered as policy analysis rather than legal advice. On July 27, 2026, I submitted a comment in the Commission's companion rulemaking, *Prediction Markets; Public Interest Determinations*, RIN 3038-AF65 (tracking no. ms3-opk0-c9ro). This Proposal proceeds on a separate track: it amends the data-reporting provisions of parts 15 through 17 rather than the part 40 listing framework, and its text does not cite the AF65 proposal. I therefore do not assume the Commission views the two as connected, and this comment stands on its own. But the two proposals regulate the same markets and recite the same enforcement objective, and Part VIII of my earlier comment observed that the AF65 release repeatedly credited trader-identifying information while its proposed rule text required none. Proposed § 16.03(g) is, in substance, the requirement whose absence that comment identified. This comment addresses whether the Proposal, taken as a whole, delivers the surveillance capability that requirement promises.

I. Summary of Comment

The Proposal does two things that bear on the detection of informed trading in event contract markets, and they pull in opposite directions.

First, proposed § 16.03(g) would require, for the first time, that every designated contract market ("DCM") listing a Covered Event Contract obtain identifying information from every customer. That is a real improvement, and I support it. Parts II and III below urge that it be strengthened in one respect: the fields it collects omit date of birth and taxpayer identification number, the two data elements that make an identity durable and matchable across accounts, and the two elements the federal customer-identification standard has required of futures commission merchants for well over a decade.

Second, proposed §§ 15.03, 15.04, and 16.03(c) and (e) would raise the reporting levels that trigger position reporting and ownership-and-control reporting for Covered Event Contracts from 25 contracts (position) and 50 transactions (volume) to 125,000 contracts and $125,000 in daily transaction volume. By the Commission's own estimate, that change "could result in a 97 to 99 percent reduction in the number of potentially reportable special accounts, based on the dates examined in Exhibit 1." 91 Fed. Reg. at 40,120. Among the data thereby removed from routine

reporting is ownership-and-control reporting, which the release itself identifies as what "can enable the Commission to link special accounts across DCMs and to aggregate special accounts by trader." Id. at 40,108 n.63. The release acknowledges this effect and preliminarily finds the remaining information sufficient. Part IV explains why that finding is asserted rather than analyzed, and why the release's own admission that "there is not an automatic mechanism similar to Forms 102A and 102B to transmit this information to the Commission," id. at 40,121, points toward a narrow structural fix.

Part V responds to specific requests for comment (7), (8), (11), and (12). The recommendations, stated summarily: adopt § 16.03(g) with date of birth and taxpayer identification number added to the baseline fields; and decouple ownership-and-control disclosure from the 125,000-contract reporting level, or set a separate and substantially lower threshold for that data element, so that the Commission retains a routine mechanism for aggregating accounts by trader in the markets where it has said that capability matters most.

II. Proposed § 16.03(g) Is the Right Requirement, Addressed to a Real Gap

Proposed § 16.03(g) would require that a DCM listing a Covered Event Contract "obtain from all customers data that identifies each trader, by name, physical address, email address, phone number, occupation, employer," together with the names of any persons guaranteeing or holding a financial interest of ten percent or more in the trader or the trading accounts, retained for the life of the contract and at least five years beyond. Id. at 40,132 (proposed § 16.03(g)). The release is direct about why: "Trader-identifying information is particularly important to monitoring and surveilling the Covered Event Contracts markets. Trader-identifying information is necessary to detect insider trading and prevent wash trading." Id. at 40,112.

That statement is correct, and it is consistent with what the Commission's leadership has said elsewhere. The Director of Enforcement, in remarks delivered at NYU Law School on March 31, 2026, listed insider trading in the prediction markets among the Division's five enforcement priorities, alongside willful violations of AML and KYC requirements, and stated: "We will aggressively detect, investigate, and, where appropriate, prosecute insider trading in the prediction markets," invoking CEA section 6(c)(1) and Rule 180.1. David I. Miller, Remarks at NYU Law School (Mar. 31, 2026). The commitment is welcome. But the doctrine the Division proposes to enforce is duty-based: the definitional source the release cites, the Enforcement Division's February 25, 2026 advisory, describes the offense as "[m]isappropriation of confidential information in breach of a pre-existing duty of trust and confidence to the source of the information." 91 Fed. Reg. at 40,118 n.149. As my comment in the AF65 proceeding developed at length, with citations to the published empirical record, the population of greatest concern in these markets—pseudonymous accounts trading on non-public information about government and geopolitical events—largely owes no duty to any source, and the enforcement record to date tracks the availability of a duty rather than the incidence of informed trading. Comment of Jonathan Van Dusen, RIN 3038-AF65 (July 27, 2026), Parts V–VI (discussing Mitts & Ofir, *From Iran to Taylor Swift: Informed Trading in Prediction Markets* (2026), and the enforcement pattern). The definitional problem follows the doctrine from one docket to the next. That is not a reason to weaken § 16.03(g); it is the reason § 16.03(g) matters. Where the conduct doctrine reaches only duty-bearing traders, the surveillance architecture is what determines whether the Commission can even see the rest. A detection regime is the necessary predicate to any enforcement theory, whatever its ultimate shape.

Events reported this month illustrate both halves of the point. According to press accounts, a White House teleprompter operator allegedly used advance knowledge of upcoming remarks to trade on a registered DCM, profiting over $100,000, and the platform has stated that its surveillance team flagged the trades and referred them to the Commission. See *White House Teleprompter Operator Made More Than $100K Betting on Trump's Speeches: Sources*, ABC News (July 16, 2026), https://abcnews.com/US/white-house-teleprompter-operator-made-100k-betting-trumps/story?id=134764573. No docket number or charging instrument was public as of this writing; I cite the reports for the pattern they illustrate, not for the truth of any particular allegation. Two features are instructive, if the reporting is accurate. The trader fit the duty-bearing profile—a person with privileged access through his position—and so falls within the reach of existing doctrine. And the referral originated in the registrant's own surveillance program, which suggests that registrant-level surveillance built on identified customers works. Section 16.03(g) would make that baseline universal rather than voluntary.

III. The Baseline § 16.03(g) Collects Should Match the Federal Standard That Already Exists

The support just expressed comes with one substantial reservation. The fields proposed § 16.03(g) collects—name, physical address, email address, phone number, occupation, employer—do not include date of birth or taxpayer identification number. Those are the two fields that make an identity durable and matchable: names, addresses, email addresses, and phone numbers are non-unique, easily varied, and trivially multiplied across pseudonymous accounts; a date of birth and a TIN are not. They are also the baseline the federal customer-identification standard requires. Under FinCEN's customer identification program rule for futures commission merchants and introducing brokers, a CIP must obtain, at minimum, name, date of birth (for individuals), address, and—for U.S. persons—a taxpayer identification number. 31 C.F.R. § 1026.220(a)(2)(i)(A). Every FCM carrying a conventional futures account already collects these fields as a matter of federal law.

The omission is not explained, and it appears to reflect the Proposal's broader posture toward the existing identification framework: the release does not engage with it at all. Based on my review of the full text of the Proposal, it contains no reference to the Bank Secrecy Act, to FinCEN, to 31 C.F.R. chapter X, to customer identification programs, or to anti-money-laundering requirements. What § 16.03(g) constructs is a bespoke market-surveillance dataset, assembled without adopting—or distinguishing—the long-standing federal standard for the identification function. Perhaps there are sound reasons to depart from the CIP baseline in this setting; direct-member DCM models raise genuine questions about where collection obligations should sit. But the release does not give those reasons, and the practical consequence of the departure is that the dataset § 16.03(g) produces will be materially weaker at the one task the release assigns it—identifying "each trader," id. at 40,132, across accounts and across platforms—than the dataset the industry already produces for conventional futures customers.

The fix is modest. Adding date of birth and taxpayer identification number to the § 16.03(g) baseline would align the new collection with 31 C.F.R. § 1026.220, impose no novel systems burden (the fields are standard in existing onboarding infrastructure), and convert § 16.03(g) from a directory of contact information into an identification dataset capable of supporting the cross-account surveillance the release describes. A data-security objection would run in the wrong direction. The collection contemplated here is what 31 C.F.R. § 1026.220 already

requires of every FCM under established safeguards, and § 16.03(g) as proposed already obligates DCMs to retain personally identifying customer data for at least five years. If retention of taxpayer identification numbers by non-intermediated DCMs raises distinct security concerns, the answer is safeguards commensurate with the existing CIP framework, not omission of the field—and the two fields operate together: date of birth alone narrows candidate matches but does not make an identity unique.

IV. The Reporting-Threshold Increase Removes from Routine Reporting the Dataset That Links Accounts Across Markets

The Proposal's second relevant change runs the other way. Under the current baseline, positions in event contracts become reportable at 25 contracts, with a reportable volume level of 50 transactions in a single trading day—a volume level the release acknowledges is, in practice, administered at 250 contracts under a staff no-action position. 91 Fed. Reg. at 40,119 & n.161 (citing CFTC Letter No. 24-14 (Sept. 25, 2024)). The Proposal would establish a reporting level of 125,000 contracts (for $1-payout contracts, with proportional notional equivalents otherwise) and a reportable volume level of $125,000 in transactions during a single trading day. Id. at 40,119. For position reporting, that is a five-thousand-fold increase. The Commission's own data quantify the effect: Exhibit 1, drawn from a large DCM's actual open interest and transaction data, shows that "no more than roughly 1,000 event contracts have either open interest or volume exceeding the proposed reporting levels," while "under the current effective 25-contract position reporting level, there would be tens of thousands of contract markets with reportable positions." Id. at 40,120. The release estimates that the proposed level "could result in a 97 to 99 percent reduction in the number of potentially reportable special accounts, based on the dates examined in Exhibit 1." Id.

I want to be precise about what this argument is and is not. The threshold increase is not irrational, and it does not contradict the Proposal's purpose. Retail-scale positions in $1 binary contracts are not plausible instruments of market power, and requiring Form 102 filings for accounts holding 25 such contracts would bury the reporting system in noise. The burden-reduction rationale is real. Nor does the release ignore the surveillance consequence. It states the effect plainly: "The effect of the proposed reporting level is to limit the ownership and control reporting for retail traders." Id. at 40,112. And it acknowledges the cost: the information received "will be less complete than under the regulatory baseline," though the Commission "preliminarily believes that it will be sufficient for monitoring and surveillance purposes." Id. at 40,121.

My concern is with what that sufficiency finding does not analyze. Position reporting under part 17 is the vehicle for ownership-and-control reporting, and ownership-and-control reporting is the dataset the release itself identifies as what "can enable the Commission to link special accounts across DCMs and to aggregate special accounts by trader, among other purposes." Id. at 40,108 n.63. Linking accounts across DCMs and aggregating them by trader is precisely the capability required to detect multi-account, multi-platform informed trading—the pattern documented in the empirical record discussed in my AF65 comment, where the accounts of concern were newly created, pseudonymous, and often individually unremarkable. A coordinated actor dividing activity among accounts spread across DCMs and carrying firms would generate no combination of positions at any single reporting firm, and each account could remain below the 125,000-contract line indefinitely. Under the current regulatory baseline, ownership-and-control reporting at least creates the routine dataset in which such commonality can later be discovered;

under the proposed levels, on the Commission's own figures, the overwhelming majority of these markets would generate no such dataset at all.

The release's answer is that the § 16.03(g) data fills the gap: the Commission notes that trader-identifying information collected at the DCM level is "necessary to conduct cross-market surveillance," id. at 40,112, and that uniform collection "allows the Commission to aggregate this data," id. at 40,118. But the release also concedes the critical difference between the two datasets: "there is not an automatic mechanism similar to Forms 102A and 102B to transmit this information to the Commission." Id. at 40,121. Ownership-and-control reporting arrives routinely, in structured form, on Commission forms built for aggregation. The § 16.03(g) data is collected and held by the registrant, and reaches the Commission on request under § 16.02. That is the mechanism behind the release's assurance that the Commission "will receive information on the natural persons who own or control each of the trading accounts below the revised reporting level," id. at 40,121: received, but only on request, and only in whatever form the registrant maintains. For investigating a trader the Commission has already identified, on-request access may well suffice. For detecting a cross-account pattern, it does not: detection requires the Commission to already hold the pertinent data before it has any particular trader in view, and requests to registrants yield unstandardized data without a routine schedule. The preliminary sufficiency finding at 40,121 does not engage that distinction, and nothing else in the release does either.

The tension was, moreover, put to the Commission before the Proposal issued. In response to the March 2026 ANPRM, commenters requested that the Commission "require reporting to identify insider trading and fraud" and adopt "scaled position reporting thresholds." Id. at

n.123. The Proposal's threshold changes are responsive to the scaling request in form, but the release does not engage whether a five-thousand-fold increase in the position-reporting level advances or defeats the identification request that accompanied it. To the extent the release treats the remainder of those requests as "otherwise outside the scope of this Proposal," id. at 40,113 n.123, identification adequate to detect insider trading is not readily placed outside the scope of a rulemaking whose own preamble states that trader-identifying information "is necessary to detect insider trading." Id. at 40,112.

Two anticipated responses deserve acknowledgment. First, the Commission's reporting-level precedent: the release notes that in 2004 the Commission set a 125,000-contract level for HedgeStreet's $10-payout binaries, implying a notional-equivalent level of 1,250,000 contracts here, so that the proposed level is in fact the more conservative one. Id. at 40,110 n.93. That precedent is fair on burden, but it does not answer the surveillance point: the 2004 level predates the ownership-and-control reporting framework the Commission adopted in 2013 (Forms 102A and 102B), see id. at 40,108 n.63 (citing 78 Fed. Reg. 69,178 (Nov. 18, 2013)), so the 2004 calibration never priced the cross-DCM linkage value that part 17 reporting now carries. Second, it may be said that a coordinated actor who conceals common control from carrying firms defeats Forms 102A and 102B at any threshold. True—but the argument here does not depend on self-reporting of control. It depends on the existence of a routine, structured dataset in which common ownership and control can be discovered after the fact, by matching identifiers across accounts and platforms. That is exactly the function footnote 63 describes, and exactly what a threshold calibrated only to burden removes for the markets in question.

V. Responses to Specific Requests for Comment

Requests (7) and (8) (91 Fed. Reg. at 40,110) ask whether the reporting levels in proposed § 16.03(e) are appropriate for Covered Event Contracts and whether levels should vary by sub-category. For routine position reporting, a substantial increase from the 25-contract baseline is justified for the reasons the release gives, and I take no issue with the general magnitude. But ownership-and-control disclosure should not be gated by the same threshold as routine position reporting. The burden profiles differ: daily position reporting is a recurring operational obligation, while ownership-and-control identification of an account is closer to a one-time disclosure, refreshed on change. The retail-burden rationale that justifies relief from the former does not carry the same force against the latter, and the surveillance value of the latter—cross-DCM linkage and aggregation by trader, id. at 40,108 n.63—is the value the release elsewhere treats as central. If a uniform 125,000-contract level is adopted for position reporting, the Commission should adopt a separate, substantially lower trigger for ownership-and-control reporting for Covered Event Contracts, or provide for its collection independent of position size. Section 16.03(g) itself demonstrates that the Commission can require identity-related collection untethered from position size; the recommendation here simply extends the same logic to the ownership-and-control layer, with transmission to the Commission rather than retention at the registrant. The same analysis responds to request (9), 91 Fed. Reg. at 40,111, and to the Commission's cost-benefit request regarding whether the threshold should be larger or smaller than $125,000, id. at 40,122.

Requests (11) and (12) (id. at 40,113) ask what burdens § 16.03(g) would impose and what additional trader-identifying information DCMs should collect to support surveillance programs. As to (12): date of birth and taxpayer identification number, for the reasons developed in Part III—they are the fields that make identity matchable across accounts, they are already the federal CIP baseline under 31 C.F.R. § 1026.220, and their omission is the difference between a contact list and an identification dataset. As to (11), the marginal burden of collecting those two additional fields is low precisely because the CIP infrastructure that collects them is already universal among intermediaries; for direct-member DCMs, the onboarding systems § 16.03(g) will require in any event can capture them at negligible incremental cost. The Commission should also consider requiring that trader-identifying data be maintained in a form that permits matching a trader's accounts across DCMs—the function the release assigns to ownership-and-control reporting, id. at 40,108 n.63—rather than solely within a single registrant.

VI. Conclusion

Proposed § 16.03(g) closes a real gap, and the Commission should adopt it—strengthened by the two fields that would make it effective. The reporting-threshold increase serves a legitimate burden-reduction purpose, but as proposed it removes from routine reporting the dataset the release identifies as enabling cross-DCM linkage and aggregation by trader, in the markets whose distinctive risk is pseudonymous, multi-account informed trading, and it substitutes a dataset that the release concedes has no automatic transmission mechanism. The Commission's own numbers, exhibits, and footnotes supply every element of that observation; this comment's contribution is only to place them side by side. I respectfully urge the Commission to adopt § 16.03(g) with a CIP-conforming baseline, and to decouple ownership-and-control disclosure from the 125,000-contract reporting level.

I appreciate the Commission's consideration of these comments and am grateful for the opportunity to participate in this proceeding.

Respectfully submitted,
Jonathan Van Dusen

Key Sources

- Data Reporting Requirements for Certain Event Contracts, 91 Fed. Reg. 40,102 (July 1, 2026) (RIN 3038-AF73)
- Same, govinfo full-text PDF
- Prediction Markets; Public Interest Determinations, 91 Fed. Reg. 35,806 (June 12, 2026) (RIN 3038-AF65)
- David I. Miller, Director of Enforcement, Remarks at NYU Law School (Mar. 31, 2026)
- CFTC Press Release No. 9185-26, CFTC Enforcement Division Issues Prediction Markets Advisory (Feb. 25, 2026)
- 31 C.F.R. § 1026.220 (customer identification programs for futures commission merchants and introducing brokers)
- CFTC Letter No. 24-14 (Sept. 25, 2024)
- Mitts & Ofir, From Iran to Taylor Swift: Informed Trading in Prediction Markets (SSRN)
- ABC News, White House teleprompter operator made more than $100K betting on Trump's speeches: Sources (July 16, 2026)