July 31, 2026

Christopher J. Kirkpatrick
Secretary
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, NW
Washington, DC 20581

Re: Data Reporting Requirements for Certain Event Contracts, RIN 3038-AF73, 91 Fed. Reg. 40102 (July 1, 2026)

Dear Mr. Kirkpatrick:

Better Markets[1] appreciates the opportunity to respond to the above-referenced notice of proposed rulemaking ("Proposal").[2] The Proposal establishes an alternative framework for registered entities to use when reporting data regarding event contracts.[3] Under the Proposal, registered entities would report data regarding event contracts "based on the futures and options reporting regime," rather than the reporting regime applicable to swaps.[4]

The problem with this approach is that, as it acknowledges, the CFTC "has generally found that these contracts are covered by [the Commodity Exchange Act's] 'swap' definition."[5] Indeed, the CFTC has instituted litigation against numerous states that seek to regulate event contracts on sporting events as gambling products on the ground that these event contracts are actually swaps. It is astounding for the CFTC to continually insist that all event contracts constitute swaps yet now propose a reporting regime that does not treat event contracts as swaps.

The CFTC bases its proposed alternative reporting framework on no-action relief it has granted to registered entities seeking to report data regarding event contracts pursuant to the framework for futures and options rather than swaps. These registered entities "indicated that [the] contracts for which they requested relief are swaps" while at the same time saying that the

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1 Better Markets is a non-profit, non-partisan, and independent organization founded in the wake of the 2008 financial crisis to promote the public interest in the financial markets, support the financial reform of Wall Street, and make our financial system work for all Americans again. Better Markets works with allies—including many in finance—to promote pro-market, pro-business, and pro-growth policies that help build a stronger, safer financial system that protects and promotes Americans' jobs, savings, retirements, and more.

2 91 Fed. Reg. 40,102 (July 1, 2026).

3 *Id.* at 40,102.

4 *Id.* at 40,105.

5 *Id.* at 40,103.

contracts "lack the indicia of traditional swaps."[6] The CFTC, which granted the registered entities the relief they requested and did not subject the event contracts to the reporting regime for swaps, now proposes to formalize a reporting regime that would not treat event contracts as swaps while continuing to insist in other contexts that event contracts are actually swaps.

We agree that many event contracts "lack the indicia of traditional swaps." Indeed, many event contracts are nothing more than gambling products.[7] It is not surprising that event contracts on which team is going to win a baseball game, whether a player is going to hit a home run in that game, how many runs the teams will score combined, who will win a reality tv show, who will be the most searched person on Google, and what word an announcer will say during an event, would be considered to lack the indicia of a legitimate financial derivative.

The CFTC should not be allowed to insist that event contracts are swaps for purposes of asserting exclusive jurisdiction over all event contracts while at the same time recognizing that many event contracts lack the indicia of traditional swaps and treating event contracts as something other than swaps for purposes of its reporting regime. There should be no question that, in many cases, event contracts are nothing more than gambling products. There would be no need for the CFTC to choose between a reporting regime for swaps and for futures if it would simply recognize, as does the public, that in most cases event contracts are used for gambling.[8]

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6 *Id.* at 40,104.

7 *See, e.g.*, Benjamin Schiffrin, *Betting on the Masters is Gambling, Not Trading a Financial Derivative*, Better Markets (Apr. 15, 2026), https://bettermarkets.org/analysis/betting-on-the-masters-is-gambling-not-trading-a-financial-derivative/; Benjamin Schiffrin, *Everyone Should Go on Kalshi and See for Themselves Whether It Looks Like Sports Betting or Derivatives Trading*, Better Markets (May 6, 2026), https://bettermarkets.org/analysis/everyone-should-go-on-kalshi-and-see-for-themselves-whether-it-looks-like-sports-betting-or-derivatives-trading/; Benjamin Schiffrin, *Kalshi's World Cup 'Trades' Were Pooly Disguised Bets*, Better Markets (July 21, 2026), https://bettermarkets.org/analysis/kalshis-world-cup-trades-were-poorly-disguised-bets/; Benjamin Schiffrin, *The CFTC Has a Critical Mission, and It's Not Policing Survivor 50 Bets*, Better Markets (May 21, 2026), https://bettermarkets.substack.com/p/the-cftc-has-a-critical-mission-and; Benjamin Schiffrin, *There is No Reason to Enable Insider Betting on Google Searches*, Better Markets (June 15, 2026), https://bettermarkets.org/analysis/there-is-no-reason-to-enable-insider-betting-on-google-searches/.

8 Declan Harty, *Poll: Americans draw a new line in the betting bonanza sweeping over Wall Street—politics*, Politico (June 22, 2026), https://www.politico.com/news/2026/06/22/poll-betting-markets-politics-00967298; American Gaming Association, *Sports Event Contracts: Public Opinion Landscape: Americans Overwhelmingly View Sports Event Contracts as Gambling* (Sept. 10, 2025), https://www.americangaming.org/resources/sports-events-contracts-public-opinion-landscape/; Gambling is not Investing, *Most Americans Say Prediction Markets Sports Betting Could Increase Harm* https://www.gamblingisnotinvesting.com/morning-consult-poll-reveals-americans-concerns-with-prediction-markets/; American Institute for Boys and Men, *Most Americans see prediction markets as more like gambling than investing, new AIBM/Ipsos poll finds* (Mar. 17, 2026), https://aibm.org/research/most-americans-see-prediction-markets-as-more-like-gambling-than-investing-new-aibm-ipsos-poll-finds/; Christine Zhu, *NC voters support sports betting but don't like prediction markets, new poll finds*, NC Newsline (July 28, 2026), https://ncnewsline.com/briefs/nc-voters-support-sports-betting-but-dont-like-prediction-markets-new-poll-finds/; Amanda Fischer, *The CFTC Should Bet on the American People*, Better Markets (May 6, 2026), https://bettermarkets.substack.com/p/the-cftc-should-bet-on-the-american.

Conclusion

We hope these comments are helpful as the Commission considers this matter.

Sincerely,

Benjamin Schiffrin

Benjamin L. Schiffrin
Director of Securities Policy
Better Markets, Inc.
2000 Pennsylvania Avenue, NW
Suite 4008
Washington, DC 20006
(202) 618-6464

bschiffrin@bettermarkets.org
http://www.bettermarkets.org