

**CFTC REAUTHORIZATION: STAKEHOLDER
PERSPECTIVES**

HEARING

BEFORE THE

**COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES**

ONE HUNDRED NINETEENTH CONGRESS

FIRST SESSION

DECEMBER 11, 2025

Serial No. 119-18



Printed for the use of the Committee on Agriculture
agriculture.house.gov

U.S. GOVERNMENT PUBLISHING OFFICE

63-346 PDF

WASHINGTON : 2026

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CFTC REAUTHORIZATION: STAKEHOLDER PERSPECTIVES

THURSDAY, DECEMBER 11, 2025

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The Committee met, pursuant to call, at 10:01 a.m., in Room 1300, Longworth House Office Building, Hon. Glenn Thompson [Chairman of the Committee] presiding.

Members present: Representatives Thompson, Lucas, Austin Scott of Georgia, LaMalfa, Johnson, Mann, Moore, Rose, Messmer, Harris, Taylor, Craig, Costa, Brown, Salinas, Davis of North Carolina, Budzinski, Vasquez, Jackson of Illinois, McDonald Rivet, Figures, Vindman, and Carbajal.

Staff present: Paul Balzano, Josh Beale, Austin DeBerry, Wick Dudley, Sofia Jones, Kyle Upton, John Konya, Joshua Lobert, Clark Ogilvie, Olivia Olson, Emma Simon, and Jackson Blodgett.

OPENING STATEMENT OF HON. GLENN THOMPSON, A REPRESENTATIVE IN CONGRESS FROM PENNSYLVANIA

The CHAIRMAN. The Committee will come to order.

Welcome, and thank you for joining today's hearing entitled, *CFTC Reauthorization: Stakeholder Perspectives*. After brief opening remarks, Members will receive testimony from our witnesses today, and then the hearing will be open to questions.

So, good morning again, everyone, and welcome to our full Committee hearing on reauthorizing the Commodity Futures Trading Commission. Thank you to our panel of witnesses for making time to be with us today. Before we start, I want to thank Acting Chairman Pham for serving as acting Chairman and congratulate Mike Selig on his nomination as Chairman of the Commission, and I am looking forward to the Senate's confirmation vote. He is taking over the reins of the agency at a transformative time for the Commission and for financial markets broadly. He and the Commission staff will have their work cut out for them, but I know that they are up to the challenge. I look forward to inviting him to the Committee early next year to talk about his agenda and goals.

As many of you know, the Commission's authorization for appropriations lapsed a dozen years ago in 2013. Now, this is unacceptable, and it is long past time for Congress to fulfill its responsibility and reauthorize the Commission, especially as we consider providing new authorities to the agency. I want to thank Ranking Member Craig for being not only a strong leader, but also a partner on this Committee. The Committee's years-long process on digital

assets culminated in the House passage of the CLARITY Act of 2025 (H.R. 3633, Digital Asset Market Clarity Act of 2025) due, in no small part, to the Ranking Member's strong support. The legislation received overwhelming bipartisan support, garnering 294 votes, and over 80 percent of the Members of the Agriculture Committee voted for it.

In March, our Committee held another bipartisan event: a hearing commemorating the 50th anniversary of the Commission. We looked back at the storied history of the CFTC and the markets that it oversees, learning about the important and unique role it holds as a regulator, and how important derivative markets are to everyday Americans. These markets allow American businesses, including farmers, ranchers, and producers, to manage the risks of modern business. It was clear in March that as markets have evolved, so has the Commission. From legacy financial futures to novel new perpetual derivatives, the CFTC has applied its principles-based mandate and subject matter expertise to regulating new products and the novel issues they present.

Today, we build off of what we learned in March and examine the importance of the Commission and the derivatives market today. We will hear from a cross-section of stakeholders who know the Commission and its markets well. This is an important opportunity to consider their suggestions for improvement and refinement and set the CFTC on solid footing for the next 50 years. Again, thank you to each of our witnesses for their willingness to participate in today's hearing, and I look forward to our conversation.

[The prepared statement of Mr. Thompson follows:]

PREPARED STATEMENT OF HON. GLENN THOMPSON, A REPRESENTATIVE IN CONGRESS
FROM PENNSYLVANIA

Good morning, and welcome to our full Committee hearing on reauthorizing the Commodity Futures Trading Commission (CFTC).

Thank you to our panel of witnesses for making the time to be with us today.

Before we start, I want to thank acting Chairman Pham for serving as acting Chairman and congratulate Mike Selig on his nomination as Chairman of the Commission. I am looking forward to the Senate's confirmation vote [, maybe as soon as this afternoon!]

He is taking over the reins of the agency at a transformative time for the Commission and for financial markets broadly. He and the Commission staff have their work cut out for them, but I know that they are up to the challenge.

I look forward to inviting him to the Committee early next year to talk about his agenda and goals.

As many of you know, the Commission's authorization for appropriations lapsed a dozen years ago, in 2013.

This is unacceptable, and it is long past time for Congress to fulfill its responsibility and reauthorize the Commission, especially as we consider providing new authorities to the agency.

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These markets allow American businesses—including farmers, ranchers, and producers—to manage the risks of modern business.

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From legacy financial futures to novel new perpetual derivatives, the CFTC has applied its principles-based mandate and subject-matter expertise to regulating new products and the novel issues they present.

Today, we build off of what we learned in March and examine the importance of the Commission and derivatives markets, today.

We will hear from a cross-section of stakeholders who know the Commission and its markets well.

This is an important opportunity to consider their suggestions for improvement and refinement and set the CFTC on solid footing for the next 50 years.

Again, thank you to each of our witnesses for their willingness to participate in today's hearing. I look forward to our conversation.

The CHAIRMAN. And with that, I would like to welcome the distinguished Ranking Member, the gentlewoman from Minnesota, Ms. Craig, for any opening remarks she would like to make.

**OPENING STATEMENT OF HON. ANGIE CRAIG, A
REPRESENTATIVE IN CONGRESS FROM MINNESOTA**

Ms. CRAIG. Thank you, Mr. Chairman, and I would like to start simply by thanking our witnesses for being here today and for the opportunity to hold this very important hearing as we look to reauthorize the Commodity Futures Trading Commission.

As we all know, for the past 12 years, the CFTC has been operating without formal Congressional authorization since it last lapsed in 2013. A lot has happened since that time. As the industry and markets change, we need to make sure the CFTC has the necessary tools to handle these changes while maintaining its core function of ensuring the integrity, resilience, and vibrancy of the markets it currently oversees. We all know that a well-regulated financial system keeps our country strong and prosperous while protecting Americans.

For 50 years, the CFTC has been the cop on the beat for U.S. derivative markets and making sure these markets work, not just for Wall Street, not just for the exchanges and clearinghouses themselves, but for main street Americans and commercial businesses whose livelihoods are impacted by these markets every day. But it takes resources to have effective oversight over these markets and protect the consumers, customers who use them. At previous hearings on reauthorizing the CFTC, we heard from commercial end-users of these markets about the agency's stagnant funding and how the agency needs sufficient resources. Otherwise, its ability to ensure the integrity of the more traditional commodity markets for risk management purposes will be diminished. If the users of these markets get it, we should, too. The recent gutting of staff at the agency, the last-minute withdrawal of a CFTC chair nominee because a friend of the President didn't like him, and the lack of nominees for other Commissioner positions demonstrates the Trump Administration's lack of respect for the agency, its staff, and its mission. I don't envy the challenge that the new CFTC chair nominee, Mr. Selig, faces to turn around all of this once he gets confirmed.

I want to thank our witnesses for coming in today, and for your testimony and for sharing your perspectives. It is certainly a critical time for the CFTC. We may not agree on everything, but we

can all agree that a well-resourced and appropriately staffed CFTC is critical to a healthy financial system, and to accomplish these goals, it is critical we work together and across the aisle. Thank you, Mr. Chairman, for holding this hearing, and with that, I yield back.

[The prepared statement of Ms. Craig follows:]

PREPARED STATEMENT OF HON. ANGIE CRAIG, A REPRESENTATIVE IN CONGRESS FROM MINNESOTA

Thank you to our witnesses for being here today, and for the opportunity to hold this very important hearing as we look at reauthorizing the Commodity Futures Trading Commission.

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But it takes resources to have effective oversight over these markets and protect the customers who use them. At previous hearings on reauthorizing the CFTC, we heard from commercial end-users of these markets about the agency's "stagnant funding" and how the agency needs sufficient resources; otherwise, its ability to ensure the integrity of the more traditional commodity markets for risk management purposes will be diminished. If the users of these markets get it, we should too.

The recent gutting of staff at the agency, the last-minute withdrawal of a CFTC Chair nominee because a friend of the President didn't like him and the lack of nominees for other Commissioner positions demonstrate the Trump Administration's lack of respect for the agency, its staff and its mission. I don't envy the challenge that the new CFTC Chair nominee, Mr. Selig, faces to turn all this around once he gets confirmed.

I want to thank our witnesses for coming in today and for your testimony and sharing your perspectives. We may not agree on everything, but we can all agree that a well-resourced and appropriately staffed CFTC is critical to a healthy financial system, and to accomplish these goals, it's critical that we work together and across the aisle.

Thank you, Mr. Chairman, for holding this hearing, and with that, I yield back.

The CHAIRMAN. I thank the gentlelady. The chair would request that other Members submit their opening statements for the record so the witnesses may begin their testimony and to ensure that there is ample time for questions.

Our first witness today is the Honorable Dawn D. Stump, a former Commissioner at the CFTC. Our next witness is Mr. Edward Prosser, the Senior Vice President for Special Projects at the Scoular Company. He is also a Member of the Board of the Commodity Markets Council and is testifying on their behalf. Our third witness today is Ms. Alicia Crighton. Ms. Crighton is the Managing Director and Global Co-Head of Futures, and the Head of OTC and Prime Clearing at Goldman Sachs, as well as the Chair of the Futures Industry Association. She is testifying on behalf of the Futures Industry Association today. Our next witness today is Mr. Rob Schwartz, former General Counsel at CFTC. He is currently a partner at Morgan Lewis and Bockius, and our final witness today is Mr. Benjamin Schiffrin, the Director of Securities Policy at Better Markets.

Thank you all for joining us today, and we will now proceed to your testimony. You will each have 5 minutes. The timer in front of you will count down to zero, at which time your time has expired. Commissioner Stump, please begin when you are ready.

STATEMENT OF HON. DAWN D. STUMP, PRINCIPAL, STUMP STRATEGIC LLC; FORMER COMMISSIONER, COMMODITY FUTURES TRADING COMMISSION, WASHINGTON, D.C.

Ms. STUMP. Thank you. I would like to begin by thanking Chairman Thompson and Ranking Member Craig for inviting me to be here today, and I would like to applaud all of the Members for your attention to reauthorizing the CFTC. As a former staffer, I would also be remiss if I didn't acknowledge the tremendous amount of work the staff has put in to making this hearing a possibility today.

Since it began operating 50 years ago, the CFTC has fostered tremendous growth and integrity in the U.S. derivatives markets. While this success is driven by the market itself, it is sustained by the unique regulatory purpose Congress designed for the CFTC, a purpose that needs to be reaffirmed from time to time lest it be misunderstood or undervalued. While the CFTC's mission remains timeless, sweeping and substantial changes in the derivatives markets have taken the agency on quite a transformative journey.

I am proud to have been part of this progression, first, as a legislative staffer at both the House and the Senate Agriculture Committee where I worked on the last CFTC reauthorization in 2008 and the Dodd-Frank Act (Pub. L. 111-203) during the financial crisis. I have also had the opportunity to work within the industry for a variety of CFTC-regulated entities, and I count among my greatest honors serving as a CFTC Commissioner. In each of these roles—advancing legislation, conducting oversight, implementing regulation, enforcing rules, and developing compliant business operations in the real world—I have confronted many complex questions, often stemming from the competing and sometimes very creative interpretations of the objectives Congress has outlined for the CFTC. Time and time again, I find that the best compass in navigating these difficult and subjective debates is simply rereading the actual words in the Commodity Exchange Act (Pub. L. 74-675).

To be clear, there have been many times when I wish the words said something different, but the CEA, the Commodity Exchange Act, is the ultimate directive to which we all must subscribe. And the reauthorization process has traditionally served as a recurring opportunity for Congress to ensure that those all-important words in the Commodity Exchange Act remain absolutely fit for purpose, such that market developers, regulators, and, where necessary, the courts can apply the statute in a current context. While the sensible flexibility of the Commodity Exchange Act largely enables the CFTC to adapt as the markets develop new products and business practices, reauthorization provides an opportunity for this Committee to address ambiguities that inevitably arise with such changes. Beyond this periodic review of the Commodity Exchange Act and ensuring that it remains up to date, I would like to briefly discuss two additional reasons reauthorization is prudent. One is

a technical budgetary matter and the other an important validation of the agency itself.

Beginning with the technical issue, it is worth briefly clarifying what we are talking about when we use the phrase, *CFTC reauthorization*. Importantly, the duties and authorities assigned to the agency do not lapse at the end of an authorization period. Rather, the authorization for appropriations expires. This is not unique to the CFTC, and in a much broader debate, there is a great deal of scrutiny surrounding such unauthorized appropriations. In my opinion, the best course of action to avoid the CFTC being inadvertently caught up in this broader procedural debate is simply to authorize the appropriation. This is CFTC reauthorization in its simplest form: changing the end date to extend the time frame for which appropriations are authorized for the agency.

In addition to updating the Commodity Exchange Act and addressing this technical budgetary matter, Congress has historically taken the opportunity to demonstrate and renew its support for the CFTC by way of reauthorization. This is not, as some have suggested, merely a symbolic gesture, but rather, an important affirmation of the agency's distinct relevance. Though small in size, the CFTC performs a critical regulatory function, overseeing markets with enormous range of underlying products: agricultural commodities, energy resources, interest rates, foreign currency, metals, credit tools, and equity indexes, just to name a few. Its remit impacts grain elevators, hedge funds, financial institutions, manufacturers, supply chains, and retail participants in both existing and newly developed derivatives markets. CFTC's regulated markets have an enormous impact on the U.S. economy, yet its identity is often misunderstood as "the little sister to the Securities and Exchange Commission." It is important that Congress endorses the unique objectives it set out for the CFTC to avoid these sorts of misconceptions, especially now during the current period of transition.

In closing, I would, again, just like to thank you all for your attention to reauthorizing the CFTC. I think it is an important endeavor, and I would be happy to answer any questions.

[The prepared statement of Ms. Stump follows:]

PREPARED STATEMENT OF HON. DAWN D. STUMP, PRINCIPAL, STUMP STRATEGIC LLC;
FORMER COMMISSIONER, COMMODITY FUTURES TRADING COMMISSION,
WASHINGTON, D.C.

I would like to begin by thanking Chairman Thompson and Ranking Member Craig for inviting me to be here today, and I applaud all Members of the Committee for your attention to the task of reauthorizing the Commodity Futures Trading Commission (CFTC). Since it began operating 50 years ago, the CFTC has fostered tremendous growth and integrity in the U.S. derivatives markets. While this success is driven by the markets themselves, it is sustained by the unique regulatory purpose Congress designed for the CFTC—a purpose that needs to be reaffirmed from time to time, lest it be misunderstood or undervalued.

While the CFTC's mission remains timeless, sweeping and substantial changes in the derivatives markets have taken the CFTC on a transformative journey. I am proud to have been involved in this evolution, even as some progress came with tremendous growing pains. During my career I have had the privilege to serve as a legislative staffer at both the House and Senate Agriculture Committees where I worked on the last CFTC reauthorization in 2008 and the Dodd-Frank Act during the financial crisis. I have also had the opportunity to work within the industry for a CFTC-regulated exchange and clearinghouse, a foreign board of trade, and on be-

half of customer-facing intermediaries. And finally, I count among my greatest honors serving as a CFTC Commissioner during President Trump's first term and the early years of President Biden's Administration.

In each of these roles—advancing legislation, conducting oversight, implementing regulations, enforcing rules, and developing compliant business operations in the real world—I have confronted many complex questions, often stemming from competing, and sometimes creative, interpretations of the objectives Congress has outlined for the CFTC. Time and again I find the best compass in navigating these subjective debates is simply re-reading the actual words used in the Commodity Exchange Act (CEA). To be clear, there have been instances in which I would have personally preferred different words, but the CEA is the ultimate directive to which we all must subscribe.

The reauthorization process has traditionally served as a recurring opportunity for Congress to ensure those all-important words in the CEA remain absolutely fit for purpose such that market developers, regulators, and, where necessary, the courts can apply the statute in a current context. While the sensible flexibility of the CEA largely enables the CFTC to adapt as the market develops new products and business practices, reauthorization provides an opportunity for the people's elected representatives to address ambiguities that inevitably arise with such changes.

Beyond this periodic review to ensure the CEA remains up to date, I would like to briefly discuss two additional reasons reauthorization is prudent—one is a technical budgetary matter and the other an important validation of the agency itself.

Beginning with the technical issue, it is worth briefly clarifying what we are talking about when we refer to "CFTC reauthorization". Importantly, the duties and authorities assigned to the agency do not lapse at the end of the authorization period. Rather, the authorization for appropriations expires. This is not unique to the CFTC, and in a much broader debate there is a great deal of scrutiny surrounding "unauthorized appropriations". Some believe the receipt of funds without an updated authorization has enabled agencies to operate beyond their usefulness, while others have suggested that neglecting these routine authorizations results in agencies not receiving proper oversight.

I hope we would all agree that such concerns do not apply to the CFTC—it was never envisioned to sunset, and Congressional oversight is constantly occurring through an ongoing dialogue between this Committee and the agency. Nonetheless, we cannot ignore the possibility that these ongoing considerations potentially put a target on an agency that was last authorized for appropriations in fiscal year 2013 at the conclusion of a routine 5 year authorization approved in 2008. In my opinion, the best course of action to avoid the CFTC being inadvertently caught up in this broader procedural debate is to simply authorize the appropriations. This is "CFTC reauthorization" in its simplest form—changing the end date to extend the timeframe for which appropriations are authorized for the agency.

In addition to updating the CEA and addressing this technical budgetary matter, Congress has historically taken the opportunity to demonstrate and renew its support for the CFTC by way of reauthorization. This is not, as some have suggested, merely a symbolic gesture but rather an important affirmation of the agency's relevance. Though small in size, the CFTC performs a critical regulatory function overseeing markets with an enormous range of underlying products—agricultural commodities, energy resources, interest rates, foreign currency, metals, credit tools, and equity indexes just to name a few. Its remit impacts grain elevators, hedge funds, financial institutions, manufacturer supply chains, and retail participants in both established and new derivatives markets. CFTC-regulated markets have an enormous impact on the U.S. economy. Yet, its identity is often misunderstood as "the little sister to the Securities and Exchange Commission". It is important that Congress endorses the unique objectives it set out for the CFTC to avoid these sorts of misconceptions, especially during this period of transition.

In closing, I again want to thank the Committee Members for your attention to reauthorizing the CFTC. The importance of the agency's mission warrants validation by Congress. Reauthorization serves to provide that support while also addressing technical matters and prudent review of the authorities entrusted to the Commission.

The CHAIRMAN. Commissioner Stump, thank you so much for your testimony and your service. Mr. Prosser, please begin when you are ready.

**STATEMENT OF EDWARD F. PROSSER, SENIOR VICE
PRESIDENT, SPECIAL PROJECTS, SCOLAR COMPANY;
MEMBER, BOARD OF DIRECTORS, COMMODITY MARKETS
COUNCIL, OMAHA, NE**

Mr. PROSSER. Chairman Thompson, Ranking Member Craig, and Members of the Committee, thank you for inviting me here today to testify about the importance of the CFTC and this Committee's oversight and reauthorization of the agency. I am Ed Prosser, Senior Vice President of Special Projects at Scoular. Scoular is an employee-owned, \$7.3 billion agribusiness and supply chain company with headquarters in Omaha, Nebraska. Founded over 130 years ago, our company buys, sells, stores, handles, and processes grain and ingredients through our global networks and expertise in trade and transportation. Our U.S. grain facility networks include locations in Illinois, Iowa, Nebraska, Kansas, and Missouri. We employ over 1,200 people in more than 100 offices and facilities worldwide.

I have been an active participant in physical and derivative markets and agriculture and energy for 40 years. I serve on the board of the Commodity Markets Council, the National Oil Seed Processors Association, and as a member of the CFTC's Agricultural Advisory Committee. I also formerly served on the Risk Management Committee of the National Grain and Feed Association and was a member of the Minneapolis, Chicago, and Kansas City Board of Trade. Today, I am testifying on behalf of the Commodity Markets Council founded over 90 years ago and originally called the National Grain Trade Council.

CMC is the leading Washington, D.C.-based trade association that brings agriculture and energy traders together with commodity exchanges. Its members include end-users that utilize futures and swap markets for agriculture, energy, metal, and soft commodities, as well as designated contract markets, futures commission merchants, and swap execution facilities. CMC advocates for open, transparent, and competitive markets. For decades, we have supported both the principled regulation of, and responsible innovation in, derivatives markets.

I firmly believe my testimony today reflects the views of thousands of end-users—farmers, merchants, utilities, energy suppliers, biofuel producers, and manufacturers—who rely on U.S. derivatives markets as critical risk management tools, not for speculation, but as a central part of their everyday business operations. The derivatives markets are just that: derivatives of cash markets that trade every workday to provide the food, fiber, and energy we rely on. The derivatives markets provide liquidity to ensure efficient price discovery, which allows participants around the world to signal which commodities are scarce and which are oversupplied. Specifically, these markets enable commercial users to hedge exposures to volatile price movements driven by weather events, global economic shifts, supply chain disruptions, and geopolitical instability.

U.S. agriculture futures contracts, corn, soybeans, wheat, livestock, cotton, and more serve as global price benchmarks used in risk management by businesses here and around the world. These functions are not just theoretical. They are vital to the real-world business of producing and transporting agricultural goods to the consumers that depend on them. From the price of milk and bread,

to the cost of gasoline and electricity, derivative markets shape our economy, ensuring that commercial participants can manage risk, avoid catastrophic losses, and deliver reliable value to consumers. The role of price discovery, risk transfer, and market liquidity are the pillars of healthy, resilient markets.

With this in mind, I would like to provide six recommendations for Congressional action and refer you to my written testimony which further explains each of these and why they are critical. One, support the appropriate funding and staffing for the CFTC, enabling the agency to keep pace with market growth, technological complexity, and global competitiveness. Two, ensure that regulatory standards prioritize the needs of commercial users, end-users, and consumers, not just financial intermediaries, new market entrants, or speculative interests. Three, safeguard the principle-based regulatory model that has enabled responsible innovation and reasonable flexibility in responding to new market challenges. Four, maintain bipartisan commitment to transparency, public participation, and open debate in regulatory decision-making. Five, encouraging ongoing review of market structure proposals, such as event contracts, clearing organization changes, and customer bankruptcy protections to ensure that any market structure changes do not undermine our agriculture and energy markets. And six, anchor global benchmarks in U.S. markets, subject to U.S. oversight and rules, strengthening America's competitive position for the benefit of American producers, consumers, and communities.

Thank you again for the opportunity to represent and comment on behalf of the Commodity Markets Council and all commercial users of these agricultural and energy contracts. We hope you will submit a fully funded—excuse me—I hope you will support a fully funded and fully functional CFTC to ensure that our producers, merchants, and end-users can continue to fuel, feed, and clothe America in a growing market. Thank you.

[The prepared statement of Mr. Prosser follows:]

PREPARED STATEMENT OF EDWARD F. PROSSER, SENIOR VICE PRESIDENT, SPECIAL PROJECTS, SCOLAR COMPANY; MEMBER, BOARD OF DIRECTORS, COMMODITY MARKETS COUNCIL, OMAHA, NE

Regarding the Reauthorization and Oversight of the Commodity Futures Trading Commission

Introduction

Chairman Thompson, Ranking Member Craig, and Members of the Committee, thank you for inviting me here today to testify about the importance of the Commodity Futures Trading Commission and this Committee's oversight and reauthorization of the agency.

I am Ed Prosser, Senior Vice President of Special Projects at Scoular. Scoular is an employee-owned \$7.3 billion agribusiness and supply chain company with headquarters in Omaha, Nebraska. Founded over 130 years ago, our company buys, sells, stores, handles, and processes grain and ingredients through our global networks and expertise in trade and transportation. Our U.S. grain facility network includes locations in Illinois, Iowa, Nebraska, Kansas, and Missouri. We employ over 1,200 people in more than 100 offices and facilities worldwide, and provide safe and reliable solutions to farmers, grain processors, biofuel producers, and other customers. I have been an active participant in physical and derivative markets in agriculture and energy for 40 years. I serve on the board of the Commodity Markets Council, the National Oilseed Processors Association, and as a member of the CFTC's Agriculture Advisory Committee. I also formerly served on the Risk Man-

agement Committee of the National Grain and Feed Association, and was a member of the Minneapolis Grain Exchange, Chicago Mercantile Exchange, and the Kansas City Board of Trade exchanges.

Today, I am testifying on behalf of the Commodity Markets Council, founded over 90 years ago and originally called the National Grain Trade Council. Today, CMC is the leading Washington D.C.-based trade association that brings agriculture and energy traders together with commodity exchanges, and its members include commercial end-users that utilize futures and swaps markets for agriculture, energy, metals, and soft commodities as well as designated contract markets (DCMs), futures commission merchants (FCMs), and swap execution facilities (SEFs). While its membership has expanded over the years, its mission has remained the same: advocating for an open, transparent, competitive marketplace by combining the expertise, knowledge, and resources of our members to develop and support market-based policy. For decades, we have supported both the principled regulation of and responsible innovation in derivatives markets, which ultimately serve as the most robust and resilient risk management markets in the world.

I firmly believe my testimony today reflects the views of thousands of commercial end-users, farmers, merchants, utilities, energy suppliers, biofuels producers, and manufacturers who rely on U.S. derivatives markets as critical risk management tools, not for speculation, but as a central part of their everyday business operations.

Purpose and Function of Derivatives Markets

The derivatives markets are just that: derivatives of cash markets that trade every workday to provide the food, fiber, and energy we rely on. The derivatives markets provide liquidity to ensure efficient price discovery which allows participants around the world to signal which commodities are scarce and which are oversupplied. Specifically, these markets enable commercial end-users to hedge exposures to volatile price movements driven by weather events, global economic shifts, supply chain disruptions, and geopolitical instability. U.S. agricultural futures contracts—corn, soybeans, wheat, livestock, cotton, and more—serve as global price benchmarks used in risk management by businesses here and around the world.

The fast, fair, and efficient price discovery enabled through derivatives trading sends vital economic signals, informing producers, processors, and end-users about market scarcity or surplus. When farmers lock in crop prices with grain merchandisers, or fuel suppliers hedge energy costs, it is derivatives markets that empower their decisions and stabilize supply chains from farm to table and field to fuel tank. Commercial end-users depend on these markets, not only to offset risk, but also to secure business financing, manage uncertainty, and fuel ongoing investment in American agriculture and energy.

These functions are not just theoretical—they are vital to the real-world business of producing and transporting agricultural goods to the consumers that depend on them. From the price of milk and bread to the cost of gasoline and electricity, derivatives markets shape our economy, ensuring that commercial participants can manage risk, avoid catastrophic losses, and deliver reliable value to consumers. The roles of price discovery, risk transfer, and market liquidity are the pillars of healthy, resilient markets.

The Importance of a Robust, Well-Resourced CFTC

The Commodity Futures Trading Commission (CFTC or Commission) is the cornerstone and referee of fair, transparent, and resilient markets in the U.S. The Commission's mandate is not only to supervise exchanges, clearinghouses, and intermediaries, but also to ensure that regulatory processes remain responsive, transparent, and open to public debate.

Since its inception fifty years ago, the CFTC has evolved alongside the markets it governs—expanding from agricultural contracts to oversight of financial, energy, metals, and now, digital assets. Its principles-based regulatory regime has become a global model, allowing flexibility for innovation while maintaining rigorous standards for customer protection, market integrity, and risk management. As I see new exchanges and instruments enter the trading space, there seems to be pressure to change how clearinghouses work, how FCMs interact with the exchanges, and even how many hours derivatives markets are open. I am not here to comment on the needs of market participants in digital assets, event contracts, or other relatively new asset classes. However, like many others, I am concerned with their potential influence on our traditional markets.

The trading rules for agriculture and energy markets have evolved over decades of experience and are in place for good reasons. They have been tested by crisis, black swan market events, and periods of inactivity, and they have always contin-

ued to function. We do not oppose innovation in our markets—innovation has been the reason for the tremendous success of traditional markets in the U.S.—but if market rules need to adjust for new entrants, let’s not lump everyone together. Certain market features like 24/7 trading and perpetual futures might make sense in the context of digital asset commodities or event contract markets, but they could be extremely problematic when applied to traditional futures markets.

Having a Commission that is thoughtful and well-resourced, and that understands both the importance of innovation and the importance of maintaining our status as a global leader in risk management is imperative. Our agriculture and energy markets should not change just to accommodate potential innovations in other markets.

CFTC oversight ensures trustworthy price discovery, effective risk transfer, and resilient liquidity, while safeguarding the interests of commercial end-users. Its role in facilitating the convergence between cash and derivatives markets, especially for physically delivered contracts, provides critical market data such as the “Commitment of Traders” report, and enables market participants to petition for rule changes, ensuring that all voices are heard. Ultimately, this is what ties the crops that are physically grown on a farm or raised on a ranch to the financial derivatives we depend on to manage our risk.

During historic periods of stress, such as the financial crisis of 2008 and the aftermath of 9/11, the CFTC played a vital leadership role, ensuring markets remained open and orderly, restoring confidence, and working in close partnership with industry and policymakers. While dramatic market events and the changes they bring to the markets might be the biggest news, the most impactful role of the CFTC might be in what many would consider the mundane. The reliable data it provides to participants helps regulate the market by providing insight to market participants. The Commission also plays an important role in monitoring the convergence of the derivatives and physical markets. This highly specialized process is particularly important to our traditional agricultural contracts. The agency’s responsiveness, expertise, and judgment have kept the U.S. markets at the forefront of innovation and stability amidst global competition.

There are often differences of opinion between different players in derivatives markets. When this happens, it is vital to have a strong CFTC that can hear both sides and find reasonable solutions. These qualities depend on continued Congressional support for a robust, fully staffed, fully funded, and well-resourced CFTC.

The Case for CFTC Reauthorization

Reauthorizing the CFTC is more than a procedural step; it is the foundation for American economic leadership in the global commodities markets. Periodic reauthorization ensures that the agency keeps pace with technological change, the rapid growth of novel products, and the ongoing globalization of commodity trading. The process offers Congress vital oversight, enabling lawmakers to demand accountability, review evolving risks, and assess the effectiveness of regulatory pathways.

The Commodity Exchange Act’s core mandate is to foster innovation, encourage public debate, and ensure regulation keeps pace with ever-changing market needs. Passage of reauthorization legislation demonstrates bipartisan determination to strengthen market safeguards and address emerging challenges including cybersecurity, customer property protection, and conflicts of interest.

Reauthorization also enables the CFTC to confront challenges posed by financial market regulation, such as the Basel III Endgame and Global Systemically Important Bank (GSIB) rules, international competition, market structure reforms, and new asset classes. For commercial end-users, keeping global benchmarks anchored in U.S. markets is crucial for price stability and market access. For consumers, robust reauthorization helps ensure that markets continue to function as intended even in times of stress, volatility, or crisis.

Markets and businesses crave certainty. When there is uncertainty in government policy, we see unnecessary and unproductive volatility in the markets as market participants react to every rumor and news article because they do not have solid guidance. We see this in the soybean oil market today where market participants, awaiting significant guidance from the Environmental Protection Agency (EPA) and the Treasury Department on biofuels policy, see rumors of various outcomes shooting prices up or down. While we recognize that Congress has continued to fund the agency on a yearly basis, the lack of reauthorization for the CFTC creates that same uncertainty when market participants do not know what to expect from the government on a number of key policies, such as how derivatives markets are or are not going to integrate things like 24/7 trading. In short, CFTC reauthorization upholds regulatory confidence, fosters forward-looking innovation, and ensures that American farmers, merchants, utilities, processors, and consumers are protected from

market failures, systemic risks, and global competition. Congress should go through the reauthorization process to affirm its steadfast support for the vital work of the CFTC.

Recommendations for Congressional Action

As Congress considers its role in overseeing, supporting, and reauthorizing the CFTC, I urge the Committee to:

1. **Support appropriate funding and staffing for the CFTC, enabling the agency to keep pace with market growth, technological complexity, and global competitiveness.**
2. **Ensure that regulatory standards prioritize the needs of commercial end-users and consumers—not just financial intermediaries, new market entrants, or speculative interests.**
3. **Safeguard the principles-based regulatory model that has enabled responsible innovation and reasonable flexibility in responding to new market challenges.**
4. **Maintain bipartisan commitment to transparency, public participation, and open debate in regulatory decision-making.**
5. **Encourage ongoing review of market structure proposals—such as event contracts, clearing organization changes, and customer bankruptcy protections—to ensure that any market structure changes do not undermine our agriculture and energy markets.**
6. **Anchor global price benchmarks in U.S. markets subject to U.S. oversight and rules, strengthening America’s competitive position for the benefit of American producers, consumers, and communities.**

Thank you again for the opportunity to represent and comment on behalf of the Commodity Markets Council, and all commercial end-users of these agriculture and energy contracts. We hope you will support a fully funded, fully functional CFTC to ensure that our producers, merchants, and end-users can continue to fuel, feed, and clothe America and a growing market.

The CHAIRMAN. Mr. Prosser, thank you so much for your testimony. Ms. Crighton, please begin when you are ready.

STATEMENT OF ALICIA CRIGHTON, GLOBAL CO-HEAD OF FUTURES, HEAD OF OTC AND PRIME CLEARING, GOLDMAN SACHS & CO. LLC; CHAIR, BOARD OF DIRECTORS, FUTURES INDUSTRY ASSOCIATION, NEW YORK, NY

Ms. CRIGHTON. Thank you. Good morning, Chairman Thompson, Ranking Member Craig, and Members of the Committee. Thank you for the opportunity to testify. I am the Head of the Global Clearing Businesses for Goldman Sachs and the Co-Head of its global futures business. I am testifying today as Chair of the Futures Industry Association, the leading global trade organization for the futures options and centrally cleared derivatives markets.

There is tremendous change facing the cleared derivatives markets today, especially when compared to 2008 when the CFTC was last reauthorized. FIA strongly supports the reauthorization of the CFTC as it reinforces the agency’s mission in safeguarding markets critical to the global economy. I have had the privilege of interacting extensively with the Commission over many years through FIA, on behalf of Goldman Sachs, and as the Chair of the CFTC’s Market Risk Advisory Committee, and believe that with adequate resources, it is well suited for the challenges ahead.

FIA supports innovation and believes there is tremendous potential for technology to benefit all market participants. We also believe there are valuable and time-tested risk management traits of our current market structure that can play an important role in the integration of traditional and novel products and platforms.

When risk management goes hand in hand with innovation, it helps to ensure the broadest participation across both retail, end-users, and institutional investors. It is to this end that I would like to highlight important recommendations we hope the Committee and the Commission will consider.

First, many of the safeguards that exist in the markets today are behind the scenes, but critical to customer protections and market stability. Futures commission merchants, or FCMs, are risk managers that act as the first and last line of defense in the clearing system and prevent losses from triggering a domino effect that can threaten the stability of markets. FCMs are CFTC-regulated intermediaries that stand between end-users and the clearinghouses, safeguarding customer assets, monitoring for money laundering, and providing substantially all of the financial resources in the default funds that backstop these clearinghouses. To the degree trading platforms offer direct access models, the CFTC should consider whether the regulatory environment may also need to evolve to safeguard markets and market participants, particularly as retail investors are provided direct clearing access on a leveraged basis.

In 2023, I testified before this Committee regarding volatility in the commodity derivatives markets and how end-users can be better prepared to weather market turbulence. I also highlighted how they are finding it harder to secure and sustain capacity from their FCMs to clear. I suggested two solutions that remain necessary today: adequate clearinghouse margin levels and a well-calibrated bank capital regime. I elaborate on these points in my written testimony and would be happy to discuss them further today.

Perhaps one of the most notable changes in the CFTC's mission over the last 20 years is that it may now oversee significantly more leveraged retail investor trading volumes than ever before. FIA supports efforts underway by Congress to clarify and strengthen the CFTC's authority over digital commodities to help ensure retail investors are protected, but FIA also recommends that Congress authorize the CFTC to issue rules or guidance to require that financial resources used to manage the default involving leveraged retail transactions be segregated from other default resources in the clearinghouse. Such separation could mitigate systemic risk concerns.

Next, FIA supports provisions in the CLARITY Act intended to ensure risk offsets are recognized across both traditional and digital asset products that span CFTC and SEC jurisdiction. Recognizing such offsets will incentivize hedging activity while promoting harmonization between both agencies. Similarly, FIA supports provisions in the CLARITY Act to authorize the CFTC to carry out a rulemaking to mitigate potential conflicts of interest for vertically integrated market participants and ensure retail investors remain protected. Rulemaking should establish requirements for the identification, mitigation, and resolution of these conflicts as they may arise in the context of vertically integrated market structures. Finally, FIA supports inclusion of the *Griffin* fix (FR Doc. 2020-28300) as it is designed to strengthen customer protections in bankruptcy proceedings involving FCMs by ensuring customers have priority if there is a shortfall in segregated funds. FIA believes there is broad stakeholder support for this provision.

FIA greatly appreciates the Committee's interest in these topics that affect global derivatives markets. It is an honor to be with you today, and I look forward to answering your questions. Thank you. [The prepared statement of Ms. Crighton follows:]

PREPARED STATEMENT OF ALICIA CRIGHTON, GLOBAL CO-HEAD OF FUTURES, HEAD OF OTC AND PRIME CLEARING, GOLDMAN SACHS & CO. LLC; CHAIR, BOARD OF DIRECTORS, FUTURES INDUSTRY ASSOCIATION, NEW YORK, NY

Chairman Thompson, Ranking Member Craig, and Members of the Committee, thank you for the opportunity to testify. I am the head of the global clearing business for Goldman Sachs and the co-head of its global futures business. I am testifying as Chair of the Futures Industry Association (FIA), the leading global trade organization for the futures, options and centrally cleared derivatives markets.

There is tremendous change facing the cleared derivatives markets today, especially when compared to 2008 when the CFTC was last reauthorized. FIA strongly supports the reauthorization of the CFTC, as it reinforces the agency's mission and central role in safeguarding markets critical to the global economy. I've had the privilege of interacting extensively with the Commission over many years, through FIA, on behalf of Goldman Sachs and as Chair of the CFTC's Market Risk Advisory Committee and believe that with adequate resources it is well suited for the challenges ahead.

As the Committee undertakes this process, I appreciate the opportunity to highlight important recommendations that we hope the Committee and the Commission will consider.

The Role of Futures Commission Merchants (FCMs)

First, I will provide the Committee with an overview of the important role clearing members, or Futures Commission Merchants (FCMs), play in global derivatives markets. Through their connectivity to exchanges and clearinghouses around the world, clearing members provide customers, including agricultural and energy end-users, with access to global markets to manage the risks of their operations. For example, many FIA members participate in clearinghouses across dozens of jurisdictions to ensure their clients can transact in any region in which they do business.

Clearing members are intermediaries, which means they stand between an end-user and the clearinghouse, and act as the first and the last line of defense in fostering stability in cleared derivatives markets. These intermediaries act as a first line of defense by underwriting the risk of a client's portfolio before it ever reaches the clearinghouse and monitoring that risk on an ongoing basis. This includes determining the appropriateness and suitability of leveraged products, monitoring clients for money laundering and other risks to market integrity, collecting and safeguarding customer margin, and guaranteeing the performance of clients to the clearinghouse.

Perhaps less known is that clearing members are also the last line of defense, in the sense that they contribute substantially all the financial resources in the default funds that backstop the clearinghouses. These default funds are rarely used, but they are essential for absorbing losses in the event of a major market disruption or a default by a market participant and preventing those losses from cascading into a financial crisis.

Looking at just the five derivatives clearinghouses that operate in the U.S., we can see that clearing members contributed \$35.7 billion to their default funds as of June 2025, the most recent data available. That was equivalent to 98.5% of all the money in those default funds. If we include three other major international clearinghouses that are highly important to end-users in the U.S., namely Eurex, ICE Clear Europe and LCH Ltd, we see the same picture. As of June 2025, clearing members contributed \$61 billion in total to this group of eight clearinghouses, equivalent to 98.4% of the total amounts in those default funds.

Clearing members also hold a significant amount of regulatory capital, which serves as an additional layer of protection to the system that helps ensure clearing members themselves can withstand a severe market disruption. The total amount of capital held by the clearing members regulated by the CFTC was \$169 billion as of September 2025.

Together, these financial resources reduce the risk that a major market event or default creates wider market contagion, which can put financial markets and customer assets at risk.

Source: FIA CCP Tracker. Data as of June 2025.

We support innovation and believe there is tremendous potential in technology to benefit all market participants. We also believe there are valuable and time-tested risk management traits of our current market structure that can play an important role in the integration of traditional and novel products and platforms. Ensuring risk management goes hand in hand with innovation will ensure the broadest participation across both retail, end-users and institutional investors, and the issues I'd like to raise today are to that end.

Regulated and Well Capitalized Intermediaries Play an Essential Role in Protecting Customers and the Stability of the Market Ecosystem

First, many of the safeguards that exist in the markets today are “behind the scenes” but critical to customer protections and market stability. Futures Commission Merchants (FCMs) are risk managers that play a central role in ensuring the resiliency of the clearing system and preventing losses from triggering a domino effect that can threaten the stability of the markets. Like regulated exchanges and clearinghouses, well capitalized FCMs are a key component of the regulatory architecture that have served the derivatives markets well. FCMs are CFTC regulated intermediaries that stand between end-users and the clearinghouses by guaranteeing the performance of clients to the clearinghouse. In addition, FCMs safeguard customer assets, monitor for money laundering and other risks to market integrity and provide substantially all the financial resources in the default funds that backstop the clearinghouses.

To the degree trading platforms offer direct access models where participants can access the exchange or clearinghouse directly, the CFTC should consider whether the regulatory environment may also need to evolve to sufficiently safeguard markets and market participants. This will be especially important as retail investors are provided direct clearing access on a leveraged basis.

Stable, Robust Margin Levels and a Well-Calibrated Capital Regime Will Support Access to Global Markets for End-Users and Investors

In 2023, following the Russian invasion of Ukraine, I testified before this Committee regarding volatility in the commodity derivative markets and how end-users can be better prepared to weather market turbulence. I also spoke to the fact that end-users are finding it harder to secure and sustain capacity from their FCMs to clear the full extent of their trading volume. I suggested two solutions at that time that remain necessary today: adequate clearinghouse margin levels and a well-calibrated bank capital regime.

Clearinghouses collect “margin” for the futures contracts that energy and agricultural producers use to hedge against fluctuations in energy and food prices. Margin is the capital collected in conjunction with those contracts to protect against default. In 2023, I highlighted how important it is to ensure margin levels are robust and stable over time so that end-users, such as ranchers and farmers, are not exposed to dramatic spikes in their margin payments during market volatility, which in turn helps ensure consumer prices remain stable. Additionally, inadequate margin level requirements present risks that are absorbed by FCMs—both because of the immense financial resources that FCMs bring to bear in supporting the resilience of the clearing system and because FCMs often cover margin shortfalls through margin add-ons that clearinghouses call from them. Margin adequacy is therefore closely tied to the amount of clearing capacity that clearing members can make available for end-users. Despite the consensus that emerged in recommendations to address margin adequacy by the CFTC’s Market Risk Advisory Committee in 2021, there has been little progress. We believe the CFTC can do more to ensure the adequacy of clearinghouse margin models to reduce the negative effects of market volatility on end-users and increase their access to clearing.

Last, bank capital rules dictate the amount of capital clearing members must hold. Despite an intentional regulatory push towards clearing, the previously proposed Basel III Endgame capital rule took a punitive approach that would further limit clearing members’ ability to provide capacity to the markets. The proposed approach was also punitive relative to the international standards, placing U.S. banks at a competitive disadvantage in providing clearing services. A re-proposal of Basel III Endgame is expected early next year and provides an opportunity to ensure that the bank capital regime is appropriately calibrated to help support the expansion of clearing, rather than to constrain capacity as we see today.

As More Retail Leveraged Transactions Enter CFTC Markets, Congress Should Consider Safeguards for Institutional Investors and Hedgers

Perhaps one of the most notable changes in the CFTC’s mission over the last 20 years is that it may now oversee significantly more leveraged retail investor trading volumes than ever before. FIA supports efforts underway by Congress to clarify and

strengthen the CFTC's authority over digital commodities to help ensure retail investors are protected.

A unique aspect of the derivatives ecosystem is that in the event a clearing member defaults, losses are mutually shared by the remaining clearing members in what is known as default fund loss mutualization. With the increase in leveraged retail transactions, clearing members representing institutional end-users will now participate in the same default fund as retail investors. FIA recommends that Congress consider authorizing the CFTC to issue rules or guidance to require that financial resources that would be used to manage the default involving leveraged retail transactions be segregated from other default resources in the clearinghouse. Such separation could mitigate systemic risk concerns and prevent contagion from spreading between retail investors trading novel products and end-users and other traditional market participants accessing the markets for hedging purposes.

Portfolio Margining Incentivizes Hedging, Promotes Market Liquidity and Fosters Greater Coordination Between CFTC and SEC

Next, FIA supports provisions in the CLARITY Act intended to ensure risk offsets are recognized across both traditional and digital asset products that span CFTC and SEC jurisdiction in both the margin and bank capital framework. Recognizing such offsets will incentivize hedging activity while promoting harmonization between the CFTC and SEC.

Addressing Conflicts of Interest in Vertically Integrated Models Is Important To Uphold Market Integrity, Protect Market Stability and Instill Confidence in U.S. Markets

Similarly, FIA supports provisions in the CLARITY Act to authorize the CFTC to carry out a rulemaking to mitigate potential conflicts of interest for vertically integrated market participants and ensure retail investors remain protected. In recent years, there has been a distinct trend in derivatives and spot digital asset markets toward vertically integrated business models. For example, while the futures markets are accustomed to exchanges and clearinghouses under common ownership, many new models are structured to extend the "vertical" to include FCMs and other intermediaries. Further, as envisioned by the CLARITY Act, these verticals may grow with the addition of "digital commodity" exchanges and intermediaries that will be registered with the CFTC to provide services in spot cryptocurrency markets.

These new models may increase the potential—both in practice and perception—of substantial conflicts of interest across the mix of commercial objectives, regulatory responsibilities and risk management processes under one roof. Rulemaking should establish requirements for the identification, mitigation, and resolution of conflicts of interest as they may arise in the context of vertically integrated market structures.

The "Griffin Fix" Will Strengthen Customer Protections in Bankruptcy

A key measure that has been consistently considered in previous reauthorization bills and passed out of both the House and Senate Agriculture Committees with bipartisan support is the "Griffin fix." FIA supports inclusion of the *Griffin* fix as it is designed to strengthen customer protections in bankruptcy proceedings involving FCMs by providing legislative certainty for the CFTC's rulemaking authority to ensure customers have priority if there is a shortfall in segregated funds. FIA believes there is broad stakeholder support for this provision, which benefits FCM customers including farmers, ranchers, energy producers, and other end-users.

Conclusion

FIA greatly appreciates the Committee's interest in these topics that affect global derivatives markets. It is an honor to be with you today and I look forward to answering your questions.

The CHAIRMAN. Ms. Crighton, thank you so much for your testimony. Mr. Schwartz, please begin when you are ready.

**STATEMENT OF ROBERT A. SCHWARTZ, J.D., PARTNER,
MORGAN, LEWIS & BOCKIUS; FORMER GENERAL COUNSEL,
COMMODITY FUTURES TRADING COMMISSION,
WASHINGTON, D.C.**

Mr. SCHWARTZ. Thank you. Excuse me. Good morning, Chairman Thompson, Ranking Member Craig, Members of the Committee. I am Rob Schwartz, a partner in the Futures and Derivatives Prac-

tice at Morgan, Lewis & Bockius, but more importantly for today's purposes, I spent 13 years at the CFTC, including most recently as its General Counsel. I had the privilege of being involved in some capacity on most major issues before the Commission for over a decade.

I am also the grandson of a farm girl. Years ago, my family owned a dairy farm with about five cows in southeast Brooklyn, if you can believe it, just a few minutes from what is now Kennedy Airport. I looked this up with the state's Department of Agriculture and Markets, and there is now just one farm in all of New York City, and it grows salad greens and wheatgrass in shipping containers, my point being that things change, and things are changing for the CFTC, too: new products, new technologies, new market participants, and soon, new leadership. It is the right time to take a fresh look at the statute, the Commodity Exchange Act, and so I thank you for your work and the opportunity to appear before you.

Okay. Now the disclaimer: the views I share are my own and do not represent those of Morgan Lewis, my colleagues or clients, or any other person or organization. Okay, onward.

The CFTC is a special agency, and I want to highlight three aspects of that. First, the CFTC is a deliberative, bipartisan body in the truest sense. Of all the experiences I had during my service at the agency, some of the most interesting were the times I got to sit behind closed doors with generations of Commissioners while they deliberated on critical issues. Democrats and Republicans of good faith would debate, sharpen their thinking, compromise, and sometimes even change their minds. I think if the American people had visibility into that like I did, they would be pleased with what Washington is capable of. This is a technical field, and partisanship should not and typically does not dictate how the CFTC executes its mission, and I can tell you that most people who work at the CFTC do not care if it is led by Democrats or Republicans. They look for leadership, expertise, and problem solving, and they do their work with the same dedication no matter what.

Second, the Commission, when it is at full strength, possesses a wealth of knowledge. Congress designed it that way. The CEA directs the President to nominate individuals with "demonstrated knowledge in futures trading or regulation of one or more of the commodities covered by the statute, and seek to ensure balance in those areas." It is tall order. The CEA definition of *commodity*, as you probably know, covers anything that underlies a futures contract, which means it covers assets from cotton and grain to oil and gas, raw materials, precious metals, interest rates, credit indices, exchange rates, and now cryptocurrency.

But while achieving that balance is hard, Presidents of both parties have succeeded. Commissions I served under included experts on agriculture, energy, financial products, international business, digital assets, and on and on. The same is true of the agency staff. CFTC economists, technical experts, lawyers, and others have degrees in everything from law and government, to math and hard sciences. They include experts in fintech. They come from rural and urban backgrounds. Many have served in the military. Together, they have a level of skill, knowledge, and discipline worthy of the

agency's mandate. That matters because there may be no other agency that touches so many areas of the economy. As former Chairman Tarbert put it, the CFTC is the most important regulator most Americans have never heard of.

Third, and I think because of points one and two, the agency is very effective. The Commission's oversight has helped to ensure that our derivatives markets have functioned smoothly in good times and bad. I am thinking of the collapse of MF Global, the disruptions of COVID-19, the War in Ukraine, and the fraud at FTX, where the CFTC-regulated subsidiary continued to function as normal and the Division of Enforcement held the wrongdoers to account. Americans should feel confident that the most important little agency they have probably never heard of is on the job.

I will end by saying that as impressive as it is, the CFTC can only be as strong, not only as its members and staff, but as the Commodity Exchange Act itself, which has made the U.S. the global gold standard for derivatives regulation, but old statutes are like old friends: you should visit them from time to time. It is important that Congress periodically inspect the machinery to ensure that it is equal to the task today and adaptable for the future. These are times of change, and as we sit here, there are probably lurking in labs and laptops around the world the seeds of new products and technologies we can't imagine, but that the Commission will someday contend with. Reauthorization is an important part of making sure the agency is always equipped to carry out the mission. So, again, I thank the Committee for its work and for the opportunity to assist in any way I can.

[The prepared statement of Mr. Schwartz follows:]

PREPARED STATEMENT OF ROBERT A. SCHWARTZ, J.D., PARTNER, MORGAN, LEWIS & BOCKIUS; FORMER GENERAL COUNSEL, COMMODITY FUTURES TRADING COMMISSION, WASHINGTON, D.C.

Good morning, Chairman Thompson, Ranking Member Craig, and Members of the Committee. I am Rob Schwartz, a Partner in the Futures & Derivatives Practice at Morgan, Lewis & Bockius. More importantly for today's purposes, however, I served at the Commodity Futures Trading Commission (CFTC) for thirteen years, including as its General Counsel under Chairman Rostin Behnam, and as Acting General Counsel under Chairmen Christopher Giancarlo and Heath Tarbert. During the time I spent at the agency, I had the privilege of being involved in most major issues to come before the Commission, from Dodd-Frank implementation and the MF Global bankruptcy to event contracts and the agency's first forays into digital assets. And as a longtime staff member, I also know how the CFTC functions internally. I hope that I can assist you today on either front—on the substance of the Commodity Exchange Act (CEA) and the CFTC's regulations, or on the agency's inner workings. Thank you for the opportunity to appear before you to support your work on CFTC Reauthorization.

The views I share are my own and do not represent those of Morgan Lewis, my colleagues, our clients, or any other person or organization.

The CFTC is a special agency, and I want to highlight three aspects of that.

First, the CFTC is a deliberative and bipartisan body in the truest sense. One of the many priceless sets of experiences I had at the agency was to sit many times behind closed doors with generations of Commissioners while they debated and deliberated on important questions before the agency.¹ Democrats and Republicans of good faith would debate, sharpen their own thinking, compromise, and sometimes even convince one another to change their minds.

¹All such deliberations met the requirements to close a meeting under the Government in the Sunshine Act. See 5 U.S.C. § 552b.

I believe that if the American people had visibility into that, they would be pleased to know what Washington is capable of. This is a highly technical field, and partisanship should not, and typically does not, dictate how the CFTC executes its mission. And from the perspective of a former staff member, I can tell you that the people who work at the CFTC overwhelmingly do not care if the agency is led by Democrats or Republicans. They look for leadership, expertise, and skilled problem solving, and they approach their work in the same dedicated way no matter what. I was personally fortunate to serve under high-quality leaders from both parties.

Second, I want to highlight the depth and breadth of knowledge that the Commission at full strength possesses. Congress designed it that way. The CEA directs the President to nominate individuals with “demonstrated knowledge in futures trading or its regulation, or the production, merchandising, processing or distribution of one or more of the commodities or other goods and articles, services, rights, and interests covered by” the statute and “seek to ensure that the demonstrated knowledge of the Commissioners is balanced” in those areas.²

That is a tall order. As you know, the CEA contains a sweeping definition of “commodity” that includes anything that underlies a futures contract.³ As a result, it covers assets ranging from the first seven agricultural commodities that Congress listed in the statute, to oil and gas; raw materials; precious metals; interest rates; credit indices; and exchange rates. Ten years ago, crypto joined the list.⁴

But despite the difficulty of achieving balance in those areas, during my tenure, Presidents of both parties achieved the goal. The Commissions under which I served included experts on agriculture, energy, financial products, international business, digital assets, and a great deal more. That matters, because there may be no other agency that touches so many areas of the economy. As former Chairman Tarbert put it, the CFTC is “the most important regulator most Americans have never heard of.”⁵

That is all before I get to the agency’s staff. CFTC economists, technical experts, lawyers, and others come from rural and urban backgrounds; have degrees that run the gamut from government and law to mathematics and hard sciences; include experts in digital assets; and in many cases have served in the military. Collectively, they bring a level and diversity of skill, expertise, and discipline worthy of the agency’s mandate. As General Counsel, I relied on them heavily, and now as a member of the private bar, my clients are glad they are there.

Third, and I believe as a result of points one and two, the agency is extremely effective. The Commodity Exchange Act and the people who administer it have ensured that this country’s derivatives markets have continued to function smoothly through good times and bad. I mentioned the collapse of MF Global, where \$1.6 billion in customer assets went temporarily missing but eventually were repaid;⁶ there was also the massive disruption to our economy from COVID-19, including when the price of oil dipped below zero;⁷ Russia’s invasion of Ukraine; and the fraud at FTX, where the CFTC-regulated subsidiary was untouched and continued to function as normal, and the Division of Enforcement held the wrongdoers to account.⁸ Americans can feel confident that the most important little agency they probably have never heard of is on the job.

* * * * *

I will conclude by saying that as impressive as it is, the CFTC can only be as strong as, not only its members and its staff, but the Commodity Exchange Act itself. With the benefit of the CEA, the United States has become the gold standard for derivatives regulation worldwide. But old statutes are like old friends—you should visit them from time to time. It is critical that Congress periodically inspect the machinery to ensure that it is equal to the task today and adaptable to the challenges waiting over the horizon. As we sit here, there probably are lurking in labs and laptops around the world the seeds of new products and technologies that we

² 7 U.S.C. § 2(a)(2).

³ *Id.* § 1a(9).

⁴ CFTC Rel. No. 7231-15, *CFTC Orders Bitcoin Options Trading Platform Operator and its CEO to Cease Illegally Offering Bitcoin Options and to Cease Operating a Facility for Trading or Processing of Swaps without Registering* (Sept. 17, 2015).

⁵ *Statement of Chairman Heath P. Tarbert Before the December 10, 2019 Open Meeting* (December 10, 2019), <https://www.cftc.gov/PressRoom/SpeechesTestimony/tarbertstatement121019>.

⁶ Congressional Research Service, *The MF Global Bankruptcy, Missing Customer Funds, and Proposals for Reform*, at 2 (Aug. 1, 2013).

⁷ Congressional Research Service, *Crude Oil Futures Prices Turn Negative*, at 1 (Apr. 22, 2020).

⁸ CFTC Rel. No. 8638-22, *CFTC Charges Sam Bankman-Fried, FTX Trading and Alameda with Fraud and Material Misrepresentations* (Dec. 13, 2022).

cannot imagine, but that the Commission someday will contend with. Reauthorization is a part of making sure the agency is always equipped to carry out the mission.

I thank the Committee for its work and for the opportunity to assist in any way that I can.

The CHAIRMAN. Mr. Schwartz, thank you so much for your testimony. Mr. Schiffrin, please proceed when you are ready.

STATEMENT OF BENJAMIN L. SCHIFFRIN, J.D., DIRECTOR OF SECURITIES POLICY, BETTER MARKETS, INC., WASHINGTON, D.C.

Mr. SCHIFFRIN. Good morning, Chairman Thompson, Ranking Member Craig, and Members of the Committee. Thank you for the invitation to testify today. My name is Ben Schiffrin, and I am the Director of Securities Policy at Better Markets. Better Markets is a nonprofit, nonpartisan, and independent organization founded in the wake of the 2008 financial crisis to promote the public interest in the financial markets, support the financial reforms of Wall Street, and make the financial system work for all Americans again.

This year marks the 50th anniversary of the creation of the CFTC. Its 50 year history demonstrates that the agency is deeply rooted in and skilled at supporting producers in our agricultural markets, but also capable of responding to new and emerging issues in the financial marketplace, but only if given the appropriate authorities and resources by Congress. When Congress fails to provide the proper support for market oversight, novel products emerge and gaps develop, and even a willing and able CFTC is unable to meet the moment. When this happens, it leads to disastrous consequences for investors, customers, producers, and the wider economy.

A CFTC that has the appropriate regulatory authority and resources is critical because the CFTC's core mission is of vital importance. The agency polices the integrity of derivatives markets in order to help producers, like farmers, ranchers, and manufacturers, hedge risk and develop accurate prices for their products. The CFTC is responsible for the essential functions of providing relevant information to the public, preventing fraud in trading, and curbing financial speculation unrelated to natural supply and demand. These functions matter to every American because they impact the price of everything, from the cereal they eat for breakfast, to the bread they need for school lunches, to the gas in their cars to get to work, and the oil that heats their homes.

At a time when all Americans are fighting to make ends meet and suffering from an affordability crisis, it is critical that the CFTC focus on its primary mission to ensure that those everyday commodities are available to the American people in the right amounts, at the right time, at the right and fair prices. Unfortunately, the CFTC has strayed from its core mission. The agency now seems to be spending all of its time on the crypto markets. From a sheer market size perspective, this focus represents a mismatched use of resources. While the global crypto market is estimated to be just over \$3 trillion, the CFTC separately is responsible for overseeing \$380 trillion in notional U.S. swaps and futures

contracts. Being the leading promoter of crypto is a distraction for the CFTC that the American people simply cannot afford.

The CFTC is also taking on significant new responsibilities it is ill-equipped to handle with prediction markets. Better Markets has been warning for years that prediction market platforms are trying to thwart state and Tribal laws by asserting that the event contracts they offer on politics and sports are not, in fact, gambling, despite the fact that they let people bet on elections and sporting events. These efforts have accelerated in recent months and threaten everything, from the CFTC having the bandwidth to police traditional markets, to consumers losing the protections they deserve.

The CFTC's focus on crypto and prediction markets is especially problematic for its ability to fulfill its core mission because the agency is already under-funded and understaffed. The agency has only been funded by Congress at its requested level twice—once in Fiscal Year 2021 and once in Fiscal Year 2023—and it is forced to oversee the \$380 trillion in notional U.S. swaps and futures contracts with a budget of just \$365 million. Reporting from Bloomberg also indicates that at least 15 percent of staff has been shed since the beginning of the Trump Administration, yet new areas of oversight, such as crypto and prediction markets, will require not only the addition of new staff, but also new data metrics and surveillance tools.

The sheer lack of Commissioners serving at the CFTC and its absence of bipartisan leadership further exacerbate the agency's difficulties with fulfilling its core mission. The CFTC has been led by one Commissioner in an acting chair capacity since September 2025, yet the CFTC was designed to be a five-member bipartisan Commission. The need for a full, bipartisan Commission is heightened during a time when policymakers are considering significantly expanding the jurisdictional reach of the agency. The agency should not move forward with future rulemaking or guidance efforts until the CFTC has both a permanent chair and robust bipartisan representation amongst the Commissioners.

Thank you, and I look forward to your questions.
[The prepared statement of Mr. Schiffrin follows:]

PREPARED STATEMENT OF BENJAMIN L. SCHIFFRIN, J.D., DIRECTOR OF SECURITIES
POLICY, BETTER MARKETS, INC., WASHINGTON, D.C.

Good morning, Chairman Thompson, Ranking Member Craig, and Members of the Committee. Thank you for the invitation to testify today. My name is Benjamin Schiffrin, and I am the Director of Securities Policy at Better Markets, Inc., a non-profit, nonpartisan, and independent organization founded in the wake of the 2008 financial crisis to promote the public interest in the financial markets, support financial reforms of Wall Street, and make the financial system work for all Americans.

I. Introduction

This year, 2025, marks the 50th anniversary of the creation of the Commodity Futures Trading Commission ("CFTC"). Now is an important time for the Committee to consider how to build upon the long history of the agency and work towards reauthorization legislation, the last of which expired at the end of the fiscal year ("FY")

in 2013.¹ Today I will raise a number of issues related to the CFTC worthy of consideration in your legislative effort.

History of the CFTC

Recognizing the growing complexity, importance and volume of the commodity futures markets, Congress enacted the Commodity Futures Trading Commission Act in 1974, providing for the agency to be established the next year. This legislative effort grew out of a long history of policymakers responding to public demand for more oversight of the essential markets that help create prices for everyday essentials like cotton, rice, mill feeds, butter, eggs, potatoes and grains—and later, metals and energy products. Reflecting the necessity for a dedicated, independent regulator for these quickly expanding market areas, Congress shifted oversight out of the U.S. Department of Agriculture (“USDA”) and into an expert agency with exclusive jurisdiction over futures trading in a wide range of commodities.

Later, in the 1990s, markets continued to evolve and were met with increasing complexity and the onset of several market manipulation scandals.² Then, late in the decade, the use of financial derivatives grew both in size and complexity. These new financial products, allowing financial firms to make leveraged bets on the performance of financial assets like mortgages, were exempted from regulation under a 1993 interpretation of the Commodity Exchange Act (“CEA”) by the CFTC.³ Seeing this market explosion and fearing future financial instability, in 1998, the CFTC Chair Brooksley Born put out for comment a Concept Release for feedback that solicited the public’s views on amending the 1993 loophole and applying a regulatory framework to financial derivatives using existing authorities of the agency.⁴

Unfortunately, instead of responding to these emerging risks, Congress instead first passed a 6 month moratorium on the CFTC exercising oversight of financial derivatives and then enacted the Commodity Futures Modernization Act of 2000 (“CFMA”). This legislation foreclosed the CFTC’s ability to regulate these “over-the-counter” derivatives by explicitly exempting them from oversight.⁵

New Authorities After the Global Financial Crisis

The regulatory gaps created by this forbearance ultimately culminated in the 2008 global financial crisis, when financial derivatives operating in the shadows amplified the risks associated with predatory, subprime mortgage lending and threatened global economic stability. Congress then responded by passing the Dodd-Frank Wall Street Reform Act of 2010 (“Wall Street Reform”), which provided the CFTC with the responsibility to oversee these previously opaque financial instruments.⁶ This included new mandates for trading transparency, trade reporting, business conduct standards, registration of swap dealers and major swap participants and central clearing.⁷

In short, the 50 year history of the CFTC demonstrates that the agency is both deeply rooted in, and skilled at, supporting producers in our agricultural markets, but also capable of responding to new and emerging issues in the financial marketplace—but only if given the appropriate authorities and resources by Congress. When Congress fails to provide the proper support for market oversight, novel products emerge and gaps develop, and even a willing and able CFTC is unable to meet the moment. When this happens, it leads to disastrous consequences for investors, customers, producers and the wider economy.

II. A Critical Moment for the CFTC

A Volatile Moment for Producers and Consumers

Now is a critical moment for the core mission of the CFTC. Agricultural markets are facing significant strain due to a multitude of factors, including the imposition

¹ Congressional Research Service, “Commodity Futures Trading Commission: Proposed Reauthorization in the 114th Congress.” CRS Report 44231, August 3, 2016. Available at: <https://www.everycrsreport.com/reports/R44231.html>.

² Dumas, Cantrell. “Origins of the CFTC: Protecting the Integrity of Commodity Markets.” Better Markets, April 21, 2025. Available at: https://bettermarkets.org/wp-content/uploads/2025/04/Fact_Sheet_Origins_of_CFTC-4.18.25.pdf.

³ Commodity Futures Trading Commission. “Over-the-Counter Derivatives: Concept Release.” Fed. Reg. 26114, May 12, 1998. Available at: <https://www.cftc.gov/sites/default/files/opa/press98/opamntn.htm>.

⁴ *Id.*

⁵ For a discussion of the history that led to the passage of the CFMA, see Fischer, Amanda. “We’ve Seen this Movie Before.” Better Markets, September 25, 2025. Available at: <https://bettermarkets.org/wp-content/uploads/2025/09/Weve-Seen-This-Movie-Before-Crypto-Fact-Sheet-9.25.25.pdf>.

⁶ P.L. 111–203.

⁷ *Id.*, Title VII.

of tariffs, a trade war that makes the export market more difficult and Administration immigration policy, which has created labor disruptions in some parts of the industry.⁸ For example, according to the American Soybean Association, “growers find themselves in a precarious position as the 2025 harvest season wraps up . . . November futures prices were between 25 percent to 30 percent lower than at the same point in 2022.”⁹ The Association likewise reports that the affordability crisis facing so many Americans is also being felt by farmers, with “elevated prices for land, machinery, seeds, pesticides and fertilizers.”¹⁰ A September 2025 survey from the National Corn Growers Association (“NCGA”) reveals that 46 percent of U.S. farmers believe the nation is nearing a farm crisis and 65 percent are more concerned about finances than they were a year ago.¹¹ And while the cattle market is experiencing generally strong performance, the cattle futures market has experienced significant volatility, with record highs soon followed by markets hitting “limit down” thresholds—or fail safes designed to mitigate market panics—on news of the Administration potentially opening up [Argentinean] beef imports.¹²

These financial strains are starting to have a downstream impact. In the second quarter of 2025, the Federal Reserve Bank of Minneapolis reported that 93 farm operations filed for bankruptcy, up from 88 in the first quarter of 2025 and nearly double the 47 at the end of 2024.¹³ Separate data from *Bloomberg* found that when counting small farms and fisheries, bankruptcies were at a 5 year high as of the summer of 2025, with producers citing “higher interest rates, Trump’s trade war and dramatically reduced demand from China.”¹⁴

Likewise, American consumers continue to feel the pinch in grocery stores, with prices continuing to rise with both tariffs and the Administration’s immigration policies at least in part driving the increases.¹⁵ Increases in prices in some grocery items have been particularly high and exceeded the general rate of inflation—including certain cuts of beef, (20 percent year-over-year rise), chicken breast and bacon (five percent), iceberg lettuce (21 percent), bananas (nine percent), orange juice (12 percent) and coffee (41 percent).¹⁶

Producers and traders alike are further hamstrung by other recent policies. The government shutdown left producers without critical market data produced by the USDA and CFTC.¹⁷ This was in addition to pre-existing fragilities in USDA data, with DOGE-driven cuts shrinking the ranks of USDA staff by 15 percent and cutting off critical statistics useful to farmers and traders.¹⁸

⁸Schulz, Bailey. “American farmers warn this year feels especially dire. What happens next?” *USA Today*, September 15, 2025. Available at: <https://www.usatoday.com/story/money/2025/09/15/farmers-corn-soybean-economic-pressures-profits/86091737007/>.

⁹Holland, Jacquie and Scott Gerlt, Ph.D. “The Rising Cost Squeeze: Soybean Farmers Face a Third Year of Losses.” American Soybean Association, December 3, 2025. Available at: <https://soygrowers.com/news-releases/the-rising-cost-squeeze-soybean-farmers-face-a-third-year-of-losses/>.

¹⁰*Id.*

¹¹Eckelkamp, Margy. “Farmers Alarmed: U.S. Nearing Agricultural Economic Crisis—Steps to Reverse Course.” AgWeb.com, September 18, 2025. Available at: <https://www.agweb.com/news/business/farmers-alarmed-u-s-nearing-agricultural-economic-crisis-steps-reverse-course>.

¹²Rook, Michelle. “Did the Administration’s Plan to Lower Beef Prices Wreck the Bull Run in the Cattle Market?” *Drovers*, November 17, 2025. Available at: <https://www.drovers.com/news/industry/did-presidents-plan-lower-beef-prices-wreck-bull-run-cattle-prices>.

¹³Mahon, Joe. “Farm bankruptcies have increased in the Ninth District, keeping some farmers afloat.” Federal Reserve Bank of Minneapolis, September 25, 2025. Available at: <https://www.minneapolisfed.org/article/2025/farm-bankruptcies-have-increased-in-the-ninth-district-keeping-some-farmers-afloat>.

¹⁴Church, Steven and Ilena Peng. “Trade Wars, Rates Push U.S. Small Farm Bankruptcies to 5-Year High.” *Bloomberg*, July 23, 2025. Available at: <https://www.bloomberg.com/news/articles/2025-07-23/america-small-farmers-are-hurting-with-trump-policies-loan-woes?sref=mQvUqJZj>.

¹⁵Dale, Daniel. “Fact check: Grocery prices are up, not ‘way down’ as Trump claimed.” *CNN*, October 24, 2025. Available at: <https://www.cnn.com/2025/10/24/politics/fact-check-grocery-prices-trump>.

¹⁶Martichoux, Alix. “These 9 grocery staples have seen the biggest price spikes this year.” *The Hill*, November 19 2025. Available at: https://thehill.com/homenews/nexstar_media_wire/5613092-these-9-grocery-staples-have-seen-the-biggest-price-spikes-this-year/.

¹⁷Polansek, Tom, P.J. Huffstutter and Karl Plume. “Farmers, Traders ‘Flying Blind’ As U.S. Shutdown Blocks Key Crop Data.” *Reuters*, October 9, 2025. Available at: <https://www.reuters.com/world/china/farmers-traders-flying-blind-us-shutdown-blocks-key-crop-data-2025-10-09/>.

¹⁸Huffstutter, P.J. “Corn, debt and doubt: A record harvest rattles Trump’s farm economy.” *Reuters*, October 25, 2025. Available at: <https://www.reuters.com/investigations/corn-debt-doubt-record-harvest-rattles-trumps-farm-economy-2025-10-25/>.

The Role of the CFTC

Recognizing the strain caused by increasing grocery prices, just this week, President Trump signed an Executive Order to “stop price fixing, anti-competitive behavior, and foreign influence that drives up grocery prices and threatens the security of America’s food supply.”¹⁹ The Executive Order established a Food Supply Chain Task Force and called for the Department of Justice and the Federal Trade Commission to investigate price fixing and anti-competitive across the food sector.²⁰

While the CFTC does not directly regulate commodity prices, the agency does have a crucial role in policing the integrity of derivatives markets in order to help producers like farmers, ranchers and manufacturers hedge risk and develop accurate prices for their products. The Commission is responsible for the essential functions of providing relevant information to the public, preventing and policing fraud in trading, and curbing financial speculation unrelated to natural supply and demand forces in the economy.

On this last point, Better Markets has long urged the CFTC to use its authority to surveil excessive speculation in commodity futures markets. Though the Commission enacted an updated “position limits” rule, effective in 2021, to ensure that commodity futures prices reflected true supply and demand, rather than excess speculation, many—including Better Markets and two CFTC Commissioners at the time—argued that the rule set limits too high or were too narrowly applied to effectively police markets.²¹ Since then, Better Markets has argued for the CFTC to publicly disclosed the impact of the limits set in the 2021 rule, on a commodity-by-commodity basis, to determine whether the rule was functioning as intended.²²

The CFTC using its authority to ensure the sound functioning of core agricultural markets is not a partisan endeavor. During the first Trump Administration, in fact, the CFTC recognized this imperative during a time of volatile commodity prices and launched a special effort to combat market manipulation in agricultural markets.²³ During the onset of the COVID–19 pandemic, CFTC leadership under President Trump announced that it was their number one duty to “monitor closely and prioritize agricultural and energy markets.”²⁴ A renewed and reinvigorated focus on these issues would be welcomed in the current moment and consistent with the President’s recent Executive Order.

III. Priorities, Leadership, Staffing and Budget of the CFTC

Misplaced Priorities

As described above, the core constituencies that the CFTC is meant to serve are facing a time of anxiety. Unfortunately, at the same time, CFTC leadership has strayed from serving the needs of agricultural and commercial producers and consumers in favor of spending nearly all of the agency’s time on crypto markets. From a sheer market size perspective, this focus represents a mismatched use of resources. While the *global* crypto market is estimated to be just over \$3.1 trillion,²⁵

¹⁹ Executive Order. “Addressing Security Risks from Price Fixing and Anti-Competitive Behavior in the Food Supply Chain.” December 6, 2025. Available at: <https://www.whitehouse.gov/presidential-actions/2025/12/addressing-security-risks-from-price-fixing-and-anti-competitive-behavior-in-the-food-supply-chain/>.

²⁰ *Id.*

²¹ Hall, Stephen. “Leadership on Position Limits for Physical Commodities.” Letter to CFTC Chair Rostin Behnam, November 10, 2021. Available at: <https://bettermarkets.org/wp-content/uploads/2022/07/Ltr-CFTC-Re-Position-Limits-11-10-2021.pdf>; see also dissents on the 2020 final position limits rule including those by Behnam, Rostin. “Statement of Dissent of Commissioner Rostin Behnam Regarding Position Limits for Derivatives.” Commodity Futures Trading Commission, October 15, 2020. Available at: <https://www.cftc.gov/PressRoom/SpeechesTestimony/behnamstatement101520c>; and Berkovitz, Dan. “Dissenting Statement of Commissioner Dan M. Berkovitz Regarding Final Rule on Position Limits for Derivatives.” Commodity Futures Trading Commission, October 15, 2020. Available at: <https://www.cftc.gov/PressRoom/SpeechesTestimony/berkovitzstatement101520b>.

²² Cantrell, Dumas. “How Wall Street Excessive Speculation Impacts Your Grocery Bill.” The Public Interest by Better Markets, May 15, 2025. Available at: <https://bettermarkets.substack.com/p/how-wall-street-excessive-speculation>.

²³ Zuckerman, Jason and Matthew Stock. “Agricultural Price Manipulation and the CFTC Whistleblower Program.” *National Law Review*, May 27, 2020. Available at: <https://nallawreview.com/article/agricultural-price-manipulation-and-cftc-whistleblower-program>.

²⁴ Tarbert, Heath. “Opening Statement of Chairman Heath P. Tarbert Regarding the CFTC’s Further Response to the Coronavirus Pandemic.” Commodity Futures Trading Commission, May 28, 2020. Available at: <https://www.cftc.gov/PressRoom/SpeechesTestimony/tarbertstatement052820>.

²⁵ “Global Cryptocurrency Market Cap Charts.” CoinGecko, accessed December 6, 2025. Available at: <https://www.coingecko.com/en/charts>.

the CFTC separately is responsible for overseeing \$380 trillion in notional U.S. swaps and futures contracts.²⁶

The best way to gauge an agency's priorities is to examine how its leaders spend their time. Acting Chair Caroline Pham has not published her external schedule since December 2023.²⁷ This deviates from past practice under both Republican and Democratic Administrations and makes it difficult to state with precision how much time she's spent on core agricultural and manufacturing constituencies *versus* the crypto industry. However, a look at the "Events" page on the CFTC website indicates that while Acting Chair, Pham has participated in 34 speaking events, 19 of which were exclusively devoted to the topic of crypto.²⁸ The 15 other events appear to have at least partially covered crypto, though it is difficult to tell given the limited information on the CFTC's website.²⁹ Acting Chair Pham in the last 11 months has also engaged in speaking events in Seoul, South Korea; Riyadh, Saudi Arabia; London, United Kingdom (twice); Tokyo, Japan (twice); Netherlands; Qatar; and Frankfurt, Germany. Domestically, her schedule indicates travel to New York City, Chicago, Beverly Hills and Ft. Lauderdale, Boca Raton, and Naples, Florida.³⁰

While there is nothing wrong, *per se*, about an American financial regulator traveling domestically or abroad to share the CFTC's perspective on market competitiveness and oversight, the travel scheduled described above—in terms of both the topics represented and the places traveled—is a useful indicator of the Acting Chair's priorities. Absent from this list of travel are locations where American farmers and ranchers live and work, which provides a notable lack of perspective to inform the CFTC's priorities.

Bipartisan Leadership

The CFTC is also impaired by both the sheer lack of Commissioners serving at the agency and its absence of bipartisan leadership.

Notably, the CFTC has been led by one Commissioner, in an Acting Chair capacity, since September 2025. While a nominee for Chair of the Commission has been considered by the U.S. Senate Committee on Agriculture, he is not yet confirmed by the full Senate.³¹ Further, the current Acting Chair has announced her intention to leave the agency upon the permanent Chair's confirmation,³² meaning the agency is likely to have one and only one Commissioner, at least in the near-term.

The CFTC was designed by Congress to be a five-member, bipartisan Commission. The need for a full Commission with genuine bipartisan representation consistent with tradition, history, practice, and precedent is heightened during a time when the White House and some in Congress are considering significantly expanding the jurisdictional reach of the agency. The agency should not move forward with future rulemaking or guidance efforts until the CFTC has both a confirmed Chair and robust bipartisan representation amongst Commissioners.

Budget

Though the CFTC's mission is vital to every American, the agency's budget demonstrates that it is small, poorly funded and likely overwhelmed by the remit of markets it is supposed to regulate and police. The agency has only been funded by Congress at its requested level twice since FY06—once in FY21 and in FY23.³³ And

²⁶[S]ee page 33, Commodity Futures Trading Commission. "President's Budget: FY2026." Available at: https://www.cftc.gov/sites/default/files/CFTC_FY2026_Presidents_Budget.pdf.

²⁷Commodity Futures Trading Commission. "Commissioner Pham Public External Calendar." Accessed December 6, 2025. Available at: <https://www.cftc.gov/About/Commissioners/CarolineDPham/PublicExternalCalendar>; this is contrasted with both previous CFTC leadership and Acting Chair Mark Uyeda of the Securities and Exchange Commission, who published his external calendar for the duration of his service as the acting leader of the Commission. See: "Chairman's Calendar for Acting Chairman Mark T. Uyeda." Securities and Exchange Commission, accessed December 6, 2025. Available at: <https://www.sec.gov/foia-services/frequently-requested-documents/sec-chair-calendar>.

²⁸This is based on an assessment of events on the CFTC's events public webpage, available at: <https://www.cftc.gov/PressRoom/Events>.

²⁹*Id.*

³⁰*Id.*, examining the location of the events attended by Acting Chair Pham on the CFTC's public webpage.

³¹Sittu, Hassan. "Trump's CFTC Pick Clears Senate Hurdle—Caroline Pham's Exit Imminent?" *Yahoo! Finance*, November 21, 2025. Available at: <https://finance.yahoo.com/news/trump-cftc-pick-clears-senate-113944928.html>.

³²*Id.*

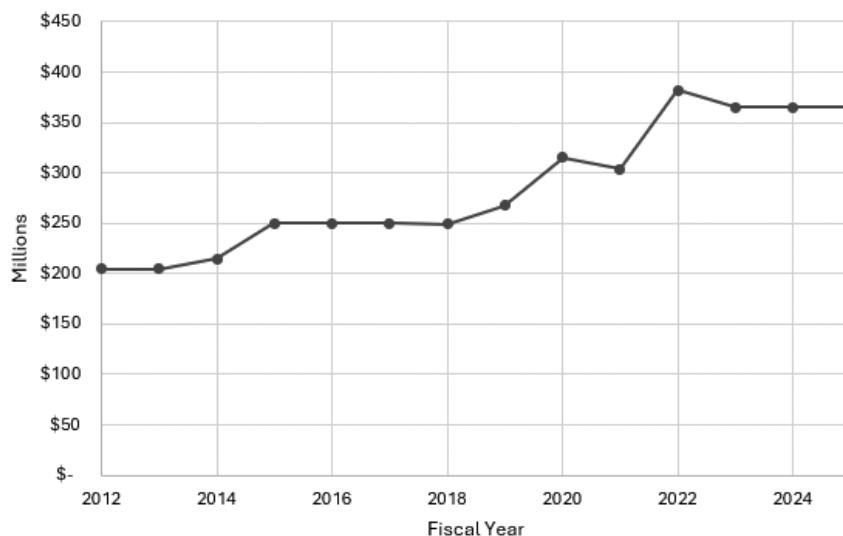
³³U.S. Senate Committee on Agriculture. "Oversight of the Commodity Futures Trading Commission." *Questions from Senator Dick Durbin to CFTC Chair Rostin [Behnam]*, March 8, 2023. Available at: <https://www.agriculture.senate.gov/hearings/oversight-of-the-commodity-futures-trading-commission-03-08-2023>.

as stated previously, the CFTC is responsible for overseeing \$380 trillion in U.S. notional swaps and futures contracts with just a \$365 million budget.³⁴ This does not even include potentially new areas of oversight such as crypto³⁵ and prediction markets,³⁶ which will require not only the addition of new staff but also new data metrics and surveillance tools.

The 2008 global financial crisis likely cost Americans \$20 trillion in lost Gross Domestic Product output as well as lost wages due to unemployment and underemployment, foreclosures, homelessness, underwater mortgages, bankrupt businesses large and small, lost savings, deferred or denied retirements, and educations cut short.³⁷ Given that staggering economic and personal harm to American families, an investment in preventing the next crash by adequately funding the CFTC seems like a sensible downpayment. While CFTC funding has increased modestly over the years, it still pales in comparison to the vast markets the agency oversees. In terms of full-time equivalents (FTEs), 50 years ago in 1975 the CFTC had 502 employees.³⁸ The President's budget request in FY26 asked for only 650 FTEs³⁹—a minimal increase given the passage of time, increasing complexity of markets, and expanded remit of the agency. Below is a table tracking CFTC appropriations over time, taken from Presidential budget requests.

CFTC Budget Authority

2012–2025



Various legislative efforts related to crypto have proposed an increase in funding for the agency, but legislative text has not been specific about the exact increase in appropriations.⁴⁰ And while legislation allows for the collection of fees on market participants to fund the agency's new crypto work, those provisions may sunset after only a few years. Policymakers must adequately fund the Commission with robust, fee-funded and new appropriations—in perpetuity—if they are shifting significant

³⁴ *Supra* note 26, page 4.

³⁵ *Supra* note 25.

³⁶ See one estimate of nearly \$28 billion in prediction market contract volume from January to October 2025. Crypto.com. "Prediction Markets: The Rise of Event-Driven Finance." November 10, 2025. Available at: <https://crypto.com/us/research/prediction-markets-oct-2025>.

³⁷ Better Markets. "Cost of the Crisis Report." July 2015. Available at: <https://bettermarkets.org/wp-content/uploads/2021/07/Better-Markets-Cost-of-the-Crisis-1.pdf>.

³⁸ See Commodity Futures Trading Commission. "Significant Dates in CFTC History." Available at: https://www.cftc.gov/sites/default/files/reports/strategicplan/2012/2012strategicplan_app0201.html.

³⁹ *Supra* note 26, page 3.

⁴⁰ See H.R. 3633, the Digital Asset Market Clarity Act and the Senate-introduced legislation released by Senators Boozman and Booker on November 10, 2025. Available at: <https://www.agriculture.senate.gov/newsroom/rep/press/release/boozman-booker-release-bipartisan-market-structure-discussion-draft>.

market oversight for a retail-heavy asset class to the agency. One previous estimate from the CFTC projected that this would cost approximately \$127 million annually.⁴¹ This additional funding must come in addition to halting the staffing cuts described in the next section.

Staff Cuts

At a time when producers are feeling keenly anxious about the health and longevity of their businesses, and American households continue to be squeezed by the prices of everyday staples, it is not the time for the agency to shed its staff or shift its focus to market areas that are relevant but tangential to their core mission.

Reporting from *Bloomberg* indicates that at least 15 percent of staff has been shed since the beginning of the Trump Administration.⁴² Current and former staff interviewed for the report indicate a “regulator in disarray”—a troubling sentiment given the increased staff responsibilities accruing to the agency through Administration actions related to crypto and prediction markets.⁴³

Further, the Acting Chair removed both the head of human resources and the chief financial officer of the agencies, with reporting asserting that individuals were investigating employee complaints regarding a hostile work environment created by Pham and disagreements about agency reimbursement for travel, respectively.⁴⁴ A spokesperson for the Acting Chair asserts that the dismissals were due to unrelated factors.⁴⁵ In any case, this staff attrition and turbulence surely does not serve the agency during this complex and busy time.

IV. Enforcement

A combination of data, anecdotal reports and policy changes announced at the CFTC make clear that the law enforcement mission of the agency has been subordinated to concerns about creating a more solicitous relationship with market participants. A look at both data and reporting indicates that the judgement of the enforcement staff has been largely silenced, cases are not being brought, whistleblowers are not being rewarded for raising relevant noncompliance information and policy changes are seeking to tilt the law enforcement process in favor of the industry.

To wit, the CFTC has not released its annual report for enforcement results for FY25. This deviates from past practice. For example, in FY24, the agency’s annual report was released on December 4, 2024⁴⁶ in FY 2023 on November 7, 2023⁴⁷ and in FY 2022 on October 22, 2022.⁴⁸ The lack of a comprehensive report on the Commission’s latest enforcement activity makes it difficult to evaluate the efficacy of the enforcement program compared to other years.

However, a look at the CFTC’s enforcement action repository on its website offers some telling data about the slowdown in law enforcement at the agency. An analysis of releases contained on the website cites only four actions brought since the onset of the new Administration.⁴⁹ Two of those actions involve approved settlements, and two involve the CFTC filing charges in a District Court; one of the latter instances is for an alleged recidivist accused of violating a past CFTC enforcement order

⁴¹ *Supra* note 33.

⁴² Beyoud, Lydia, Nicola M. White and Liam Vaughn. “Staff Cuts and Turmoil Hit the CFTC While the Crypto It Oversees Booms.” *Bloomberg*, August 21, 2025. Available at: <https://www.bloomberg.com/news/features/2025-08-21/as-crypto-duties-loom-cftc-is-hit-by-staff-cuts-and-turmoil>.

⁴³ *Id.*

⁴⁴ Beyoud, Lydia. “CFTC Acting Chair Pham Removes the HR Head Investigating Her.” *Bloomberg*, February 6, 2025. Available at: <https://www.bloomberg.com/news/articles/2025-02-06/cftc-acting-chair-pham-removes-the-hr-head-investigating-her?sref=mQuUqJZj>.

⁴⁵ See statement attributable to a CFTC spokesperson in response to *Bloomberg* reporting, “CFTC Statement on False Allegations Targeting Acting Chairman.” Commodity Futures Trading Commission, February 6, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9048-25>.

⁴⁶ Commodity Futures Trading Commission. “CFTC Releases FY 2024 Enforcement Results.” CFTC Release Number 9011–24, December 4, 2024. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9011-24>.

⁴⁷ Commodity Futures Trading Commission. “CFTC Releases FY 2023 Enforcement Results.” CFTC Release Number 8822–23, November 7, 2023. Available at: <https://www.cftc.gov/PressRoom/PressReleases/8822-23>.

⁴⁸ Commodity Futures Trading Commission. “CFTC Releases FY 2022 Enforcement Results.” CFTC Release Number 8613–22, October 20, 2022. Available at: <https://www.cftc.gov/PressRoom/PressReleases/8613-22>.

⁴⁹ Commodity Futures Trading Commission. “Enforcement Actions.” Accessed December 6, 2025. Available at: <https://www.cftc.gov/LawRegulation/EnforcementActions/index.htm>.

brought during the previous Administration.⁵⁰ The contrast between previous enforcement activity is sharp: FY24 saw the CFTC bring 58 new enforcement actions,⁵¹ FY23 saw 47 new enforcement actions⁵² and FY22 saw 82 new enforcement actions.⁵³ The CFTC appears to also have only compensated one whistleblower for bringing forward material information related to an enforcement matter during 2025.⁵⁴

The numbers don't lie and they are also supported by the agency's changed priorities as evidenced in other areas. The CFTC requested a 30 percent reduction in enforcement staff in its latest fiscal year budget request when compared to the budget of FY24.⁵⁵ The budget request and lackluster enforcement statistics also contradict the stated priorities of the Acting Chair. Announcing an "enforcement sprint," Pham noted that the agency would move to quickly settle compliance-related violations for CFTC-regulated firms to both clear a backlog of enforcement actions and to position Department of Enforcement staff "to refocus on fighting fraud and helping victims."⁵⁶ And while the sprint was completed—with substantially lower fines against firms for self-reporting⁵⁷—the agency has not used the commensurate freeing of staff resources to investigation or charge market participants that are defrauding everyday Americans or otherwise undermining market integrity.

The statistics are also supported by anecdotal evidence. Reporting from August from *Bloomberg*, informed by reporters speaking to two dozen current and former CFTC insiders and industry players, indicates that "enforcement [has] slowed to a crawl."⁵⁸ According to one attorney interviewed for the story, they report that their work has been totally impeded. "I can't obtain bank records, I can't get evidence. I can't do anything," the staff person says.⁵⁹

Statistics and anecdotal reporting are also supported by numerous changes to the CFTC's rules of practice that favor market participants over robust law enforcement. On December 1, 2025, for example, Acting Chair Pham announced changes to the CFTC's process for informing firms that they may be subject to an enforcement action, giving firms more than double the time to respond to CFTC allegations, requiring CFTC staff to inform firms of potentially unfavorable facts or legal precedent in the agency's own claims against the firm, and limiting the length of the submission that CFTC staff can provide to firms when describing a potential enforcement action.⁶⁰

Additionally, in response to the President's Executive Order on "Fighting Overcriminalization in Federal Regulations,"⁶¹ the CFTC narrowed and made more favorable to market participants the circumstances in which investigative information would be passed along to criminal law enforcement authorities.⁶² Specifically, the policy requires enforcement staff to consider a host of mitigating reasons why a

⁵⁰ *Id.*, searching individual enforcement action releases on the CFTC's public webpage.

⁵¹ *Supra* note 46. Note that this testimony compares 2025 from the period of President Trump's inauguration through December 6, 2025. In contrast, data for 2024, 2023 and 2022 covers the fiscal year.

⁵² *Supra* note 47.

⁵³ *Supra* note 48.

⁵⁴ Commodity Futures Trading Commission. "CFTC Whistleblower Award Determination No. 25-WB-07." May 29, 2025. Available at: <https://www.whistleblower.gov/sites/whistleblower/files/2025-05/No.25-WB-07.pdf>; note that redactions to the whistleblower award, to protect the privacy of the individual, make it impossible to determine the case in which the award is related.

⁵⁵ *Supra* note 26, page 5.

⁵⁶ Commodity Futures Trading Commission. "Acting Chairman Pham Announces Successful Completion of Enforcement Sprint." CFTC Release Number 9114-25, October 4, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9114-25>.

⁵⁷ Katten. "Reaching the Finish Line: The CFTC Concludes Its Enforcement Sprint by Offering Lower Fines for Self-Reporting and Cooperation." Client Advisory, September 22, 2025. Available at: <https://katten.com/reaching-the-finish-line-the-cftc-concludes-its-enforcement-sprint-by-offering-lower-fines-for-self-reporting-and-cooperation>.

⁵⁸ *Supra* note 42.

⁵⁹ *Id.*

⁶⁰ Commodity Futures Trading Commission. "Acting Chairman Pham Announces Reforms to Wells Process, Amends Rules of Practice and Rules Relating to Investigations." CFTC Release Number 9144-25, December 1, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9144-25>.

⁶¹ Executive Order 14294. "Fighting Overcriminalization in Federal Regulations." 90 *Fed. Reg.* 20363, May 29, 2025. Available at: <https://www.federalregister.gov/documents/2025/05/14/2025-08681/fighting-overcriminalization-in-federal-regulations>. Notably, the Executive Order explicitly exempts immigration matters.

⁶² Commodity Futures Trading Commission. "CFTC Issues Advisory on Referrals for Potential Criminal Enforcement." CFTC Release Number 9094-25, July 9, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9094-25>.

criminal referral should not be made in an effort to reserve criminal sanctions for cases involving difficult to prove willful wrongdoing (with the CFTC needing to impute the specialized expertise and knowledge of the law by the alleged perpetrator) and public harm.⁶³

V. Prediction Markets

While the CFTC sheds staff and narrows its enforcement mission, it is also—through forbearance and inaction—taking on significant new responsibilities it is ill-equipped to handle with prediction markets. Better Markets has been sounding the alarm on prediction market platforms increasingly trying to thwart state and Tribal law and the greater public interest to assert that their “event contracts” are not in fact gambling, but are somehow swaps that facilitate price discovery and hedging.⁶⁴ This has accelerated in recent months and threatens everything from the CFTC having the bandwidth to police traditional markets, retail traders being exposed to fraud and manipulation, and the usurpation of state and Tribal law.

History of Prediction Markets & the CFTC

This started first with the platform KalshiEx, LLC (“Kalshi”) in 2023 endeavoring to launch “event contracts” on political elections—namely, a contract on which U.S. political party would control either chamber of Congress in the coming year.⁶⁵ Allowable wagers extended to \$100 million.⁶⁶

Recognizing the harm in this attempted self-certification, the CFTC in 2023 extending into 2024, sought to reject Kalshi’s bid and to amend a 2010 rule implementing a provision of the CEA to further clarify the scope of contracts the Commission would not permit. The CEA, as further clarified by rule, provides that the Commission has the authority to determine whether an event contract listed on a Designated Contract Market (“DCM”) or swap exchange facility is “contrary to the public interest” if such contracts involve: (1) unlawful activity under Federal or state law; (2) terrorism; (3) assassination; (4) war; (5) gaming; or (6) other similar activity determined by the CFTC, by rule or regulation, to be contrary to the public interest.⁶⁷ In its order rejecting Kalshi’s self-certification, the CFTC noted that the contracts violated the statutory construction of the CEA, and posed potential threats to election integrity, investors, and the CFTC’s ability to fulfill its core mission.⁶⁸

Kalshi sought to litigate the issue in the U.S. District Court for the District of Columbia.⁶⁹ The court in that case sided with Kalshi narrowly on the question of election-related event contracts, and the CFTC later in 2024 appealed to the U.S. Court of Appeals for the D.C. Circuit.⁷⁰ In May of 2025, the new leadership at the CFTC elected to voluntarily surrender its appeal, thereby allowing election betting on CFTC-regulated DCMs to move forward.⁷¹

Gamification & the Explosion of Sports Betting

The CFTC’s reversal of position on the Kalshi litigation was a predicate to a total abdication on enforcing limits on allowable event contracts under the CEA. As a result, the Commission, along with market participants, have unleashed a wave of

⁶³ *Id.*

⁶⁴ Better Markets. “Frequently Asked Questions: Kalshi’s Attempt to get the CFTC to Unleash Gambling on U.S. Elections via Prediction Markets.” March 21, 2024. Available at: https://bettermarkets.org/wp-content/uploads/2024/03/FactSheet_Kalshi-FAQ-3.21.24.pdf.

⁶⁵ Harty, Declan. “Political bettors hit the jackpot as court clears election markets for comeback.” *Politico*, October 2, 2024. Available at: <https://www.politico.com/news/2024/10/02/election-betting-markets-00182165>.

⁶⁶ *Id.*

⁶⁷ Section 5c(c)(5)(C) of the CEA and CFTC Regulation 40.11.

⁶⁸ Hall, Stephen. “To Protect Democracy, Investors, and Commodity Markets, D.C. Circuit Should Uphold CFTC’s Decision to Prohibit Gambling on Elections.” Better Markets, January 9, 2025. Available at: <https://bettermarkets.org/analysis/to-protect-democracy-investors-and-commodity-markets-d-c-circuit-should-uphold-cftcs-decision-to-prohibit-gambling-on-elections/>.

⁶⁹ Matthews, Laura. “Predictions market Kalshi sues CFTC for blocking election contracts.” *Reuters*, November 1, 2025. Available at: <https://www.reuters.com/world/us/predictions-market-kalshi-sues-cftc-blocking-election-contracts-2023-11-01/>.

⁷⁰ For a description of the timeline of *KalshiEx v. CFTC*, see Hall, Stephen. “By Dismissing Its Appeal in the *Kalshi* Case, the CFTC Turns Its Back on Election Integrity, Investor Protection, and Effective Oversight of the Commodities Markets.” Better Markets, May 5, 2025. Available at: <https://bettermarkets.org/newsroom/by-dismissing-its-appeal-in-the-kalshi-case-the-cftc-turns-its-back-on-election-integrity-investor-protection-and-effective-oversight-of-the-commodities-markets/>.

⁷¹ *Id.*

new wagering opportunities—with little connection to risk mitigation, hedging or price discovery—over the last year.⁷²

In the above-described court case against the CFTC related to political event contracts, Kalshi—in an attempt to explain how election gambling was fundamentally different from sports wagers—conceded that event contracts related to sporting events fell under the “gaming” category expressly prohibited under the CEA.⁷³ In fact, the company in its court filing argued that such contracts had no economic value and were not appropriate to list on a DCM.⁷⁴ And yet, upon the change in Administration in early 2025, Kalshi moved forward with a contract allowing users to bet on the outcome of Super Bowl LIX in 2025 (*Kansas City Chiefs v. Philadelphia Eagles*).⁷⁵

The only thing that changed between Kalshi’s arguments to the court in 2024 and Super Bowl LIX was the CFTC’s newfound unwillingness to enforce the law. Since the CFTC’s capitulation, there has been an explosion in sports-related wagers listed on CFTC-regulated DCMs. For example, on Kalshi, users can wager on everything from the NFL, to the NHL, NBA, a host of college sports, a range of domestic and international soccer games, tennis, golf, chess and e-sports. One analysis found that more than $\frac{3}{4}$ of Kalshi’s trading volume now comes from sports, with millions of trades exceeding over a billion dollars volume over just a nearly 3 month period.⁷⁶ In addition to binary contracts on the winners or losers of various sports matches, Kalshi subsequently launched NFL same-game parlays, allowing users to bet not only on the winners of games, but combine bets on touchdown scorers, moneylines (or spreads) and the point total for the individual games.⁷⁷

Contrary to the Law & Public Interest

Beyond sports, prediction market platforms have exploded in the last year, offering betting opportunities on all manner of events of dubious fidelity to the true purpose of derivatives markets overseen by the CFTC: risk management, capital formation, and price discovery.

For example, a user can now bet on topics such as:⁷⁸

- Will President Trump release the Epstein files?
- Will President Trump “punish” SpaceX?
- Will the United Nations’ IPC classify Gaza as experiencing famine this year?
- Will Representative Marjorie Taylor Greene say the words “traitor,” “Israel,” or “corrupt/corruption” on CBS *60 Minutes*?

This list of wagering opportunities raises numerous concerns.

First, it is contrary to both Congress’s intent with the CEA and state and Tribal law to allow this gambling-like activity to proliferate while claiming that the activity is within the purview of the CFTC. This is a problem that was foreseen by policymakers. When the Wall Street Reform Act amended the CEA in 2010, lawmakers

⁷² See for example an explosion in DCMs offering wagering opportunities on event contracts, including Kalshi, ForecastEx, Robinhood, Crypto.com, Underdog, PrizePicks, Polymarket and Fanatics approved as DCMs and many others with forthcoming plans including FanDuel, DraftKings, Coinbase, Aristotle, RSBIX, Truth Predict, Hollywood.com, MyPrize, Kraken, Gemini, ProphetX, eToro, Cboe, Clearing Co and Metavesc. This accounting is only a rough estimate and taken from a prediction market analyst X.com post. @MickBransfield, December 3, 2025. Available at: <https://x.com/mickbransfield/status/1996392174947295542?s=46>.

⁷³ Dumas, Cantrell. “Stop the Spread: Why the CFTC Must Shut the Door on Gambling in Derivatives Markets.” Better Markets, May 8, 2025. Available at: <https://bettermarkets.org/wp-content/uploads/2025/05/Better-Markets-Event-Contracts-Fact-Sheet-5.8.25.pdf>; specifically, Better Markets notes that Kalshi in the D.C. District Court litigation “conceded that ‘contracts on sporting events such as the Super Bowl, the Kentucky Derby, and Masters Golf Tournament’ [consistent with the Congressional record at the time] were precisely the types of contracts Congress empowered the Commission to block. It admitted that the ‘gaming’ category ‘reaches contracts contingent on games,’ including ‘whether a certain team will win the Super Bowl,’ and stated that the law was designed to ‘check on attempts to launder . . . sports gambling through the derivatives markets.’ Kalshi even went so far as to state that such contracts ‘are probably not the type of contracts we want . . . listed on an exchange because they don’t have any real economic value to them.’”

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ O’Boyle, Daniel. “Kalshi More Reliant On Sports Than DraftKings Or FanDuel, Data Shows.” InGame, October 31, 2025. Available at: <https://www.ingame.com/kalshi-sports-data-trading-volume/>.

⁷⁷ Gouker, Dustin. “Kalshi Rolls Out Same-Game Parlays For Monday Night Football Games.” Event Horizon, September 30, 2025. Available at: <https://nexteventhorizon.substack.com/p/kalshi-rolls-out-same-game-parlays>.

⁷⁸ Examples taken from <https://kalshi.com/>.

were clear that absent legal limits, sports bettering and other gambling-style activity could evade state and Tribal law by claiming jurisdiction under the CEA.⁷⁹ Indeed, it was not the intent of Congress for the CFTC to take on this responsibility. Moreover, in many states, betting on elections and even sports is not legal (or is only legal for professional sports and not collegiate sports).⁸⁰ In other states where such betting is legal, state gaming commissions routinely enforce safeguards such as age restrictions, identity verification, wagering limits, self-exclusion programs, and addiction treatment resources.⁸¹ States also impose special taxes on gambling activity. Many Tribes have likewise argued that prediction market platforms interfere with Tribes' rights to conduct and regulate gambling activity on sovereign land.⁸²

Second, even if policymakers sought to have this activity overseen at the Federal level, the CFTC's budget for FY25 funded 127 full-time equivalents for the Division of Enforcement,⁸³ though more departures amongst the staff have occurred since then. It is unfathomable that this level of staffing could adequately police the market for fraud and manipulation at the scale and size necessary to prevent malfeasance in prediction markets. In just the last few months, we have seen an NBA sports betting scandal;⁸⁴ a financial industry executive propose to a New York City mayoral candidate that he abandon his bid for office and monetize it through prediction markets;⁸⁵ aberrant prediction market trading ahead of the Nobel Peace Prize announcement;⁸⁶ and a crypto CEO using his company's earnings announcement to "troll" bettors in prediction markets.⁸⁷ Each one of these examples could hypothetically consume one or more enforcement attorneys for a considerable amount of time.

Finally, is such gamified wagering on every aspect of humanity in the public interest? The co-founder of Kalshi recently noted that the "long-term" vision of the company "is to financialize everything and create a tradeable asset out of any difference of opinion."⁸⁸ Another prediction markets enthusiast recently offered that the potential economic displacement faced by truck drivers "at risk of being automated into obsolescence" can be solved by merely hedging their risk on prediction markets.⁸⁹ Such a vision of the future is bleak, and is already yielding harmful re-

⁷⁹U.S. Senate Committee on Agriculture [Chair] Blanche Lincoln in a colloquy noted, "The Commission needs the power to, and should, prevent derivatives contracts that are contrary to the public interest because they exist predominantly to enable gambling through supposed 'event contracts.' It would be quite easy to construct an 'event contract' around sporting events such as the Super Bowl, the Kentucky Derby, and Masters Golf Tournament. These types of contracts would not serve any real commercial purpose. Rather, they would be solely used for gambling." 156 *Cong. Rec.* S5907 (daily ed. July 15, 2010). Available at: <https://www.congress.gov/111/crec/2010/07/15/CREC-2010-07-15-senate.pdf>.

⁸⁰See the CFTC's Order originally denying Kalshi's self-certification of election event contracts; "CFTC Disapproves KalshiEX LLC's Congressional Control Contracts." September 22, 2023, <https://www.cftc.gov/PressRoom/PressReleases/8780-23>; see also National Conference of State Legislatures. "Sports Betting on the Rise as States Let Gamblers Wager Online." Available at: <https://www.ncsl.org/events/details/sports-betting-on-the-rise-as-states-let-gamblers-wager-online>.

⁸¹*Supra* note 73.

⁸²O'Boyle, Daniel. "Tribes Aim To Join Kalshi-Maryland Lawsuit With Amicus Brief." InGame, June 24, 2025. Available at: <https://www.ingame.com/tribes-join-kalshi-maryland-lawsuit/>.

⁸³*Supra* note 26, page 8.

⁸⁴Vardon, Joe and Mike Vorkunov. "The NBA players, coaches and gamblers at the center of a Federal betting investigation." *The New York Times*, November 25, 2025. Available at: <https://www.nytimes.com/athletic/6788069/2025/11/25/nba-players-coaches-gamblers-betting-investigation/>.

⁸⁵Levine, Matt. "Bill Ackman Has a Trade for Eric Adams." *Bloomberg*, September 8, 2025. Available at: <https://www.bloomberg.com/opinion/newsletters/2025-09-08/bill-ackman-has-a-trade-for-eric-adams>.

⁸⁶Kochkodin, Brandon. "Did The Nobel Peace Prize Expose Insider Trading On Prediction Market Polymarket?" *Forbes*, October 10, 2025. Available at: <https://www.forbes.com/sites/brandonkochkodin/2025/10/10/did-the-nobel-peace-prize-expose-insider-trading-on-prediction-market-polymarket/>.

⁸⁷Griffiths, Brent D. "Coinbase CEO was having 'a little fun' when he trolled prediction markets by rattling off 5 words on an earnings call." *Business Insider*, December 3, 2025. Available at: <https://www.businessinsider.com/coinbase-ceo-earnings-call-words-prediction-markets-bets-2025-12>.

⁸⁸Dellinger, A.J. "Kalshi CEO Says He Wants to Monetize 'Any Difference in Opinion.'" *Gizmodo*, December 4, 2025. Available at: <https://gizmodo.com/kalshi-ceo-says-he-wants-to-monetize-any-difference-in-opinion-2000695320>.

⁸⁹X.com post by @TenreiroDaniel, December 4, 2025. Available at: <https://x.com/tenreirdaniel/status/1996634259973722181?s=12>.

sults for the public. Gambling addiction is on the rise, with more and more, and younger and younger, individuals seeking out treatment.⁹⁰ Prediction markets are also blurring the lines between real investing and wild speculation, with growing nihilism about the ability to work hard and get ahead in the American economy, combined with a gamified user interface, driving increasingly casino-like activity.⁹¹ And troublingly, the growth of opportunities for constant wagering may be, according to analysts at Bank of America, even impairing younger Americans' credit-worthiness for real wealth creation via loans to fund education or homeownership.⁹²

Stopping the Spread

In the face of forbearance from the CFTC, many states, Tribes and consumers are taking action via litigation, seeking to stop the proliferation of various forms of event contracts. By one count, litigation or cease-and-desist proceedings related to the legality of sports-based event contracts are pending in some shape or form in Nevada, New Jersey, Maryland, Ohio, New York, Connecticut, Massachusetts, California, Wisconsin, Illinois, Kentucky, South Carolina, Georgia, Montana, and Arizona.⁹³ In other states like Tennessee, more attention is being paid in local media to how prediction markets are disrupting the local gaming industry and may have downstream impacts on school funding.⁹⁴

Moving forward, the proliferation of state, Tribal and consumer lawsuits will create a patchwork of legal decisions and tremendous market uncertainty. Instead of waiting for litigation to play out, the CFTC should instead reassert its authority under the CEA. Lawmakers should likewise conduct oversight of the Commission to ask difficult questions about why they are letting self-certification of these contracts proliferate, and push for answers on how the CFTC is squaring its recent inaction with existing law and regulation.⁹⁵

VI. Lack of Transparency and Public Input

Perpetual Futures and 24/7 Trading

As the prediction markets example demonstrates, the CFTC has developed a troubling recent track of allowing new products to be introduced to the market without meaningful consideration. As another example, the CFTC put out a request for comment on perpetual futures (or derivatives contracts without an expiration date) in April 2025, seeking perspectives from the public.⁹⁶ But just 2 days after the publication of that request, crypto exchanges began self-certifying the introduction of these contracts, with the exchanges advertising allowable leverage up to 10-to-1.⁹⁷ The CFTC likewise sought comment on 24/7 trading in April 2025, with a comment deadline of May 21, 2025.⁹⁸ On May 9, 2025, before the comment deadline on this proposal was reached, Coinbase launched 24/7 trading for margined futures con-

⁹⁰ See Schiffin, Ben. "The U.S. already has a gambling epidemic—24 hour stock trading would only make it worse." *Fortune*, December 13, 2024. Available at: <https://bettermarkets.org/news-room/op-ed-in-fortune-the-u-s-already-has-a-gambling-epidemic-24-hour-stock-trading-would-only-make-it-worse/>.

⁹¹ Stewart, Emily. "Everything's Casino." *Business Insider*, November 6, 2025. Available at: <https://www.businessinsider.com/kalshi-polymarket-fanduel-draftkings-sports-betting-gambling-2025-11>.

⁹² Tsekova, Denitsa. "Gambling, Prediction Markets Create New Credit Risks, BofA Warns." *Bloomberg*, November 25, 2025. Available at: <https://www.bloomberg.com/news/articles/2025-11-25/bank-of-america-warns-of-mounting-credit-risks-as-gambling-booms>; citing the "behavioral risk" associated with the accessibility of prediction market betting and warning that borrower creditworthiness is deteriorating due to increasing expenditures and debt in these markets.

⁹³ X.com post by @MickBransfield, December 3, 2025. Available at: <https://x.com/MickBransfield/status/1996383073949331472>.

⁹⁴ Rayner, Ruby. "Predictions market could threaten Tennessee gambling, which has provided some school funding." *Chattanooga Times Free Press*, November 28, 2025. Available at: <https://www.timesfreepress.com/news/2025/nov/28/predictions-market-could-threaten-tennessee/>.

⁹⁵ See for example a bipartisan letter from Senators Cortez Masto, Curtis, Gallego, Slotkin, Schiff, Padilla and Rosen to Acting Chair Pham on September 30, 2025. Available at: <https://www.cortezmasto.senate.gov/wp-content/uploads/2025/10/2025-September-30-Cortez-Masto-Curtis-CFTC-Letter-Sports-Gaming-FINAL-SIGNED.pdf>.

⁹⁶ Commodity Futures Trading Commission. "CFTC Staff Seek Public Comment Regarding Perpetual Contracts in Derivatives Markets." CFTC Release 9069–25, April 21, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9069-25>.

⁹⁷ "Bitnomial Exchange Self-Certifies First Ever U.S. Perpetual Futures Contracts." Press Release, April 23, 2025. Available at: <https://www.prnewswire.com/news-releases/bitnomial-exchange-self-certifies-first-ever-us-perpetual-futures-contracts-302435713.html>.

⁹⁸ Commodity Futures Trading Commission. "CFTC Staff Seek Public Comment on 24/7 Trading." CFTC Release 9068–25, April 21, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9068-25>.

tracts.⁹⁹ The CFTC allowed this to go forward without responding to public commenters, including those in the traditional agriculture futures market that opposed such a change.¹⁰⁰

Spot Crypto Trading on Designated Contract Markets

Meanwhile, the Acting Chair announced on December 4, 2025 that the agency would now allow spot crypto trading on DCMs.¹⁰¹ The Acting Chair did this even though the agency solicited comment on this very issue with a comment deadline of August 18, 2025¹⁰² and again, in the context of providing comments on the recommendations in the President’s Working Group Report, with a comment deadline of November 28, 2025.¹⁰³ While the Acting Chair in November noted to the media that she was “personally guiding exchanges”¹⁰⁴ on the launch of spot crypto trading on DCMs, the agency has not been deliberately and comprehensively assessing the merits of various proposals or the public comment file.

A review of the comment files on spot crypto trading indicates a range of stakeholder perspectives that were not considered ahead of the December 4, 2025 spot crypto trading announcement. For example, the Futures Industry Association advised that the CFTC should wait for Congress to pass comprehensive spot crypto market trading legislation before moving forward with transactions outside the scope of those covered by section 2(c)(2)(D) of the CEA.¹⁰⁵ Another commenter noted that with allowable transactions under 2(c)(2)(D) there remains “a lack of clarity regarding the [applicable] requirements and how DCMs or other market participants may comply with them.”¹⁰⁶ Another crypto industry market participant called for the CFTC to impose strict leverage limits to the extent DCMs wanted to offer financed crypto transactions.¹⁰⁷ Another firm called on the CFTC to issue new regulations before allowing spot crypto trading to move forward, citing that “extensive customer protection rules should be put in place to minimize risks to retail market participants from the trading of these contracts, especially if platforms seek to use auto-liquidating and fully collateralized retail accounts to bypass Futures Commission Merchant (‘FCM’) registration.”¹⁰⁸ They also noted that clarifications to cus-

⁹⁹ Coinbase. “24/7 futures trading has arrived.” *Coinbase Blog*, May 9, 2025. Available at: <https://www.coinbase.com/blog/24-7-futures-trading-has-arrived>.

¹⁰⁰ National Grain and Feed Association. “NGFA urges CFTC to reject 24/7 agricultural futures trading proposal.” Press Release, May 21, 2025. Available at: <https://www.ngfa.org/ngfa-urges-cftc-to-reject-24-7-agricultural-futures-trading-proposal/>.

¹⁰¹ Commodity Futures Trading Commission. “Acting Chairman Pham Announces First-Ever Listed Spot Crypto Trading on U.S. Regulated Exchanges.” CFTC Release 9145–25, December 4, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9145-25>.

¹⁰² Commodity Futures Trading Commission. “Acting Chairman Pham Launches Listed Spot Crypto Trading Initiative.” CFTC Release Number 9105–25, August 4, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9105-25>.

¹⁰³ White House. “President’s Working Group on Digital Assets, Strengthening American Leadership in Digital Financial Technology.” July 30, 2025, Available at: <https://www.whitehouse.gov/crypto/>; the CFTC’s website indicated a deadline to comment on this report of November 28, 2025. Available at: <https://comments.cftc.gov/PublicComments/ReleasesWithComments.aspx?Type=ListAll&Year=2025>.

¹⁰⁴ Hamilton, Jesse. “U.S. Regulator That May Rule Over Digital Assets Pushing Towards Crypto Spot Trading.” *CoinDesk*, November 9, 2025. Available at: <https://www.coindesk.com/policy/2025/11/07/u-s-regulator-that-may-rule-over-digital-assets-pushing-toward-crypto-spot-trading>.

¹⁰⁵ Lurton, Allison. “Listed Spot Crypto Trading Initiative.” Futures Industry Association Comment Letter to the CFTC, August 18, 2025. Available at: <https://www.fia.org/sites/default/files/2025-08/FIA%20Letter%20-%20CFTC%20Spot%20Crypto%20Initiative%20-%20Final%208.18.25.pdf>. Specifically, the letter contends that this provision of the CEA only permits the CFTC to oversee spot crypto transactions for a person that enters into, or offers to enter into (even if not entered into), “any agreement, contract or transaction in any commodity” with a retail participant, *i.e.*, a person that is not an eligible contract participant, as defined in the Act, “on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis.”

¹⁰⁶ Dutta, Karen. “Comment for General CFTC Request Input on All Recommendations for the CFTC in the President’s Working Group on Digital Assets.” Intercontinental Exchange, Inc. [Comment] Letter to the CFTC, November 28, 2025. Available at: <https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=113942&SearchText=>

¹⁰⁷ Lasko, Daniel. “Comment for General CFTC Request Input on All Recommendations for the CFTC in the President’s Working Group on Digital Assets.” dYdX Trading Inc. dba dYdX Labs Comment Letter to the CFTC, September 24, 2025. Available at: <https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=113721&SearchText=>

¹⁰⁸ Maratea, Andrew. “Comment for General CFTC Request Input on All Recommendations for the CFTC in the President’s Working Group on Digital Assets.” Topstep LLC Comment Letter to the CFTC, November 26, 2025. Available at: <https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=113935&SearchText=topstep>.

tomers segregation rules would be needed.¹⁰⁹ Finally, Better Markets issued a comment letter citing a host of issues that needed to be worked through before the agency moved forward on spot crypto trading on DCMs, including clarifying leverage limits, explaining whether auto-liquidation mechanisms would be put in place, addressing the distinct roles of DCMs, FCMs and Derivatives Clearing Organizations (“DCO”) given the vertical integration in the existing crypto market, and clarifying the scope of eligible depositories for accounts holding crypto.¹¹⁰

As the range of issues raised in these comment letters demonstrate, the CFTC has abandoned a traditional process around notice and comment rulemaking under the Administrative Procedure Act. Instead, when Acting Chair Pham made the spot crypto trading announcement on December 4, 2025 it was made via a press release with no relevant documents linked to understand the parameters of the products allowed. Instead, the only thing the public knows is that the DCM Bitnomial was granted permission to launch spot crypto trading on December 8, 2025. One has to go to an arcane page on the CFTC’s website to review Bitnomial’s filings, which suggest the exchange wants to offer trading in assets including Bitcoin, Ethereum, XRP and Solana.¹¹¹ Market observers are left with key questions, including just how much retail leverage will be permitted, how the DCM is managing those leverage exposures, whether auto-liquidation mechanisms will be used, and why one DCM was permitted to move forward with these products as a first-mover before any other DCM. Rather than a piecemeal approach established through *ad hoc* discussions with DCMs, it would make much more sense for the CFTC to either promulgate a rulemaking on the topic or wait for Congress to pass comprehensive legislation.

Tokenized Collateral

In yet another example, earlier this week Acting Chair Pham moved forward with a pilot program without responding to the comment file the CFTC had solicited on the topic. Specifically, less than 2 weeks after the comment period closed on the CFTC’s request for feedback on using crypto assets as collateral in derivatives markets, Acting Chair Pham announced a pilot program allow this activity.¹¹² Even more disturbing than the timing of the launch of the program is the fact that the CFTC’s press release announcing it quotes numerous crypto companies applauding the action—an odd action for an agency tasked with serving the public interest and not specific market participants.

Withdrawals and Delays

The CFTC has also engaged in a number of troubling withdrawals of guidance and delays of rules without explaining the rationale of such actions or appropriately abiding by public transparency requirements. For example, earlier this year, the Commission withdrew previous guidance on voluntary carbon credits.¹¹³ This guidance was originally issued to enhance transparency and standardization in the market, including establishing clear standards for physical delivery and other considerations for DCMs to support accurate pricing and enhance liquidity, helping to address concerns over the susceptibility of these contracts to manipulation.¹¹⁴ Withdrawing the guidance simply means that market participants are operating with less clarity. The Commission likewise withdrew guidance on DCO recovery plans,¹¹⁵ creating a vacuum where market participants say a “replacement may be needed” because the previous guidance letter “gave clarity to central counterparty clearing-

¹⁰⁹ *Id.*

¹¹⁰ Fischer, Amanda. “Comment for General CFTC Request Input on All Recommendations for the CFTC in the President’s Working Group on Digital Assets.” Better Markets Comment Letter to the CFTC, November 28, 2025. Available at: <https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=113957&SearchText=>.

¹¹¹ Commodity Futures Trading Commission. “Designated Contract Market Products.” Accessed December 6, 2025. Available at: <https://www.cftc.gov/IndustryOversight/IndustryFilings/TradingOrganizationProducts>.

¹¹² Commodity Futures Trading Commission. “Acting Chairman Pham Announces Launch of Digital Assets Pilot Program for Tokenized Collateral in Derivatives Markets.” CFTC Release 9146–25, December 8, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9146-25>.

¹¹³ Commodity Futures Trading Commission. “CFTC Withdraws Guidance Regarding Listing Voluntary Carbon Credit Derivative Contracts.” CFTC Release 9119–25, September 10, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9119-25>.

¹¹⁴ Dumas, Cantrell. “Can the CFTC Tame Carbon Fraud and Create Trust in a Broken System?” Better Markets, October 10, 2025. Available at: https://bettermarkets.org/wp-content/uploads/2024/10/Better_Markets_Fact_Sheet_Carbon_Markets-10.10.24.pdf.

¹¹⁵ Commodity Futures Trading Commission. “CFTC Staff Withdraws Guidance on DCO Recovery Plans and Winddown Plans.” CFTC Release 9120–25, September 11, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9120-25>.

houses.”¹¹⁶ Finally, the agency, along with the SEC, extended the compliance deadline for a hedge fund transparency rule three separate times—from March to June 2025, then to October 2025, then another full year to October 2026¹¹⁷—raising questions from one SEC Commissioner as to whether this was just a backdoor way to ensure the rule never becomes effective.¹¹⁸

CEO Innovation Council

Last month, Acting Chair Pham announced the creation of a “CEO Innovation Council,”¹¹⁹ with reporting indicating that the Council will advise the agency on crypto and prediction market policy.¹²⁰ From the press release, it is unclear if this Council will abide by Federal Advisory Committee Act conditions that require balanced membership across stakeholders,¹²¹ and not just another mechanism for crypto industry insiders to influence policy at the expense of traditional CFTC constituencies and public interest organizations. Again, we suggest a return to regular order for stakeholder input on these emerging topics.

VII. Conclusion

The CFTC touches nearly every part of our economy. It affects the daily lives of producers like farmers, ranchers and manufacturers, and has a crucial role to play in ensuring that prices for everyday staples reflect true supply and demand in the economy. The Committee is right to focus on reauthorization of the agency at this important time. As this testimony demonstrates, the agency has in many ways strayed from its traditional mission, while also deviating from bipartisan history and downsizing staff in ways that may likely harm the public. Agency leadership should shift the Commission’s focus back to core issues, return to regular order, seriously consider public input and reinvigorate the bipartisan track-record that has categorized the CFTC for the last 50 years.

The CHAIRMAN. Mr. Schiffrin, thank you so much for your testimony. At this time, Members will be recognized for questions in order of seniority, alternating between Majority and Minority Members and in order of arrival for those who joined us after the hearing convened. You will be recognized for 5 minutes, each in order, to allow us to get to as many questions as possible, and I recognize myself for 5 minutes.

Ms. Crighton and Mr. Prosser, as I mentioned in my opening statement, this is a time for transformation in financial markets. As market professionals, what big derivatives public policy issues do you see coming down the road in the coming years?

Ms. CRIGHTON. Thank you for the question. As I mentioned in my opening comments, there are a few areas that we are focused on. One is I think the possibilities that this transformational technology provides to the industry at large, and we think the appropriate balance of that technology, along with a good strong policy framework, is incredibly important to pave the way for a strong, safe, and healthy ecosystem. In terms of areas that we focus on,

¹¹⁶Kirkel, Janice. “Reluctant farewell to CFTC’s clearing house recovery guidance.” Risk.net, October 15, 2025. Available at: <https://www.risk.net/regulation/7962328/reliant-farewell-to-cftc%E2%80%99s-clearing-house-recovery-guidance>.

¹¹⁷Commodity Futures Trading Commission. “CFTC and SEC Extend Form PF Compliance Date to Oct. 1, 2026.” CFTC Release 9126–25, September 17, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9126-25>.

¹¹⁸Securities and Exchange Commission. “Repeal By Extension: Statement on Yet Another Extension of the Form PF Compliance Date.” Statement by SEC Commissioner Caroline Crenshaw, September 17, 2025. Available at: <https://www.sec.gov/newsroom/speeches-statements/crenshaw-091725-repeal-extension-statement-yet-another-extension-form-pf-compliance-date>.

¹¹⁹Commodity Futures Trading Commission. “Acting Chairman Caroline D. Pham Seeks Nominations for CFTC CEO Innovation Council by December 8.” CFTC Release 9142–25, November 25, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9142-25>.

¹²⁰Hamilton, Jesse. “U.S. Crypto Regulator, CFTC, Seeking Names for New ‘CEO Innovation Council.’” CoinDesk, November 25, 2025. Available at: <https://www.coindesk.com/policy/2025/11/25/u-s-crypto-regulator-cftc-seeking-names-for-new-ceo-innovation-council>.

¹²¹Marchsteiner, Kathleen E. and Meghan M. Stuessy. “The Federal Advisory Committee Act (FACA): Overview and Considerations for Congress.” Congressional Research Service Report R47984, March 26, 2025. Available at: <https://www.congress.gov/crs-product/R47984>.

both in our current markets as well as the possibilities on the forward areas that we are particularly worried about continue to be margin that acts as the first line of defense. Whether it is existing markets and traditional markets or what kind of the new and digital markets present, the adequacy of margin levels is incredibly important.

We worry about the amount of clearing capacity in the ecosystem. At the moment, capacity is quite strained, and with new products coming to market, whether it is the Treasury clearing mandate, the repo clearing mandate, there is significant demand for additional clearing capacity. And when we think about kind of the nature of bank capital regulation on us providing that capacity and continuing to intermediate in these markets, the impact of that on end-users is incredibly significant. I will hand it over to Mr. Prosser.

Mr. PROSSER. Thank you. In the 40 years that I have been involved in these derivative markets, I don't know that there is any time that we have had the pace and scope of innovation happening as fast as it is today. In that environment, having a regulator that sits in the middle and acts like a referee, not only for the very new and novel, but for the mundane, making sure the clearinghouse is taken care of. And if you look at the trade routes, the way that even the traditional commodities are moving, who is the new producer in the world and who has new surpluses, it is most critical at this point that I think that the CFTC sits in the middle of that and makes sure that these markets continue to be transparent, open, and act as functional as they have.

The CHAIRMAN. Well, thank you both. Ms. Stump and Mr. Schwartz, this is also a time of transformation at the Commission. With new leadership and potentially new jurisdiction, how can the Commission meet the moment and tackle the issues that Ms. Crighton and Mr. Prosser has raised, and what does the Commission need to continue to be a premier financial regulator, even as the markets continue to grow and change?

Ms. STUMP. As you have rightfully pointed out, there is a lot to do and there needs—in my opinion, the agency is devoting time and attention to these matters, but during a period of transition, it is more challenged. So, I do look forward to a Senate-confirmed Chairman, and I look forward to the agency being able to get back to regular order, and by that I mean having open meetings with public input, issuing rules that enable the public to have a say in what, and opinion on what is occurring in the marketplace.

Specific to some of the things that were raised, margin adequacy—I will start with margin adequacy and clearing. There is a real issue with clearing capacity. It was well established when I was at the agency that it—as we brought in more products to the clearing environment under Dodd-Frank, which was a very good response to ensuring that counterparty credit risk was addressed, we also—at the very same time, we saw the banking regulators putting restrictions—proposing restrictions on the ability of those who acted as intermediaries to take on more clearing. And there seems to always be a little bit of a misaligned mission with the market regulators and the banking regulators. The banking regulators are most concerned with sustaining the banks, where the market regu-

lators are concerned with functional markets, so we had an ongoing dialogue with the banking regulators when I was there to try and mitigate some of that, and I think that that should certainly continue. I hope that it does continue, and I hope that with more Commissioners, a Senate-confirmed Chairman, that there will be a greater coordination with the banking regulators and the CFTC as a market regulator.

With regard to some of the market structure changes that Mr. Prosser mentioned in his testimony, there have been an enormous call—of recent days, there have been a number of calls for input from the public on a variety of new market structure changes. I do think that as those are digested by the new Chairman, that we will see responses in the form of rulemakings where the public can engage.

The CHAIRMAN. Well, thank you very much. My time has expired, but hopefully we will get a chance to circle back. Curious to hear your insight on that, Mr. Schwartz. I will recognize the gentlelady from Minnesota, the Ranking Member, for 5 minutes.

Ms. CRAIG. Thank you, Mr. Chairman. This is to Mr. Prosser. I greatly appreciate your testimony and specific recommendations for Congressional action in reauthorizing the CFTC, particularly your call for funding and staff at the agency to allow it to keep pace with market growth, technological complexity, and, of course, global competitiveness. I also noted you are urging the Committee to ensure that regulatory standards prioritize the needs of commercial end-users and consumers, not just financial intermediaries, new market entrants, or speculative interests. How does the Committee do that? Are there specific changes in the Commodity Exchange Act that we need to think through in order to achieve that?

Mr. PROSSER. I am not qualified to recommend specific changes to the Commodity Exchange Act, but I would say that as we go forward with the new challenges with new entrants in the marketplace, the traditionals have worked pretty well. The regulatory environment that we have dealt with the traditional markets, and you think about the Ukraine War and Chernobyl all the way back and weather events, and we have navigated those relatively well. The markets have bent when we needed to, and we changed regulation as we came out of 2008. So, I would suggest that they have done pretty well in our traditional markets.

We are very interested in what the innovations are going to bring, and we are going to ask that the separation of those regulatory regimes between the traditional markets and some of the new—what might be good for the new side might not be good for the traditional markets. We don't want to squash innovation because I don't want these markets moving overseas. I don't want the price of soybeans to be discovered in Monte Grosso instead of on the Mississippi and Illinois Rivers, and part of that is making sure that we do continue to innovate, but we need to do that with an eye towards making sure that the stuff that is working now continues to work.

Ms. CRAIG. Well, speaking of somebody who borders the Mississippi River, thank you for that. This is really to the whole panel. The Republicans on the House Appropriations Committee defied the Administration's budget request to increase the agency's fund-

ing for Fiscal Year 2026 and, instead, proposed cutting the agency's funding from full Fiscal Year 2025 levels by eight percent. Talk to me a little bit about, obviously, we have new innovations coming with, really, additional responsibilities coming to CFTC. So, do any of you think that the cut is appropriate, necessary, and—particularly considering the new responsibilities that Congress may give them? And we will start, I guess, from my right to my left. Mr. Schiffrin.

Mr. SCHIFFRIN. Thank you for the question. As I said in my opening statement, I think now is the time to be increasing funding for the CFTC and not decreasing it, especially if the CFTC is going to be asked to now oversee things like crypto and the prediction markets. It seems impossible for it to fulfill those new responsibilities and also the essential functions that it already has without additional funding and additional staffing.

Ms. CRAIG. Couldn't agree more with you. Mr. Schwartz?

Mr. SCHWARTZ. Thank you. You can tell from Mr. Prosser's testimony that the private-sector does not want a hobbled CFTC. It is important. They depend on it, and there has generally been bipartisan support for making sure the agency is adequately funded, and it is under-funded now, let alone can we predict how difficult it would be in the future as its responsibilities appear very likely to increase.

Ms. CRAIG. I am going to run out of time. Ms. Crighton?

Ms. CRIGHTON. Thank you. FIA supports an adequately staffed and resourced CFTC, and we will defer to Congress on what that means.

Ms. CRAIG. Mr. Prosser.

Mr. PROSSER. I am going to defer—

Ms. CRAIG. Good. Dawn?

[Laughter.]

Ms. STUMP. Well, thank you. Yes, I do believe that the agency could certainly do well with more resources. Given budget situations, I know all agencies are being asked to do more with less, and the CFTC is no different.

Ms. CRAIG. Thank you, and in my 30 seconds, Mr. Schiffrin, let's talk just a minute about enforcement at the CFTC. Give me your thoughts on what needs to happen. It has been pretty lackadaisical.

Mr. SCHIFFRIN. Thank you for the question. Exactly. I think we have seen CFTC enforcement ground to a halt, and I think that is problematic. If you don't have the cop on the beat acting like a cop on the beat, you are not going to have the protections that are there to prevent fraud and manipulation do what they are supposed to do.

Ms. CRAIG. Thank you all so much, and with that, Mr. Chairman, my time has expired, and I yield back.

The CHAIRMAN. I thank the gentlelady. I now recognize the gentleman from Oklahoma, former Chairman of this Committee, Mr. Lucas, for 5 minutes.

Mr. LUCAS. There is nothing like being a recovering Chairman, Mr. Chairman.

[Laughter.]

Mr. LUCAS. Thank you, and thank you to our witnesses for being here today. The subject of today's hearing is, of course, the reau-

thorization of the Commodity Futures Trading Commission, a Commission that has served our ag and energy markets for over 50 years. The authorization for the CFTC expired over a decade ago, as we have discussed. Reexamining the Commission, its functions and its authorities, is a worthy goal in light of the changes the world has gone through since the Commission's expiration. Farmers and ranchers use tools like the derivatives that CFTC regulates to manage price volatility and mitigate risk, and that is why it is a particularly relevant time to examine the Commission as uncertainty in the farm economy has elevated. Keeping derivatives markets affordable and accessible is essential for our producers to supply the food, fiber, and energy our world needs.

Ms. Stump, the CFTC coordinates with the Securities Exchange Commission as the products and firms they regulate often interact. Take us back up to the 40,000' level for just a moment and explain why two separate and distinct regulators for commodities and securities is valuable to consumers.

Ms. STUMP. I think, oftentimes, it is misunderstood. First of all, thank you for the question. It is very relevant. I think oftentimes it is misunderstood, even sometimes by the marketplace, the distinction between the CFTC and the SEC. Certainly they both regulate some of the same entities. There have been suggestions that the two should be merged. I have often scratched my head by this proposition, given that Congress has given each agency a very distinct how-to in the way they carry out their missions.

The CFTC has embedded in its purpose to promote innovation. That is not in the SEC's mandate. They both are responsible for protecting customers in the case of the CFTC, protecting investors in the case of the SEC, but this innovation is very distinct in this purpose of the CFTC. And I think Congress has done a remarkable job of explaining to the CFTC how they want them to go about being a regulator that embraces innovation. The SEC does not have that mandate.

Mr. LUCAS. You are exactly right. CFTC is proactive. SEC is reactive. Beginning with Ms. Crighton, and I want Mr. Prosser's thoughts on this as well, last week I met with Vice Chairman Michelle Bowman at the Federal Reserve's Board of Governors, who is finalizing a new capital framework proposal. I was disappointed to see that in the original Basel Endgame proposal significant capital penalties on clearing derivatives for end-users, reducing the availability of these required services. Can you speak to the importance of cross-agency collaboration between CFTC and the banking regulators?

Ms. CRIGHTON. Thank you, and I am happy to do that. As we think about two of the most significant impacts that have reduced the amount of clearing capacity available, in particular, to commodities end-users, one has been the lack of margin adequacy, and the other has been the punitive nature of bank capital, and so, we too, were quite disappointed to see the changes that were proposed previously. And I think, back to Ms. Stump's comments, part of the benefit of interacting with the CFTC is, as deep derivatives markets experts, we were able to articulate the impact of what that proposed regulation would mean, in particular on the amount of clearing capacity we would be able to provide. And so, in their part-

nership, we were able to work hand in hand with the banking regulators to articulate what would happen. Clearing businesses over the course of the last 5 years have seen capital between 2020 and 2022 double, and then what was proposed 2 years ago with the Basel III Endgame re-proposal that capital would have been increased by another 80 percent, which would have served to further decrease the amount of capacity we provide.

Mr. LUCAS. Any thoughts, Ed?

Mr. PROSSER. These markets need capacity, not just for a normal Thursday morning, but for when geopolitical events happen, for when weather happens. This FCM capacity issue is real, and it is real in the country. We need regulators to work together to make sure that we have adequate protections from the FCMs through bankruptcy and all of the things that that works on, but we need to make sure that we don't put burdens or barriers to those that want to participate in those markets. And I think that Basel III was one of those, the idea that the capital requirements for those would have been so high, that it seemed impossible to me. So, we need agencies to work together to make sure that we have as much capacity for FCMs to clear these derivative products because that matters to those end-users in the country, particularly the small end-users in the country that don't have the market power to find other FCMs.

Mr. LUCAS. Thank you. Mr. Chairman, my time has expired. I will submit a couple questions in writing to the witnesses.

The CHAIRMAN. Very good.

I thank the gentleman. I now recognize the gentleman from California, Mr. Costa, for 5 minutes.

Mr. COSTA. Thank you very much. Mr. Chairman, I obviously concur that we need to deal with the reauthorization, and Congress needs to do its job. But when we talk about the Commodity Futures Trading Commission and the traditional areas in which you provide oversight with regards to derivatives and others, there is an area that hasn't really been brought up to the degree that I am concerned about, and that is the red flags on so-called event contracts. And also, in California where I come from and a lot of Indian gaming authority, these look a lot less, to me, like risk management tools that Congress ever intended the Commission to deal with, and now you are engaged in unauthorized online gambling for everything from sports events to even war, and I don't think that was intended. Mr. Schwartz, are you familiar with the five categories that are prohibited under the Commodity Exchange? I assume all of you are.

Mr. SCHWARTZ. I am familiar with the five categories. It is rather than a flat prohibition, it is—

Mr. COSTA. Or terrorism, assassinations, gaming, or any activity otherwise prohibited under Federal law, right?

Mr. SCHWARTZ. Yes, sir.

Mr. COSTA. Okay. Given that framework, why do we allow, then, folks to go ahead and bet on things like sporting events or wars?

Mr. SCHWARTZ. Well, it is because the statute gives the CFTC discretion. It says it may make a determination that a given contract is contrary to the public interest. The CFTC hasn't done that, and so that is why—

Mr. COSTA. Don't you think the statute expressly prohibits event contracts based upon war, terrorism, assassination, gaming, or activities that are otherwise illegal under Federal law?

Mr. SCHWARTZ. No. It is a yellow light rather than a red light and delegates to the CFTC to deal with individual cases.

Mr. COSTA. What courageous actions are you taking on a yellow light?

Mr. SCHWARTZ. Well, the CFTC has the authority to take a look and see if it is contrary to the public interest to have that trading on an exchange.

Mr. COSTA. In that light, do you think Congress did not intend to allow companies to offer products that led individuals to bet on sporting events?

Mr. SCHWARTZ. It certainly indicates a concern.

Mr. COSTA. It is a concern, but what are we doing about it?

Mr. SCHWARTZ. Well—

Mr. COSTA. I mean, let me give you some examples, and I would ask others to participate in this if you care to. Six hundred and fourteen million dollars have been bet on who will win the Super Bowl. I like football, but I don't think that that is the business that the Commission ought to be engaged in, \$13 million how many tweets Elon Musk will make in the month of December—I don't give a damn, frankly, but I don't think it is a part of your jurisdiction—or \$34 million whether the United States will attack or bomb Venezuela. My gosh. I mean, what is this about? Three million whether Russia will conquer Ukraine or a city in Ukraine?

I mean, news often makes this sound like what is happening in that part of the world with regards to the war, gambling on life and death on Ukrainian or on the battlefield is rife with conflicts of interest. Where in the hell are we going with this?

Mr. SCHWARTZ. Well, I will leave the policy questions to policymakers. I think I won't quibble with anything that you said.

Mr. COSTA. I mean, we are gambling on tragedy and death.

Mr. SCHWARTZ. No, the concern is very, very valid.

Mr. COSTA. The industry has gone more than \$2 billion. I find this exasperating. Every single month, and there is no oversight?

Mr. SCHWARTZ. The CFTC has not taken any action.

Mr. COSTA. Well, what about states that are trying to enforce their own laws?

Mr. SCHWARTZ. That is an important separate issue, I think. To my mind, I don't have any doubt that these products meet the definition of *swap* and are within the CFTC's exclusive Federal jurisdiction. I don't think Congress intended state gambling regulators to be having a say on what is allowed to trade on a designated contract market. That is separate from the policy question.

Mr. COSTA. But by expressly refusing to bless contracts that, effectively, let people bet on sports or other jurisdictions, you are either blessing or not those who want to ban sports betting.

Mr. SCHWARTZ. I won't quibble with that statement either.

Mr. COSTA. Well, it just seems to me that we are not doing our job. My time has expired, Mr. Chairman, and I would like to get, obviously, other members of the panel to comment on this, but I think this is a serious issue that we are overlooking at this point in time. And I will submit other questions in the future, but I think

this is that we need to drill down on. Thank you very much for the time.

The CHAIRMAN. I thank the gentleman.

Mr. COSTA. My time has expired.

The CHAIRMAN. I thank the gentleman. I now recognize the gentleman from California, Mr. LaMalfa, for 5 minutes.

Mr. LAMALFA. Thank you, Mr. Chairman. I appreciate it. Thank you, Mr. Thompson. I just wanted to pick up on that topic with how is it in the bailiwick of CFTC that we would—farmers obviously rely on the futures markets in many, many aspects. So, sports betting is somehow being defined as being in the *bailiwick* of CFTC. We are talking about—they are being called *trades* when it is just flat-out gambling in this gray market area. So, with farmers needing this help, needing this ability to have trades and have CFTC's attention, that with more and more time being devoted towards, basically, being a Federal gambling regulator. And anybody on the panel who wants weigh in on this, maybe especially Mr. Schwartz, Ms. Stump, does CFTC have the capacity under its current budget staffing and regulatory authority to be overseeing so-called markets offering betting on these sports events and other casino-style games?

Mr. SCHWARTZ. Well, as I have said, I don't think the CFTC has adequate resources now.

Mr. LAMALFA. Yes.

Mr. SCHWARTZ. So, expanding its remit without expanding its capacity is not helpful.

Mr. LAMALFA. Ms. Stump?

Ms. STUMP. So, this provision was included in the Dodd-Frank Act. At that time, there was very little interest in these sorts of event prediction market contracts.

Mr. LAMALFA. How long ago was that?

Ms. STUMP. I am sorry?

Mr. LAMALFA. How long ago—how long ago was that?

Ms. STUMP. 2010.

Mr. LAMALFA. Yes. Okay. No, it is skyrocketing, of course, yes.

Ms. STUMP. These markets have developed since then, but nonetheless, the CFTC is tasked to oversee these types of prediction markets to the extent that they are put on a CFTC regulated exchange. The CFTC wears so many different hats, and to Mr. Schwartz's point, they often find themselves switching gears on a fairly frequent basis, whether it is dealing with position limits in the ag markets, or wagering, if you will, on an event contract market energy, disruptions. There is no way for the CFTC to know when they get to work on any given day what they are going to deal with.

Mr. LAMALFA. Yes. Look, it is fair to think of energy and, of course, agriculture as a commodity and a market for it, but, basically, gaming/gambling within that purview just seems kind of absurd to me. We have other entities that should be really having the responsibility, whether it is state-level gambling commissions or the Indian gaming regulatory, anywhere else seems like, especially with the workload you would have. And me being from agriculture and this being the Agriculture Committee, as important as it is for stability and agriculture and those options, what—shouldn't this

responsibility be shifted elsewhere where it would be more appropriate?

Ms. STUMP. I can only speak to—I will leave the authorities and their allocation to Congress. I can only speak to the fact that the statute currently provides the CFTC with a review of these contracts.

Mr. LAMALFA. Would your workload be easier if it didn't have this portion, or would CFTC's—

Ms. STUMP. The workload?

Mr. LAMALFA. Would CFTC's workload be easier and more focused if it didn't have this area to oversee, especially not in 2010, but in 2025?

Ms. STUMP. Well, the workload would certainly be less.

Mr. LAMALFA. Yes.

Ms. STUMP. That said, I actually think the culprit here is the fact that when the CFTC wrote this rule in 2011, that it didn't sufficiently take into account the public interest determination that is required by the statute.

Mr. LAMALFA. Interesting. Do you want to expound on that a little bit more?

Ms. STUMP. Sure. The way the statute's written, in my opinion, is that the agency is tasked to make two determinations. One is a threshold question—are any of these contracts one of those five enumerated things, including gaming—and then subsequent to that, they may make a determination that the contract is not within the public interest. When the agency wrote the rule—

Mr. LAMALFA. I think that is a key point, the public interest. What is the public interest in this portion?

Ms. STUMP. I completely agree with you.

Mr. LAMALFA. Would it be better off in a completely different entity that is much more specialized, or experienced in, basically, online gambling? So, with that, I appreciate it. Mr. Chairman, thank you for the opportunity, and I will yield back.

Mr. JOHNSON [presiding.] Ms. Salinas, you are recognized for 5 minutes.

Ms. SALINAS. Well, thank you, Mr. Chairman, and thank you to our Ranking Member, and thank you to our panelists for being here today.

The Trump Administration has nominated a chair for the CFTC, but has not moved to fill the remaining seats, and even as industry and consumer advocates warn about emerging risks in some of these emerging markets: crypto, the growth of prediction markets, and rapid technological advancements. Given the President's lack of urgency in filling these remaining seats, his own personal financial interests related to cryptocurrency and the increasing complexity of the CFTC's regulatory responsibilities, I have serious concerns that the Trump Administration is purposefully handicapping CFTC's capacity. For the whole panel, how does leaving the CFTC without a full board in combination with the mass firings the Administration has undertaken weaken enforcement, and does it create opportunities for bad actors to slip through the cracks?

Mr. SCHIFFRIN. I think absolutely, as I said in response to Ranking Member Craig's question. I think if you don't have a CFTC that

not only has the resources that it needs, but that has a full complement of Commissioners, it is not going to be able to do its job. It is not going to be able to do the job that it has traditionally been asked to do, and it is not going to be able to do the job that it is increasingly asked to do in new and evolving areas. And so, you need the CFTC not just to have, as I talked about before, a fully—a fully funded agency, but you have to have a full complement of Commissioners.

Mr. SCHWARTZ. I will answer by saying that in my experience at the CFTC when the Commission was at full capacity, when it had Commissioners with different expertise, balanced expertise like the statute requires, opposing views, it was a strength for the Commission to be able to deliberate with perspectives that come from those places.

Ms. CRIGHTON. FIA believes a full Commission is important, and it is good for market safety and soundness.

Mr. PROSSER. One of the benefits of having a full Commission is the diversity of viewpoints that all the Commissioners bring. And obviously, I am a little selfish in this side; but, as we bring on a full Commission, we would certainly hope that one of them would be deeply involved in agriculture and agriculture's issues, and be able to stand out and support us in those. So, we continue to say that we want a fully funded, a fully staffed CFTC, and that is certainly one of the reasons why.

Ms. SALINAS. I share your concern, Mr. Prosser. Ms. Stump?

Ms. STUMP. I agree with everything that has been said. I was very fortunate when I was a Commissioner to serve with four other individuals that were willing to come to the table and not only negotiate, but listen, and that is the important point. Many different viewpoints, many different backgrounds is critical, but also a willingness to work together and deal with very challenging issues.

Ms. SALINAS. Thank you. As we, Members of Congress, consider reauthorizing the CFTC, it is critical to remember that the Commission is the only Federal financial regulator funded solely, as you mentioned, Ms. Stump, through the appropriations—through annual appropriations because it has been reauthorized since 2008. This is the case despite massive market growth in swaps, crypto—we have been talking about this all morning—prediction markets, as well as emerging technological risks. Markets are getting more volatile, financial fraud is getting more sophisticated, and yet the Trump Administration is pushing a deregulatory agenda while Congress allows the CFTC to operate without a modern reauthorization. So, for, again, the whole panel, can you speak to the risk that is posed by the CFTC continuing to operate in a rapidly changing financial landscape without a reauthorization, and how are our growers being affected by this?

Ms. STUMP. I will just briefly say that I think it is necessary to reauthorize the agency for the very reasons you outlined. There is a tremendous amount of market evolution that has occurred since 2008, and just for frame of reference, I worked on that bill, and I had a child who was 2. He is now in college.

[Laughter.]

Ms. STUMP. So, I would just say that I do think it is a worthwhile endeavor for the Committee and Congress to consider reau-

thorization—reauthorizing the agency with updated, current parameters.

Mr. PROSSER. I think from the end-user community, the idea, and Dawn said this in her remarks, the certainty that reauthorization brings matters. And that is really, from our perspective, is knowing that they are going to be there, knowing that they are going to be the referee matters to the end-user community.

Ms. SALINAS. Thank you, and my time has expired. I yield back.

Mr. JOHNSON. Mr. Scott, you are recognized.

Mr. AUSTIN SCOTT of Georgia. Thank you, Mr. Chairman. Ms. Stump, you have already talked about how important it is for the Commission to engage in research activities. We have had some discussion about technology and how fast those advancements are moving. What are the challenges or impediments to the Commission best fulfilling the mandate that they have to promote responsible innovation?

Ms. STUMP. Thank you for the question. Yes, I think Congress had the foresight in 1974 when the agency was created to include in the statute a research and information program. I would say that that language is slightly outdated now and could benefit from an update. I mean, things—technology was very different in 1974 and the task was very different in 1974, so to the extent that the Committee would update that, I think that is worthwhile.

Mr. AUSTIN SCOTT of Georgia. Yes.

Ms. STUMP. As to impediments, there have been occasions when the agency would have benefited from obtaining information from the private-sector because when we talk about technology, the private-sector is where the most beneficial information would be for the CFTC to conduct this research. And there are occasions when Federal procurement laws has prevented them from doing so.

Mr. AUSTIN SCOTT of Georgia. Part of it gets to the definition of a *gift*. We most oftentimes think of a gift as something of a monetary value or a physical item when technology—the definition there. And so, I want to move to you, Mr. Schwartz. My colleague, Congresswoman Kristen McDonald Rivet, and I, we introduced the CFTC Research and Development Modernization Act (H.R. 6598, Commodity Futures Trading Commission Research and Development Modernization Act of 2025) to rewrite the CFTC's mandate for research and development activities. Specifically, it modernizes and, hopefully, will future proof the Commission's research and development mandate and provide an opportunity for the Commission to create a new research and development plan. How might clearer requirements, definitions, and authorities around this mandate improve operations of the Commission?

Mr. SCHWARTZ. Well, to pick up on something that Commissioner Stump said, the language is 50 years old now, and it authorizes or directs the Commission to have a research and information program about things like determining the feasibility of using computers for trading. You know, I think we are all satisfied that it is feasible. The Commission has moved on.

[Laughter.]

Mr. SCHWARTZ. But it would be helpful to have a clear mandate to tell the—look, the Commission would always rather have clear direction from Congress to execute rather than to set the mission

for itself and make sure that it doesn't cross any lines. The appropriations issue is very, very important, so I think all involved would appreciate that kind of legislation.

Mr. AUSTIN SCOTT of Georgia. So, I will stay with you, Mr. Schwartz. No other regulator currently exercises authority over entities registered with the Commission, such as futures exchanges, clearinghouses, or FCMs, for activities subject to the Commodity Exchange Act. If a state regulator were able to unilaterally determine that a transaction was subject to state law, what would be the consequences of state regulators also exercising concurrent jurisdiction over an exchange, a clearinghouse, or an FCM for that transaction?

Mr. SCHWARTZ. That is a question that was asked back in 1974, and Congress answered it with exclusive jurisdiction for the CFTC. You would have a patchwork, and that is probably too generous, of 50 states and the District of Columbia regulating activities that occurred on, for example, the designated contract market. I don't think it is workable.

Mr. AUSTIN SCOTT of Georgia. All right. Those are my questions, Mr. Chairman, and I will yield the 1 minute and 5 seconds back. Thank you.

Mr. JOHNSON. Very good. Mr. Scott banks the 1 minute for future use in some future hearing, and with that, the good gentleman from Illinois, Mr. Jackson, you are recognized.

Mr. JACKSON of Illinois. Thank you, Mr. Chairman. Thank you, Ranking Member. Once again, I would like to follow up on the earlier discussed question on the unique features of the agency being the only U.S. financial regulator that is not funded directly by the industry that it oversees, and there is this explosion now going on in sports betting. I am very much concerned about the susceptibility of the young people to these market conditions.

So, over the last decade, we have witnessed the explosion in legalized sports wagering, an industry that has grown faster than many of our traditional financial markets. And we know whenever capital, technology, and human behavior converge at this speed, history teaches us that risk accelerates also. In finance, we would call this a systemic creep. This isn't where we want to go, but this is where we can unintentionally end up, the danger that small, unregulated activities aggregate into a structure capable of inflicting broad harm. We call these young persons students and athletes, but after the gamblers and other people surround them and prey upon them, then they are cast aside as adults and have to fend for themselves. And considering that the sports is gaining money and, at the same time, the President is reducing the oversight when there is more profitability, this is an open question.

Probably starting with you, Mr. Schwartz, do you think the Administration is going in the right direction having reduction in enforcement of 20 percent for oversight, at the same time there is more money, more profitability available? Will this create more harm for students or more safety?

Mr. SCHWARTZ. Well, I certainly share your concern about young people. I have my 15 year old behind me here in the audience today, and if I find out that he has been betting on sports or taking

positions on a futures exchange, I am going to take away his phone.

[Laughter.]

Mr. SCHWARTZ. So, I think it benefits everybody to have a strong enforcement program, not to turn against my son, but against the actual wrongdoers, and I don't think that the—I think most parts of the private-sector would agree. It depends on who the enforcement program is looking at, but that is a very important aspect of what the CFTC does.

Mr. JACKSON of Illinois. Mr. Schiffrin, and I would ask that to you. Is the Administration going in the right direction in asking for reduction, and the agency has no means by which to generate funds to safeguard the protection of students?

Mr. SCHIFFRIN. Thank you for the question. As I said earlier, no, I think it is the wrong direction. I think the funding for the CFTC needs to be increased, not decreased. I also think that it needs to be increased so the CFTC can focus on its core mission. I am not sure that the Commodity Futures Trading Commission is the right regulator to regulate what is, essentially, sports gambling. And so, we want to see if—but if it is going to be forced to do that, it needs to have way more funds than it has currently.

Mr. JACKSON of Illinois. Okay. And today, as we—look, the danger is not theoretical. The decisions that this body will make will have long-lasting impact. It is already pressing against the lives of young people. Many of these NCAA students are students that are able to make more money than professors. Students, the ones that went to college are being preyed upon. I would ask that to you, Mr. Prosser. What should the agency ask for, for funding, if you have an opinion that, sir.

Mr. PROSSER. I don't have an opinion on funding, and I can say that from our side, as we look at all the new innovations that are happening, it is not really our place to say whether it is good or bad. But I think that it is better to have that debate with a fully funded, fully staffed Commission in place to make sure that all of the participants get to have input and then to have a decision rather than to do it in a vacuum.

Mr. JACKSON of Illinois. Thank you. I will ask that of Ms. Crighton, please.

Ms. CRIGHTON. Thank you. I will echo Mr. Prosser's comments. I am not a lawyer, but I am a risk manager. So, two places that I would encourage, not only Congress, but the CFTC to focus on is the risk management framework that will and, ultimately, potentially apply to these contracts when one is thinking about segregation of default funds. So, where there is an intersection of these new products with more traditional products and end-users, we have to think about the segregation of default funds to protect those communities from one another and insulate them from each other. And I would also encourage everyone to think about the impact of direct clearing. By removing intermediaries, by removing, in particular, the asset segregation and customer protections that we provide, and when they go directly to the clearinghouse, many of those protections go away. So, there are kind of two very practical considerations that should be part of this as well.

Mr. JACKSON of Illinois. Well, I have exceeded my time. Ms. Stump, I wish I could have gotten to you as well. Maybe next time. Mr. Chairman, Ranking Member, I yield back, but there is a fine line between the fandom—the speculation and the coercion are now blurred at an accelerating speed. I hope that we fully fund this, and I strongly disagree with the Administration in cutting back funding for oversight.

Mr. JOHNSON. Mr. Jackson yields back. Thank you, sir. The chair is recognized for 5 minutes.

I have been heartened by how many of my colleagues on both sides of the aisle have emphasized the need to reauthorize the CFTC, and, of course, thanks to all of our witnesses for so eloquently explaining why that matters. Of course, it is not just people in this room who agree. In fact, National Grain and Feed has asked me to submit for the record a statement asking us to reauthorize, and unless there is objection, that will be submitted.

[The statement referred to is located on p. 90.]

Mr. JOHNSON. All right. Ms. Crighton, perhaps a year ago, I submitted a letter to then CFTC Chairman, Russ Benham, asking for them to revisit and strengthen the clearinghouse margin methodology to better support end-users as they do risk management planning and liquidity planning. Give us an update. Where are we at with that?

Ms. CRIGHTON. Thank you for your work on that letter. We greatly appreciate it, and we felt like it sent a strong statement to the Commission to prioritize their focus on margin adequacy. I think as we look to where we are now, unfortunately, we haven't seen as much progress as we would like on behalf of the clearinghouses in terms of thinking about what is an appropriately calibrated risk margin regime. And so, we do think that should be a priority for the incoming chair to focus on the safety and soundness of the clearinghouses and think about kind of making some revisions to what that margin framework is.

Mr. JOHNSON. So, you say we haven't made enough progress. Has substantial progress been made at all?

Ms. CRIGHTON. In short, no, and I think as we continue to live through various events that have created market volatility, we see what the impact of that is. And so, in many perspectives, you would say we withstood recent volatility quite well, we are not aware of any defaults as part of the ecosystem. But what ultimately happens when we see margins go too low in times of low volatility and we enter into a period of intense volatility, not only do we create a scenario where we have large increases in initial margin that is required, we have a requirement for a significant amount of variation margin or mark-to-market that is required on behalf of the community to post. And so, what that means is it actually undermines the credibility and, ultimately, the capacity that we are all willing to stand in and provide, and so that becomes an important topic. It kind of ultimately feeds to the conversation that we have been having with the end-user community, so not enough progress.

Mr. JOHNSON. Yes. Thanks very much. Mr. Schwartz, I thought your testimony was excellent in at least a couple of different ways. I think you did a good job reminding all of us that despite these

many market shocks in the last years, the stuff that the CFTC has within their jurisdiction held up pretty gosh darn well. I also liked how you talked about the diverse expertise that exists within the Commission. You also mentioned, at least in your oral testimony, that your main concern was you were concerned that they don't have enough resources, so talk to us a little bit about the expertise within the agency. Are there particular areas where you think there is a deficiency, and do you get the sense that the Commission has a plan to address that?

Mr. SCHWARTZ. I will just say that it is impossible for any one Commissioner or chair to have a balanced expertise in all of the areas that I listed. So, I am not going to pick apart the knowledge of any one individual, but it needs to be broader because the markets are extremely broad. It touches, again, as I said, many, many areas of our economy, probably more than any other regulator, so you have to make sure that the Commission has the expertise the statute requires, and you ought to make sure that it is adequately staffed because the shedding of staff has not just been numbers. It has been some of the most experienced and knowledgeable people at the agency, and I don't know how you address that, but it is going to be important to get people with talent and education and experience into those positions, certainly before crypto legislation comes out and while the markets are expanding in some of the ways we have discussed.

Mr. JOHNSON. Sure. Commissioner, I have always understood the power of the self-certification process, which I think helps to balance the outside expertise, the innovation you talked about, as well as leveraging the expertise inside the agency. Do we feel like that is holding up well here in the longer haul?

Ms. STUMP. Well, I am a huge proponent of the self-certification process. I do know that, well, I will start by saying that without the self-certification process, the task that Congress has given the agency to promote innovation might be hindered. The self-certification process permits a more expedited process for various new products to come to market, but I would also like to take the opportunity to dismiss the fallacy that this sort of a process is without any oversight. Certainly, with the vast number of new products that are coming to market currently, there is a lot of work for the agency to do, but they have to do this through examinations. They have to do rule enforcement reviews of any of the entities that are—

Mr. JOHNSON. Sorry. I need to give myself the hook, Commissioner.

Ms. STUMP. That is okay.

[Laughter.]

Mr. JOHNSON. If you would be willing to submit any other comments for the record, that would be wonderful. Thank you.

Ms. STUMP. Great.

The CHAIRMAN [presiding.] All right. I am now pleased to recognize the gentlelady from Ohio, Ms. Brown, for 5 minutes.

Ms. BROWN. Thank you, Mr. Chairman. The Commodity Futures Trading Commission was created 50 years ago to ensure that farmers, ranchers, and energy producers, and manufacturers could rely on fair, transparent markets to manage risk. For decades, that

meant corn, soybeans, cattle, oil, and electricity, markets that affect the price of food on our kitchen tables and gas in our cars, but today the CFTC is being asked to do far more.

In addition to its traditional responsibilities, it is now on the front lines of regulating crypto derivatives, digital commodities, algorithmic trading, and new prediction-style contracts that blur the line between finance and gambling. These markets operate 24/7 across borders and at incredible speed. That means the job of protecting market integrity, preventing manipulation, and safeguarding customers have become more complex and more demanding than ever before. At the same time, the agency is expected to oversee hundreds of trillions of dollars in futures in swaps markets while operating with a Commission that has been reduced to a single sitting member and a budget that is a fraction of the size needed to keep up with the market policies. That imbalance should concern all of us because when markets move faster than the regulators, everyday people are often left to pay the price. We have seen what happens when financial innovation outpaces oversight or when Congress leaves regulatory gaps: a global financial crisis. We cannot afford to repeat those mistakes in crypto or prediction markets.

So, Mr. Schiffrin, the CFTC regulates traditional agriculture energy markets and emerging areas, like crypto and prediction-style contracts. It is operating with just one Commissioner and a relatively flat budget. What specific new resources, staffing, technology funding, or enforcement authority must Congress authorize in order to prevent the agency from putting consumers and producers at risk?

Mr. SCHIFFRIN. Thank you for the question. Congress simply needs to ensure that if the CFTC is going to be tasked with not just fulfilling its traditional responsibilities that you mentioned, ensuring that the prices of commodities are fair and are set by supply and demand, but also take on the responsibilities for things like crypto and prediction markets, it has the resources it needs to properly oversee those markets, and that would require tremendous new sources of funding and staffing. And one of the reasons for that is because, as you kind of alluded to, traditionally, the CFTC has been focused on markets that have sophisticated institutional players, but the products—the new products that you are talking about are really geared towards retail investors, and the CFTC has not traditionally had a focus on protecting retail investors. And so, if that is going to now be its focus, it needs to kind of have the resources and staffing to shift its focus.

Ms. BROWN. Thank you, and, Ms. Crighton, what are the risks to clearinghouse stability today if the agency staffing and resources do not grow alongside its mission?

Ms. CRIGHTON. Thank you. From a risk management perspective, we are incredibly focused on what is the framework that these contracts may be margined under and how are—all of the financial resources that are at the clearinghouse, how are they brought to bear in the event of a default or an extreme stress situation. So, one of the things that we want to make sure is that we are thinking about, particularly on clearinghouses where there is an intersection of end-users as well as retail investors in these event-type con-

tracts, that we are thinking about segregating the default fund and segregating the resources that backstop those contracts. And we think insulating those two very distinct pools of risk is an incredibly important step.

Ms. BROWN. Thank you, and back to you, Mr. Schiffrin. What are the risks to market stability, rulemaking legitimacy, and enforcement credibility when an agency overseeing hundreds of trillions of dollars is operating with only one sitting Commissioner?

Mr. SCHIFFRIN. Well, as was referred to earlier, right, if the CFTC can't act through regular order, it is going to be harder for it to fill its role of, essentially, being the cop on the beat, right? That is what we are talking about. We are talking about the CFTC policing the derivatives markets, and if there is just one Commissioner and not a full complement of Commissioners, and there is no bipartisan discussion and the CFTC doesn't have the resources that it needs, it is not going to be able to fill its cop-on-the-beat function.

Ms. BROWN. Thank you so much. Reauthorization is not just about keeping the lights on. It is about making sure the CFTC actually has the tools, the staffing, the leadership, and the funding to do the job Congress expects of it. If we expand the CFTC's mission without expanding its capacity, we aren't strengthening oversight. We are weakening it in ways that will be felt by farmers, consumers, and everyday families, and with that, Mr. Chairman, I yield back.

The CHAIRMAN. I thank the gentlelady. I now recognize the gentleman from Indiana, Mr. Baird, for 5 minutes.

Mr. BAIRD. Thank you, Mr. Chairman, and thank you, Committee Members and witnesses, for being here.

It is really helpful to have the expertise that you possess to share with us so that we can make better decisions about whatever it is we are talking about, in this case, the CFTC reauthorization. So, I am going to start off, Mr. Prosser, with the idea that you mentioned: real-world uncertainty in the soybean oil market due to delayed Federal guidance on the biofuels policy. So, how does regulatory uncertainty, whether it is the EPA, the Treasury, the lack of CFTC reauthorization, how does that translate into volatility and increased risk for farmers and other commercial end-users?

Mr. PROSSER. Markets are pretty good at pricing risk, and uncertainty increases risk, and that price flows through to either the consumer or the producer. If you take the biofuels policy and the different contortions that we have had trying to get it started and un-started and reauthorized, and we are going through a process now at the EPA to try to finalize it, all of those, as we try to determine the possibility of it happening or not happening, needs to get priced in these markets. And I think that has been a really interesting experiment in how these markets work.

As we get more certain, we throw those prices—that we can actually pay more to the farmer and sell products cheaper than when the process is more uncertain. And, certainly, the political process we have gone through around renewables has created uncertainties that have thrown soybean oil markets, soybean meal markets, and, to some extent, soybeans kind of in that arena where uncertainty was priced in a negative way.

Mr. BAIRD. Thank you. Anyone else have a comment in that regard about the soybean oil?

[No response.]

Mr. BAIRD. If not, my next question goes to Ms. Stump. Drawing on—you have a lot of experience both in and out of commodity futures trading. And so, drawing on your work during the financial crisis and the implementation of Dodd-Frank, what lessons should Congress keep in mind as it approaches this as we approach this reauthorization?

Ms. STUMP. Having worked on the legislative side during a crisis and during a time when we didn't have a crisis, I think the policy outcomes are much better when you adjust the Commodity Exchange Act outside of a crisis environment. Oftentimes, during the development of Dodd-Frank—and I am not suggesting that there weren't great changes made in the financial crisis in response to what was going on, but it is very challenging to legislate in the midst of a crisis. We would be far better served to address changes to the Commodity Exchange Act before the event of a crisis.

Mr. BAIRD. You mentioned in your testimony a new product and technology that may already be in development around the world. What emerging risks should Congress be thinking about now before they come into the market?

Mr. SCHWARTZ. I think the self-regulatory model that the Commodity Exchange Act established is very helpful in this regard because as new challenges come over the horizon, the Commission has the ability to deal with them quickly and flexibly, and it is not constrained by the same kinds of rigid rules that other regulators might be. And so, it doesn't have to rigid rules can lead to loophole-seeking behavior and just kind of hinder the agency from reacting quickly. So, I would just urge Congress to consider the importance of the principles-based regulations, self-regulatory model that the Commission has, and allow the markets to develop in an innovative way, but also not handcuff the agency from addressing issues as they arise.

Mr. BAIRD. So, thank you. And we have about 25 seconds left, so the other two that I haven't got to, I would like to have a chance to talk to you, but do you have any comments to add? You got about 16 seconds now.

[Laughter.]

Ms. CRIGHTON. Maybe I will just add, I agree. I think there are a significant amount of merits to the self-certification model, but I think given the number of new products that are coming to market, it is worth taking a closer look at that.

Mr. BAIRD. Thank you, and I yield back.

The CHAIRMAN. I thank the gentleman. I am now pleased to recognize the gentleman from Alabama, Mr. Figures, for 5 minutes.

Mr. FIGURES. Thank you, Mr. Chairman and Ranking Member. Thank you to all the witnesses for sitting through this. Normally when you see me, it means that you are very close to the end, but given the participation today, that may not be the case as Members come back and forth, so I apologize if I am not near the end.

But, look, it has been hit on pretty regularly here today and pretty consistently in terms of the staffing challenges, in terms of the overall Commission, the current structure of the Commission there

being down to one Commissioner. And I just want to go down the line and just, in light of CFTC's expanded jurisdiction that we are considering here, expanded crypto market participation, do we think that given recent reductions in force that we have seen, given the overall staffing situation at the Commission currently, do we think that the Commission is best set up for success given the current status of staffing and the Commission structure where we currently are? And we can just go down the line. Ms. Stump?

Ms. STUMP. Well, I am not familiar with the specifics of their staffing needs. I will leave that to the current Commission, but I will say the CFTC has always punched above its weight, and I am certain that they will continue to do so.

Mr. FIGURES. Mr. Prosser?

Mr. PROSSER. One Commissioner is not enough. We need a full Commission with all their various backgrounds and interests, and especially in these markets that continue to evolve and innovate. But we would continue to encourage—even though the political process goes through—however it needs to happen, we need to get the Commission fully staffed. And again, I would repeat the idea that we would like some of those to have an ag background.

Mr. FIGURES. Ms. Crighton?

Ms. CRIGHTON. Thank you. Yes, FIA supports a fully staffed and resourced Commission. We think the diversity of expertise, the diversity of opinions, the durability of the policy that it will create is incredibly important for safety and soundness.

Mr. SCHWARTZ. Yes, I will add that a fully staffed Commission is not important merely to restrain activity in the private-sector, but I know that people in the private-sector are concerned about things like getting new exchange applications approved and getting new clearing applications approved. And without the right staff, that it is simply not going to be doable in an orderly or timely fashion.

Mr. SCHIFFRIN. It would be impossible for the CFTC to adequately regulate the crypto markets, the prediction markets, and the traditional derivatives markets with the funding and staffing it has now. And I also think not only is a full complement of Commissioners important for bipartisanship, but it is important for the diversity of views, even if you are putting bipartisanship aside, right? As was alluded to earlier, if you just have one person, that person can't possibly have expertise in all the different areas that the CFTC has to oversee. So, putting aside bipartisanship, you need at least more than one Commissioner to get all those views in the building.

Mr. FIGURES. Yes, and, Mr. Schiffrin, are we in a ticking-time-bomb situation given the current staffing in your view, or can things be sustained, but we are going to hit a cliff at some point?

Mr. SCHIFFRIN. No, I think it is a disaster waiting to happen.

Mr. FIGURES. Thank you. And also, on the accessibility standpoint, and, I mean, accessibility through the lens of who can actually participate in and benefit from the markets that CFTC oversees. And for many rural farmers and small producers, including those in states like Alabama that I represent, broadband limitations make it incredibly difficult, sometimes impossible, to access pricing tools and education, risk management platforms, or even

basic agency information, and these producers rely on future markets the most, yet they face some of the steepest barriers. Ms. Crighton, with the current staffing, shrinking outreach capacity, technology deficits, does CFTC currently have the resources necessary to improve accessibility of those sort of educational materials, complaint systems, market information for customers with limited broadband access?

Ms. CRIGHTON. I would say I have less of a view on that, but what I can offer in terms of follow-up from here is both resources from an FIA and Goldman Sachs standpoint. Goldman Sachs has been investing heavily in rural communities, and we would love to follow up with you on that.

Mr. FIGURES. All right. Thank you.

I yield back, Mr. Chairman.

The CHAIRMAN. I thank the gentleman. I now recognize the gentleman from Indiana, Mr. Messmer, for 5 minutes.

Mr. MESSMER. Thank you, Mr. Chairman, and thank you all for taking time to highlight the importance of the CFTC this morning.

Earlier this week, the President, alongside Secretary Rollins and Bessent, announced bridge payments to our farmers that, while this assistance is what the producers in my district need to stay in business next year, they are the first to say they would never have wanted to take these payments. American farmers would rather rely on healthy markets that honor their investment rather than have to accept Federal *ad hoc* assistance. Mr. Prosser, you shared the American derivatives markets are a vital tool for farmers in risk management of their operations. From your perspective as a commercial end-user, could you further explain the role of futures and option markets in helping agriculture producers plan and manage seasons of market volatility and shrinking margins?

Mr. PROSSER. For the end-users, the derivatives markets, again, are not an opportunity to speculate. We use them as risk-aversion tools. When a farmer asks us to buy his crop, we will offset that risk in a futures market, therefore, stripping off what is a flat price risk and a basis risk or a freight differential to the delivery point. This allows us a lot more capacity because we are not taking the whole price risk. It allows us also to weather extreme price events, whether that be geopolitical or weather. The idea of having a functional derivative market in those ag commodities allows the whole industry to price farther out with more capacity to provide more price certainty, not just for farmers, but for consumers.

Mr. MESSMER. Okay. Thank you. Certainly, it is important for farm operations, as any other—certainly it is important for farm operations, as far as any of the business. Earlier this year, the Committee spent months working on the CLARITY Act to provide regulatory certainty for innovators in digital asset space. Mr. Prosser, you highlighted the importance of protecting the marketplace for our farmers, while also incentivizing innovative technologies to establish roots in America. Could you speak to the CFTC's unique role in ensuring that there is both fertile ground for new industries to innovate and stable footing for commercial hedgers?

Mr. PROSSER. I think that we are most interested in the regulatory environment that we have for our traditional markets and

protecting those to be open and transparent. There is going to be a debate about where this new innovation is going and how it is going to be regulated. And our initial interest is in making sure that those two Venn diagrams don't necessarily intersect or the direct—or the amount that they intersect is limited to the part of the industries that work. Where am I trying to go?

So, the one in the back of my mind is 24/7 trading: 24/7 trading might be absolutely adequate for some of the new innovations. We don't believe it works for our traditional markets. Again, the derivative markets or derivative cash markets, our cash markets don't trade like that. It creates holes in liquidities. So, having a fully funded, fully staffed CFTC would allow us to come to our regulator, lay out the reasons why certain things that might work for crypto or events don't work for the traditional markets, and hopefully we keep the regulatory regimen the same for the traditional markets we have today.

Mr. MESSMER. Thank you. The CFTC's work provides a foundation for the entire fabric of an American industry. Unfortunately, the absence of a reauthorization package—some of the Commission's regulations have grown stale. In fact, Representative McClain Delaney and I just introduced the CFTC Charitable Organization Exemption Act of 2025 (H.R. 6655) to address regulatory issues at the CFTC that has unnecessarily plagued our churches for decades. Although the fix has been approved by this Committee three times and passed the House floor twice, failure to reauthorize the CFTC has kept the solution from being implemented, exempt our churches from regulation. Ms. Stump and Mr. Schwartz, I know there are other similar issues impacting other industries that could be addressed through a simple reauthorization of the Commission. How important is it that we reauthorize the CFTC, not just fund it, to bring substantive improvements to a variety of industries?

Ms. STUMP. I think it is very important. I think that there are a number of things since the last reauthorization that warrant improvement—*refinement* is the word I would use—and this is the opportunity.

Mr. MESSMER. Okay. Thank you.

Mr. SCHWARTZ. I would just add quickly that I don't think churches and universities need to be regulated as commodity pool operators, so I think we are in agreement on that.

Mr. MESSMER. Okay. Thank you. I yield back my time.

The CHAIRMAN. I thank the gentleman. I now recognize the gentleman from California, Mr. Carbajal, for 5 minutes.

Mr. CARBAJAL. Thank you, Mr. Chairman and Ranking Member. Thank you to all the witnesses for taking time to be with us today.

Mr. Schiffrin, my office has been hearing increased concerns surrounding online betting. Stakeholders have warned that this emerging unregulated gambling industry, also known as prediction markets, is abusing the CFTC self-certification process and that the Commission has not taken sufficient action to stop illegal futures contracts. Right now, for example, individuals can put a bet on who will win the Super Bowl or whether Democrats or Republicans will take the control of the House of Representatives next November, even though we know who that will be.

[Laughter.]

Mr. CARBAJAL. All these bets are being waged without proper oversight or safeguards in place. We have seen betting scandals in the NBA, MLB, and NCAA where bad actors were discovered as a result of information sharing, monitoring, strict regulations at the state level. However, these same protections are not in place for prediction markets. Given this landscape, do you believe the CFTC has expertise and experience to regulate what is, effectively, a multibillion dollar gambling industry, and how would the CFTC address problem gambling, underage gambling, or cheating under this system?

Mr. SCHIFFRIN. No, I don't think the CFTC has the authority or expertise to regulate sports gambling. It is the Commodity Futures Trading Commission. It is supposed to regulate the derivatives markets, and these event contracts, although they want to call them trading on derivatives, that is not what they are. These are event contracts that, essentially, allow betting on sports. Take tonight's Thursday night football game, right? You can go on sites like Kalshi and Polymarket and, essentially, put a bet on either of the teams, and if the team that you put a bet on wins, you get money. That is gambling, that is sports betting, and the CFTC really has no expertise or authority in that area.

Mr. CARBAJAL. Thank you. Mr. Schwartz, you mentioned in your testimony that during your time at CFTC, you witnessed what happened behind closed doors with Commissioners while they deliberated important questions before the agency. You stated that Democrats and Republicans of good faith would debate, sharpen their own thinking, compromise, and sometimes even convince one another to change their minds. You also pointed out that partisanship should not and typically does not dictate how the CFTC executes its mission. With there being only one sitting Commissioner currently on the CFTC and a growing concern that it could stay that way, do you believe this is creating partisanship within the agency in how it executes its mission, and do you have concerns if it remains with only one Commissioner in charge?

Mr. SCHWARTZ. Well, it certainly diminishes, eliminates the ability to meet, and deliberate, and sharpen thinking and to persuade one another, so I think it is just inherent in only having one Commissioner. I am not going to comment on anybody's partisanship, but there is currently one individual who makes the decisions for the Commission, and it is inevitably going to be that one person's decision that controls, partisan or otherwise.

Mr. CARBAJAL. Thank you. Mr. Prosser, as you likely know, the CFTC has seen a 20 percent reduction in staff. This reduction could impact the agency's ability to execute essential functions of protecting customers/consumers, preventing fraud, and encouraging market efficiency. In your testimony, you mentioned your support for full funding and staffing of CFTC in order for it to keep up with the technological complexity, market growth, and global competitiveness. What current functions and processes at the CFTC are you concerned could be impacted by this reduction in staff?

Mr. PROSSER. I don't have any specifics. The thing that concerns me is markets can be mundane for long periods of time and quickly change, and we don't get to understand when or the magnitude of

those changes until it happens, and having a fully funded, fully staffed CFTC at the ready to for the next inevitable market event is, we think, wise.

Mr. CARBAJAL. Thank you. Mr. Chairman, I yield back.

The CHAIRMAN. The gentleman yields back. I now recognize the gentleman from Alabama, Mr. Moore, for 5 minutes.

Mr. MOORE. Thank you, Mr. Chairman. I appreciate all the witnesses being here today, and I am happy that the Committee is holding a hearing on CFTC's reauthorization, and certainly our desire is that we ensure that CFTC can continue conducting oversight with stability.

Ms. Stump, the CFTC is uniquely positioned to provide robust oversight while also providing cryptocurrencies the ability to operate without over-regulation. How do you see the pending market structure legislation advancing the priority of both conducting the oversight and allowing the market to prosper with cryptocurrency?

Ms. STUMP. Well, when I started at the agency, I repeatedly raised the alarm bells that I do not believe the agency has adequate authority, nor do I think any regulator has authority, to regulate a component of the market which is a non-security spot, and this has become a point that has been raised repeatedly at the agency. The marketplace is desperate to have their product regulated, and so we should meet that with appropriate authority for the CFTC to regulate the spot market outside of the security spot market. I would note that since that time, the agency and the marketplace have found a way to enter the CFTC space for retail commodities in the spot component, but I would also like to note that I don't think that is the cleanest approach, and I think the legislation advancing would be a cleaner authority for the CFTC.

Mr. MOORE. I guess I will ask this to kind of all the witnesses and give you, I don't know how much time I have. I have 3 minutes, so it doesn't give you a lot of time. But the rulemaking effect on agriculture is going to be different for a lot of firms and from the financial institutions, obviously. What is the right balance for the regulatory environment when it comes to rulemaking to protect participants without being overly *prescriptive*—that would be a good word—and what is the right balance in enforcement to weed out the bad actors and not restrict normal market activity? And, Mr. Prosser, if you want to start and we will work our way down, and when I run out of time, I will just throw up my thumb and say, "Okay." Go ahead, sir. Oh, okay. Go ahead, Ms. Crighton. That will be great. Whoever is the expert. I guess you all are. So, Mr. Schwartz, it is down to you now.

Mr. SCHWARTZ. The right balance is spelled out in the statement of purpose in the statute. An illustrative part of that is responsible innovation, and it lists things like market integrity on the one hand, in addition to foster competition is one part of it, but also to protect customers. I think if the agency governs according to the mandate, that it will get the right balance, and I think it usually does.

Mr. MOORE. Very good. Anybody else? I have still got a little bit of time, more than I thought. You all went fast. Mr. Prosser.

Mr. PROSSER. I guess I am just going to—I don't know that we know the right balance. We have been talking about event con-

tracts here, and the example of the day seems to be betting on the Super Bowl. What happens if we had an event contract that bet on the size of the corn carryout?

Mr. MOORE. Yes.

Mr. PROSSER. Then all of a sudden I might be interested as a traditional end-user. So, the balance and where we go with the regulatory environment, I think these markets will innovate faster than we expect them to, and having a CFTC that is there to meet those challenges is terribly important.

Mr. MOORE. I agree. I agree. Anybody else want to? Mister, is it Schiff? I can't see your name.

Mr. SCHIFFRIN. Schiffrin.

Mr. MOORE. It is at an angle. Okay. Go ahead. Oh, Mr. Schiffrin, go ahead.

Mr. SCHIFFRIN. No, I was just going to say, look, I just think it is important that the rules innovate along with the products. And so, you hear a lot about innovation and new products coming onto the market, and that is all well and good, but if you don't have the rules that innovate along with it, you are going to have fraud and manipulation that doesn't go detected.

Mr. MOORE. Thank you for that. Mr. Chairman, I am out of questions, so I will yield back you, sir.

The CHAIRMAN. The gentleman yields back now. I now recognize the gentleman from North Carolina, Mr. Davis, for 5 minutes.

Mr. DAVIS of North Carolina. Thank you so much, Mr. Chairman, and to our Ranking Member. Mr. Chair, I want to start out by sharing with you, I am from eastern North Carolina, and I believe I heard one of the witnesses today is a dairy farmer in Brooklyn.

[Laughter.]

Mr. DAVIS of North Carolina. I don't know that I have met many—

Mr. SCHWARTZ. Grandson of. Grandson of.

[Laughter.]

Mr. SCHWARTZ. But, yes, there was such a thing until—

Mr. DAVIS of North Carolina. Okay.

Mr. SCHWARTZ. Yes. It has been a while.

Mr. DAVIS of North Carolina. Well, being from rural eastern North Carolina, many farmers operate on thin margins, and often face severe weather and global price shocks. My value here is simple: access to markets must not depend on ZIP Code. So, to the Commissioner, my question would be, what reforms, regulatory or statutory, would reduce barriers to prevent rural, small-scale, or minority farmers from fully benefiting from derivative markets without increasing row type?

Ms. STUMP. I think that the reforms that there may not be any reforms that are necessary. Maybe more direction from Congress in the way of a dialogue. The way the statute is currently constructed, it permits a variety of people to participate in the markets, and it is designed that way very intentionally so that it is not exclusive. Traditionally, the people who have come to the marketplace have been more institutional in nature, but we are seeing an increased participation from the retail community. And the point has been made that maybe that warrants a different conversation about protections, and that may be relevant here, so.

Mr. DAVIS of North Carolina. Thank you. I have been serving as Ranking Member, and we have been navigating this cryptocurrency digital asset space. And my question is for you also, Madam Commissioner, if the Senate and the House actually comes together and we move forward with some sort of regulatory framework agreement providing clarity, what happens if, then, the CFTC is not authorized?

Ms. STUMP. Technically, the authorities continue, the responsibilities of the agency continue, and, as has been apparent over the last decade, the agency operates as it is intended.

Mr. DAVIS of North Carolina. No, I understand it continues, but what is the net effect is what I am getting at.

Ms. STUMP. I think—I think the net effect is that the Commission and the staff are left to make—apply parameters of the Act that may not have been designed with current markets in mind, and so—

Mr. DAVIS of North Carolina. And that leads to my next question then. I mean, we are here having a meaningful conversation, but what steps are currently being taken, regardless of reauthorization or not?

Ms. STUMP. I think the agency, at least when I was serving, we were able to bring in some experts. But, I think the most important thing that this agency does that may be slightly different from other market regulators is we have a constant dialogue with the marketplace, and the point has been made that that is best done when you have a full complement of Commissioners. I would agree. And in the absence of updating the statute, I do think that the market participants should feel that there is an open door at the agency, such that those who are tasked to carry out the Act, even without the benefit of refinements from Congress, can do so in a way that is responding to current situations.

Mr. DAVIS of North Carolina. And my question to Mr. Schwartz, and I do look forward to shaking your hand, too, by the way.

[Laughter.]

Mr. DAVIS of North Carolina. We are here talking about reauthorization of the CFTC. I know there has been a lot of questions regarding the prediction market, but, regardless of all the conversations, I am trying to understand what are the implications in terms of the functions of the agency if there is reauthorization or not with prediction markets.

Mr. SCHWARTZ. Well, like a broken record, agency capacity is very important, but to pick up on something that Commissioner Stump said, this is a statute that is aging and even the parts that were revised in Dodd-Frank. The statutory definition of *swap* includes anything that is or in the future becomes commonly known to the trade as a swap. These sports prediction markets, these sports event contracts are undoubtedly commonly known to the trade as swaps, so the CFTC has the exclusive jurisdiction, but it is obviously something that not everybody—I think that most people did not anticipate the way this would go.

Mr. DAVIS of North Carolina. Well, again, thank you to all the witnesses for being here, and we look forward to continuing conversation. This is a very important topic, as we all know and understand. I yield back, Mr. Chairman.

Mr. JOHNSON [presiding.] And the chair thanks Mr. Davis for his substantial leadership on the Commodity Markets, Digital Assets, and Rural Development Subcommittee. With that, the gentleman from Tennessee is recognized for 5 minutes.

Mr. ROSE. Thank you, Mr. Chairman, and thanks, Chairman Thompson and Ranking Member Craig, for holding this important hearing, and thank you to all of our witnesses for being with us today. Ms. Stump, the Whistleblower Office and the Customer Protection Fund are critical tools for the Commission. Can you briefly describe how these tools help to protect customers in the marketplace?

Ms. STUMP. Yes. The whistleblower provision incentivizes those who may have knowledge of a violation to come to the CFTC. If that information is, in fact, utilized in a material way to bring an enforcement action with a monetary sanction over \$1 million, that money is put in the Customer Protection Fund from which the whistleblower may be compensated between ten and 30 percent of the monetary sanction. At the point which the fund reaches \$100 million, that money then begins to accumulate back to the Treasury.

Mr. ROSE. Thank you. Mr. Schwartz, for the past several years, the Commission's Whistleblower Fund has been in danger of running out of money. Can you briefly describe or briefly explain the issue for us and what the consequences of that might be?

Mr. SCHWARTZ. I will try to be brief. So, the Customer Protection Fund is used for two things. One is to pay whistleblower awards, the second is to fund the Office of Whistleblower, including staff salaries, and it also funds the Office of Consumer Education and Outreach. If you have a—an award, and this has only happened a few times and threat of it has only happened a few times, that would be large enough to deplete the fund down to zero, then you have to furlough the entire staff of the Office of the Whistleblower. So, the office can't function. The program shuts down. The other thing that happens is, typically, the contributions to the Customer Protection Fund are small, so there are these incremental additions that get out of the hole, and especially if you have further debt on a large claim to a whistleblower, it could take forever to get there. So, it is the furloughing of staff and the deeply difficult task of replenishing the fund for other whistleblower awards.

Mr. ROSE. While you were General Counsel, Congress passed legislation to try to address the issue. Please explain the current fix, if you will, and is it sufficient to address this issue for the long haul?

Mr. SCHWARTZ. Well, what it does is it creates a second account that can hold up to \$10 million that can be used to fund the office operations, staff salaries, and the like, so that is good. When these patches exist, they are not under threat of furlough, but Congress has had to do this over and over again, so that is not something that you want to do. I think a permanent fix would be justified, and it also doesn't solve the problem of having to replenish the fund in these incremental amounts.

Mr. ROSE. Any particular recommendations for what the broader fix should be?

Mr. SCHWARTZ. Yes. I think when a large monetary or any monetary sanction that could lead to a whistleblower award is collected, it should—or at least up to 30 percent of it—that could be—the top-level whistleblower award should continue to be accessible to the Commission to use to pay for awards that large so it won't hobble the office.

Mr. ROSE. Thank you, and, Mr. Schwartz, has the—or, yes, Mr. Schwartz. Has the CFTC's expired authorization since 2013 created perceptions of instability that discourage international participants from listing products on the U.S. exchanges?

Mr. SCHWARTZ. Well, I think because of the nomenclature, it probably does make certain people nervous. It certainly sounds like the Commission is about to go out of business, or is more than a decade overdue, so I agree with Commissioner Stump when she said some other way of doing this, it would probably be preferable.

Mr. ROSE. Ms. Crighton, in what ways might foreign regulators exploit the U.S. reauthorization gap to attract swaps in futures volumes, such as through lighter-touch rules on clearing or data reporting, thereby gaining derivatives market share from American firms?

Ms. CRIGHTON. Yes. Thank you. Look, I think we are well regulated in every jurisdiction in which we operate, and we think the system of substituted compliance and deference works particularly well.

Mr. ROSE. Thank you. My time is about to expire. I yield back, Mr. Chairman.

Mr. JOHNSON. The chair threw both Mr. Harris and Mr. Rose for a loop by taking them out of order. The chair begs their indulgence and will provide them both a personalized tour of the world's only corn palace as an apology gift.

[Laughter.]

Mr. JOHNSON. With that, Mr.—

Mr. ROSE. I have already been.

[Laughter.]

Mr. JOHNSON. Yes, very good. Mr. Vindman, you are recognized.

Mr. VINDMAN. Thank you, Mr. Chairman, and thank you to all the witnesses for appearing here today.

So, the thing I hear most from the farmers in my district is that input costs are too high. Costs for seed, fertilizer, repair parts are, frankly, just too high. They have been high for years, and that affects prices at the grocery store. So, my question for each of you, and we can go in line starting from Ms. Stump. I would like to ask each of you, what is the single most important thing that this Committee can do to lower costs for Americans at the grocery store?

Ms. STUMP. Well, that one may be well beyond my expertise, but I will say with regard specifically to the Commodity Futures Trading Commission, I think your oversight is very important to ensure that the markets continue to function in a way that those input provide—those that service your farmers are able to take advantage of the markets to manage their own price risk.

Mr. PROSSER. I think I mentioned earlier that the market prices uncertainty negatively—and I think that the things that the CFTC regulates and the derivative markets which it oversees, particularly in the things that I deal with every day—corn, beans, wheat—

the things that we that—the food and the fiber in the United States, providing certainty in the regulatory environment, certainty for the participants in the market would help.

Ms. CRIGHTON. Thank you. I think to add on from my seat, the focus on margin, particularly a well-calibrated margin regime, is critically important for us to provide the services that we need to—particularly, to the end-user community.

Mr. SCHWARTZ. I will add that in the time of rising prices because of reasons, it would be particularly unhelpful if there were manipulation in the markets that you are describing. So, I think ensuring that the CFTC is able to police effectively its markets, be it the enforcement program or market surveillance, I think that is the kind of thing that the agency can do, and I think that is the capability that Congress should ensure that it has.

Mr. SCHIFFRIN. Yes. The CFTC needs to have adequate resources and staffing to fulfill its core mission, and the Committee needs to ensure that the CFTC's focus is its core mission, which is ensuring that prices for commodities reflect supply and demand, and not excessive speculation.

Mr. VINDMAN. Thank you, and I appreciate that. And I appreciate your comment on predictability, Mr. Prosser, because, frankly, I think one of the areas that we see a lack of predictability is the tariff regime and the effect it is having on farmers in my district and around the country, but I do want to turn my attention briefly to prediction markets and event market regulation. And my question is, are there any topics, and I will start with Mr. Schwartz. Are there any topics that are out of bounds? I mean, ultimately, some people can certainly perceive these as bets on just about everything, like, how many school shootings there might be. As we all know, the President is both aged and infirm. People could be betting on whether he is going to make it through his current term. Are there things that are out of bounds for these markets?

Mr. SCHWARTZ. Well, look, I wouldn't list those contracts if I had a futures exchange. I think it would be helpful if the CFTC has some direction from Congress on this score. It is a delegation to examine topics like that, and if the CFTC is in need of further direction on that point, then I think the policy question has to come back to Congress to resolve.

Mr. VINDMAN. Mr. Schiffrin?

Mr. SCHIFFRIN. I think there are—at least there should be, right? If the statute says that event contracts on things like gaming aren't permissible and the event contracts is listing a bet on who's going to win the football game, it should be pretty easy for the CFTC to say this is not the type of event contract that is permissible. And when Congress was debating Dodd-Frank, Senator Lincoln said exactly that. That is why the language about gaming was included in the statutory authorization because, otherwise, you would have people doing event contracts on the Super Bowl. That is literally the example that was given—one of the examples that was given, and now here we are. And so, I think the CFTC needs to make it clear that that is not appropriate.

Mr. VINDMAN. So, thank you for that, and, obviously, I think this is meant to illustrate the fact that there are and there should certainly be areas that are out of bounds for these contracts. And we

have talked about gambling, we have talked about predictions on some terrible events, and we have a role to play. So, thank you for that, and I yield back.

Mr. JOHNSON. Thank you, sir. Mr. Harris, you are recognized.

Mr. HARRIS. Thank you, Mr. Chairman, and thank you to all the panels for your presence and your expertise today.

As a pastor for the last 36 years, I know firsthand that churches oftentimes operate with very limited administrative resources. And for this reason, many churches and nonprofits use common risk management tools, like swaps, to help manage retirement plans and educational or charitable endowments, providing long-term financial stability for these funds. However, due to the broadened definitions of the Dodd-Frank Act in 2010, these organizations, as you know, unexpectedly found themselves swept into a regulatory category that was never intended for them. And so, Mr. Schwartz, I just want to ask you if you can take a moment to explain how Dodd-Frank's broad definition of *commodity pool* unintentionally swept these ministry and nonprofits into a Wall Street regulatory framework.

Mr. SCHWARTZ. Yes, sir. The definition of *commodity pool* includes any collective investment vehicle. And so, if it were pension plans and other entities that had an interest in the pool like you are describing, it would be a collective investment vehicle that includes *any* one of a series of commodity interests. So, it is a low bar to clear for any investment vehicle like you are describing, and that is how it ended up in that category.

Mr. HARRIS. Okay. Thank you. Well, and the fact is, as I am sure we can all agree, and as already mentioned when my colleague from Indiana mentioned it earlier, church pension plans and charitable endowments are not the same as Wall Street hedge funds and were never intended to be affected by this law. And, Commissioner Stump, during your time as a CFTC Commissioner, did you ever recognize the tremendous burden and uncertainty that these classifications were placing on churches, their retirees, and other nonprofit organizations?

Ms. STUMP. Yes. Actually, when Congress asked us to provide assistance in designing refinements that might be necessary in the context of reauthorization, I believe all of the Commissioners, while we didn't vote on this, we agreed that this was probably an unintended consequence of—and I would just like to point out, again, regulating in the midst of a crisis oftentimes results in these sorts of things. So, it is best to manage these things outside of a time when we are hurried.

Mr. HARRIS. Exactly, and prior to your time as a Commissioner, the CFTC did issue a no-action letter in 2014 offering temporary relief for church pension plans and a 2017 no-action letter offering relief for university endowments, but these letters, of course, can be revoked at any time. So, I guess my question is, in your view, should faith-based nonprofits, which operate on long-term stewardship models, be forced to rely on temporary administrative relief instead of having clear statutory certainty from Congress?

Ms. STUMP. Oh, absolutely not. There should be—in the case that no-action relief is a useful tool for the agency, it is best if we can have Congress speak to correcting it, or have the agency, and by

that I mean their Commissioners' vote to change it, but in this case, I do not believe the Commissioners can vote to change it without an act of Congress.

Mr. HARRIS. Yes. Well, and I will say as Congress undertakes the CFTC reauthorization, are there any specific—in the last minute we have, specific recommendations that, really, either you or Mr. Schwartz would be willing to offer us to ensure that religious charities, church pension plans, and other nonprofits are shielded from these regulatory requirements that were never intended for them? Either of you.

Mr. SCHWARTZ. You could either—I guess, two ways—put in a carve-out from the definition of *commodity pool*, or you could direct the Commission to issue rules and regulations to ensure that that is the result that comes out of it.

Mr. HARRIS. Okay.

Ms. STUMP. And I would expect that the agency would do so very quickly because I am unaware of any Commissioner that has felt that this was the intended result.

Mr. HARRIS. Excellent. Well, thank you very much, and, Mr. Chairman, I yield back.

Mr. JOHNSON. Thank you very much. With that, Mr. Vasquez, you are recognized.

Mr. VASQUEZ. Thank you so much, Mr. Chairman. Before I begin my remarks, I would like to submit for the record a statement from the Indian Gaming Association.

[The statement referred to is located on p. 108.]

Mr. VASQUEZ. I want to start by saying something that may get overlooked in this issue, but when we talk about CFTC, we are also dealing with Tribal sovereignty. I have seven sovereign nations in my district. Some of them operate gaming operations. For me, being here from southern New Mexico and the Tribes that are in our district, including Mescalero, Akima, [speaking native language] Laguna, Santa Ana, so many others, they depend on us to uphold our trust and treaty obligations as a nation to them, and that includes protecting the gaming compacts that they negotiated with the U.S. Government in good faith. Now, in New Mexico, Tribal gaming isn't just the business for the Tribes. It is jobs for all New Mexicans, provides for education, funds for housing. It is the foundation of the economy for rural and Native American communities.

And when it comes to sports betting, the rules are simple. In New Mexico, it only happens at Tribal casinos under Tribal, Federal, and state regulation, with strong safeguards in place to ensure tax revenue supports state and Tribal priorities, prevents underage betting, and protects those who struggle with gambling addiction. But now we are seeing that companies are trying to get around those rules by calling sports bets something else—event contracts or prediction markets—and they are using the CFTC's process to do so. So, from where I sit and from where New Mexico Tribes sit, bets on sports, regardless if they happen inside the casino or not, should be treated and regulated as sports betting.

Now, what worries me is that the CFTC allows these companies to move forward unchecked, and we are going to end up with unregulated and unsafe online sports betting that are offered by unli-

censed operators with none of the protections the Tribes and the states have spent decades building and have to follow. And the people who lose the most in my district are those Tribes who have very little, if no other, economic means. So, I want to dig into that, and, Mr. Schwartz, can you help me understand why a contract on the outcome of a sporting event is not considered gambling, and where do you draw that line?

Mr. SCHWARTZ. It comes from the statutory definition of *swap* that Congress passed in the Dodd-Frank Act. It was not trying to be narrow or nuanced. This was coming out of the financial crisis. It felt it important enough to give the CFTC broad jurisdiction, but because there are not those kinds of nuances in the definition, it would sweep in quite a lot. As I mentioned before—I am not sure you were you were present for it—the definition includes anything that is or in the future becomes commonly known to the trade as a swap. And we have them listed on designated contract markets offered by futures commission merchants, cleared by derivatives clearing organizations. If you look at the CFTC's product submission webpage, you see all of the submissions on this subject, and they are submitted as swap, swap, swap, swap, swap. So, I don't have any doubt that they fit within that definition but that is not the same thing as what the policy should be.

Mr. VASQUEZ. Sure. So, do you agree then that the intent, essentially, of providing a product like this is akin to gambling and should be regulated likewise?

Mr. SCHWARTZ. I don't think I am the right person to answer that question.

Mr. VASQUEZ. Why is that?

Mr. SCHWARTZ. I prefer to leave policy to the policymakers.

Mr. VASQUEZ. Okay. Well, you are our issue expert, so the policy experts can't make the policy without having your expertise.

Mr. SCHWARTZ. Yes, I am to provide whatever legal assistance that I can.

[Laughter.]

Mr. VASQUEZ. Okay. Thank you so much. I appreciate it. One other question, Mr. Schwartz. Do you believe that regulating gambling is part of the CFTC's core mission? Is that something that you feel the CFTC is doing today?

Mr. SCHWARTZ. This is an old issue. It used to be illegal in many or most states to trade futures contracts on corn or wheat, and there is just a long-running debate on where the line should be between gambling and derivatives trading. And this is just the latest iteration of that, and I think the policymakers should look at it through the same lens.

Mr. VASQUEZ. Thank you, Mr. Schwartz. I appreciate your answers, and I will just end with this. If online sports betting suddenly shifts into the CFTC's purview and the traditional system for these types of activities get bypassed along with Tribal compacts that the U.S. Government has made, it is going to impact Tribal revenue, it is going to have an impact on Tribal authority, and in New Mexico, that is a real impact on our schools and our rural communities and those casinos that depend on that revenue. So, this has a huge impact on rural New Mexico, it has a huge impact on Tribes, and this Committee has a responsibility to make sure

that CFTC is enforcing the laws as Congress has passed, obviously make sure that we modify those that we understand are outside of the law. And so, as we discuss reauthorization, I hope we are going to continue to protect consumers and that we stand with all our Tribes across the country and those in New Mexico. Thank you, Mr. Chairman. I yield back.

Mr. JOHNSON. Thank you. Mr. Mann, you are recognized.

Mr. MANN. Thank you, Mr. Chairman, and thank to all of our witnesses for being here today. Good to see you, Mr. Prosser. I know we saw each other at the K State football game earlier this fall.

Mr. PROSSER. Go, Cats.

Mr. MANN. Precisely, yes.

[Laughter.]

Mr. MANN. He took the words out of my mouth. The CFTC plays a critical role in today's economy, ensuring our markets function as they should for farmers, ranchers, and ag producers. In the big 1st District of Kansas and throughout the country, these markets are essential risk management tools that allow them to hedge a lot of uncertainty and secure prices in a very volatile environment. The CFTC's oversight helps keep those tools reliable and effective. However, as has been mentioned many times, the agency has gone over 15 years without a full reauthorization and it is way over past time to update and reauthorize.

Just a handful of questions. Again, thank you all for being here. First for you, Mr. Schwartz: commodity futures and swaps markets are global markets. In fact, one of the largest clearinghouses registered with the CFTC is located in London. Can you speak to the importance for global regulators to be able to coordinate, share information with, and learn from one another as they surveil and regulate these markets?

Mr. SCHWARTZ. Yes, you put your finger on it. These markets are global, and things like systemic risk and wrongdoing don't recognize international borders, but on the other hand, there are differences in between the localities, right? They may have different practices in one part of the world, there are certainly different laws all over the world, and the CFTC's jurisdiction is primarily domestic. So, it is absolutely critical that they would be cooperating with foreign regulators, and information sharing is inherent in that.

Mr. MANN. In your mind, would detailing staff to and from foreign regulators, like the UK or EU, support the global sharing of knowledge and experience and, ultimately, allow the CFTC to best serve the markets that, at the end of the day, helps Kansas and our ag farmers?

Mr. SCHWARTZ. Yes. Having those kinds of perspectives at the ready without having to engage in some kind of international process would be, I would think, very helpful to the agency, yes.

Mr. MANN. And at the end of the day that would help our ag producers, right, I mean, which is which matters for these markets.

Mr. SCHWARTZ. Sure.

Mr. MANN. Thank you. Quick question for you, Ms. Crighton, and good seeing you again. The protection of customer funds at an FCM is one of the bedrock principles for futures regulations. Can you briefly talk about how that process works both day to day in the

event of a bankruptcy, and what happens if funds are held in a segregation account? If those funds are insufficient, how are customers made whole?

Ms. CRIGHTON. Sure. Nice to see you as well, and thank you for the question. You are right. I think one of the most important principles that we focus on as an FCM is our ability to segregate assets and protect client assets. And when we think about some of the newer structures that are being proposed, these sort of direct clearing models, we have to take a very careful look at how are assets protected in those new structures. Customers move from being a customer of an FCM and having those protections to being a counterparty to the clearinghouse where, in the event of a bankruptcy, they become a general creditor. And so, that is a very distinct difference in those two models, and it is one that we have to pay careful attention to.

And the customer protection regime is one that we focused on quite heavily within the FTX discussion, right? When you think of these new structures, what does that actually mean? So, we segregate assets. We hold them into accounts designated for the benefit of customers in the event that we were ever to default. And if there was ever a shortage of assets in those segregation funds, one of the things that we are looking for is what we call the *Griffin* fix, and it is kind of cementing in statute the prioritization of customers. In the event that there were a shortage, they would be prioritized over other general creditors of the FCM.

Mr. MANN. That is very helpful, though. Thank you. Last question, entirely different direction, for you, Mr. Prosser. In your testimony, you mentioned convergence and its importance to the real-world work of moving ag commodities around the planet. Can you speak to what convergence is and why that is important to the work that Scoular does?

Mr. PROSSER. The idea that, ultimately, these derivatives derive their value from a real commodity, the things we make food and fiber out of, is central to why they work as risk mitigation tools. And this is why the Commission has a role to play in physical markets because they do, as we come into delivery, help us go to a benchmark price that reflects the physical price of the commodities that these represent, and because of that process, they become integral hedge tools for producers as well as consumers.

Mr. MANN. Great. Yes. Well, thank you all for being here. I yield back the balance of my 1 second, Mr. Chairman. Thank you.

[Laughter.]

Mr. JOHNSON. Very good. Thank you, Mr. Mann. Ms. Budzinski, you are recognized.

Ms. BUDZINSKI. Thank you, Mr. Chairman. Thank you, Ranking Member. I appreciate all the witnesses' time today for this important discussion on reauthorizing the Commodity Futures Trading Commission.

I represent a district in central and southern Illinois. I come to this hearing really with a clear priority, which is making sure our derivatives markets continue to serve the real economy, especially the farmers, grain handlers, biofuel producers, and cooperatives who rely on these markets every single day. For producers in my district, futures markets are not abstract financial tools. They are

lifelines, risk management tools that help determine whether a family farm survives in a volatile season like we have right now, whether a grain elevator can offer competitive bids, and whether rural communities can count on stable economic conditions.

Right now, we are asking the Commodity Futures Trading Commission to do more than ever at a time when it has less capacity than ever. The agency has just one sitting Commissioner and four vacancies, an unprecedented situation for a regulator overseeing trillions of dollars in market activity. As the Commodity Futures Trading Commission is asked to keep up with rapid changes in technology, data systems, digital assets, and increasingly complex clearing operations, I support responsible innovation, but we have to be honest about the tradeoffs. If growing responsibilities aren't matched with real resources, we risk weakening oversight where it matters most for my district: our agricultural markets. So, as we move forward with this reauthorization, my hope is simple: that we give the Commodity Futures Trading Commission the tools and resources it needs to keep up with today's markets, and that we never lose sight of the farmers and rural businesses who rely on these markets every day to manage real-world risks. Central and southern Illinois helps feed and fuel this country, and our producers deserve strong, modern, and well-regulated markets that put their needs first.

I appreciate our witnesses being here today, and again, I have a couple of questions. First, I wanted to direct to Ms. Crighton, and my question for you is, as margin and collateral requirements continue to evolve, how can reauthorization promote stability and sound risk management while also accounting for the liquidity constraints faced by smaller agricultural firms?

Ms. CRIGHTON. Thank you for the question.

Ms. BUDZINSKI. Yes.

Ms. CRIGHTON. I am going to separate those things a bit, and I think referencing Commissioner Stump, I think the CFTC has the ability to act and engage with us on margin now.

Ms. BUDZINSKI. Yes.

Ms. CRIGHTON. And I will say kind of parallel to that is, it is incredibly important to reauthorize, right? But kind of specifically on your question on margin, it serves as what we think of as the first line of defense. It is the capital, it is the collateral that sits with the FCM to mitigate a risk issue, to be the protections for the ecosystem in the event of a default. And when margin levels go too low and then we hit a period of real stress, what we find is an incredible stress and strain on the system where customers, end-users have to quickly source cash, which can have a broader destabilizing effect.

Ms. BUDZINSKI. Yes.

Ms. CRIGHTON. So, as margin levels continue to drift lower, one of the things that we think is most important is we think about recalibrating what those margin levels are so they don't drift so low. And if you have the ability for kind of more healthy projections, you have the ability to then source more stable funding so you are not looking at sourcing additional cash when everyone else is and cash is just more expensive.

Ms. BUDZINSKI. Right.

Ms. CRIGHTON. So, I don't think it is necessarily intuitive when we say higher or stronger margins. A more robust margin regime is one of the right answers, but we think it is because it gives that stability and durability of funding, and so you are not raising your costs when you really don't want to.

Ms. BUDZINSKI. Okay. Thank you for that, and I am going to squeeze in maybe one more question. Mr. Schiffrin, what improvements to transparency do you think Congress can or should prioritize in this reauthorization to better support commercial end-users' understanding of market conditions and risk?

Mr. SCHIFFRIN. Thank you for the question.

Ms. BUDZINSKI. Yes.

Mr. SCHIFFRIN. Well, I think that if the CFTC is going to take on newfound responsibilities in emerging markets, it needs to make sure that investors in those new and emerging markets have the disclosures that they need to understand the risks.

Ms. BUDZINSKI. Yes.

Mr. SCHIFFRIN. So, when you are talking about things like 24/7 trading or prediction markets or perpetual futures, those are new and novel products that have new and novel risks, at the Commission we should make sure that investors have the disclosures that they need to understand those products.

Ms. BUDZINSKI. Is there anything specifically that you might recommend that in the reauthorization that we should be doing to get to that just to communicate more around the risks around some of these emerging markets?

Mr. SCHIFFRIN. Nothing comes to mind specifically, but I am happy to work with your office and get back to you on that.

[Laughter.]

Ms. BUDZINSKI. Okay. Thank you. Thank you. I will yield back.

Mr. PROSSER. There are opportunities for the Commission to publish data about the market participants, who's buying, who's selling, and the cadence at which they do that, and we would encourage that to become more frequent.

Ms. BUDZINSKI. Thank you for that. Thanks.

Mr. JOHNSON. Mr. Taylor from Ohio, your 5 minutes.

Mr. TAYLOR. Thank you, Mr. Chairman, and thank you, Ranking Member, for holding this hearing today, and thank you to the witnesses for your time and expertise. And the sacrifices you make to be here don't unnoticed, and we appreciate it.

Mr. Schwartz, the definition of *swap* is rooted in a broad statutory definition passed as part of the Dodd-Frank Act, which was further defined by the CFTC and the SEC. What are some of the possible consequences of poorly considered efforts to narrow the definition of a *swap*?

Mr. SCHWARTZ. Well, if it were narrowed too far, and financial innovation oftentimes includes regulatory avoidance, you could get into a situation where the CFTC didn't have jurisdiction that it needed. You could have systemic risk problems. You could have anti-fraud, anti-manipulation problems. So, that is something that Congress and the CFTC need to consider very, very carefully.

Mr. TAYLOR. Okay. Thank you, and staying with you, Mr. Schwartz, it is my understanding that the Environmental and Energy Markets Advisory Committee was created by the Commodity

Exchange Act, while the other four advisory committees were created by the CFTC, pursuant to the Federal Advisory Committees Act (Pub. L. 92-463). Despite all being advisory committees, because EEMAC was created in a different way, EEMAC is subject to different rules. How does administering the advisory committees according to two different sets of rules unnecessarily complicate agency operations, and can you talk more about some of the differences between the rules?

Mr. SCHWARTZ. Sure. Thank you. It is an administrative burden. There is, I can tell you, one expert in the Federal Advisory Committee Act in the Office of the General Counsel. She spends probably more than 50 percent of her time on this, and there are two sets of rules. It doesn't need to be so. I mean, some of the differences under the FACA, you have to submit various reports, documents, charters for approval by GSA. You don't have to do that for the EEMAC because it is exempt from the FACA. It is created differently. There are different rules as far as number of members from each committee. I don't know that there is justification that anybody sat down and thought about before they made two different sets of rules. It would just be easier to process if there were one set of rules for everyone.

Mr. TAYLOR. Okay. I appreciate your perspective on that. As we work to reauthorize the CFTC, we have the opportunity to make improvements to ensure maximum efficiency toward its mission, to promote the integrity, resilience, and vibrancy of the U.S. derivative markets. One area, as Mr. Schwartz spoke about, where I think we can make an improvement is streamlining the advisory committee structure so all advisory committees operate equally. By all counts, the advisory committees serve a great purpose and provide great insight to the Commission, and it doesn't make sense that we have one advisory committee operating with different rules. To fix this, I will be introducing the CFTC Advisory Committee Improvement Act of 2025 (H.R. 6899), which will eliminate the single authorization for EEMAC and replace it with a generic authorization for all advisory committees. I know in D.C. we like to make things complicated sometimes, but I think by standardizing the operating structures, we can make things better for the American people. I look forward to continuing to work with my colleagues on the CFTC authorization, and I am going to let you guys off a minute-and-a-half early. I yield back.

Mr. JOHNSON. Very good. Thank you, Mr. Taylor. Mr. Davis, any closing comments for the record?

Mr. DAVIS of North Carolina. Thank you, Mr. Chairman. Of course, when we talk about today's hearing, we have heard from some amazing witnesses on many issues and challenges confronting the CFTC, Mr. Chairman, and we have received several statements from the American Gaming Association, Indian Gaming Association, the NFL, all around the issue of event contracts on sporting events, and ask for unanimous consent for these statements to be entered into the record so that they could be shared with Members.

[The documents referred to are located on p. 103.]

Mr. JOHNSON. Anything else, sir?

Mr. DAVIS of North Carolina. Yes. And last, I just want to thank you again and thank our witnesses.

Mr. JOHNSON. A couple of our witnesses noted the strong tradition of nonpartisan decision-making at the Commission. Of course, we expect that at the staff level, but that has also been true at the Commissioner level, just really good technical expertise. I think we have also seen that spirit of non- and bipartisanship today as people talk about the importance of the CFTC. We have had words used by our witnesses and by Members—*nimble, innovative, effective*—and that is really why reauthorization is so incredibly important. If we want to continue to have this be the best little regulator that America has never heard of, as Mr. Schwartz said, continue to be a leading example of a quality, principles-based regulation, then Congress better do our gosh darn job, and I think today was a really, really good additional step toward that goal.

With that, under the Rules of the Committee, of course the record is going to remain open for 10 days so our witnesses and Members can augment the record.

And unless anyone else has anything pressing, the hearing on this Committee on Agriculture is now closed. Thanks.

[Whereupon, at 12:35 p.m., the Committee was adjourned.]

[Material submitted for inclusion in the record follows:]

SUBMITTED LETTER BY HON. DOUG LAMALFA, A REPRESENTATIVE IN CONGRESS FROM CALIFORNIA; ON BEHALF OF HON. KENNETH KAHN, CHAIRMAN, SANTA YNEZ BAND OF CHUMASH INDIANS

December 11, 2025

Re: CFTC Reauthorization/“Event Contracts” That Function as Sports Wagering or Casino-Style Gaming

Chairman Thompson, Ranking Member Craig, and Members of the Committee:

On behalf of the Santa Ynez Band of Chumash Indians (“Chumash Tribe” or “Tribe”), thank you for the opportunity to submit this statement for the record as the Committee considers reauthorization of the Commodity Futures Trading Commission (CFTC) and potential amendments to the Commodity Exchange Act (CEA).

The Santa Ynez Band of Chumash Indians operates the Chumash Casino Resort, a full Class III Tribal gaming facility offering a broad mix of Las Vegas-style gaming. Guests can play more than 2,300 slot machines, including video poker and progressive titles, alongside over 45 table games such as blackjack, baccarat, roulette, and poker. The one thing you will not find at our resort is a sports book as over 80% of California voters opposed such a proposition in 2022.

The Tribe supports well-regulated derivatives markets that serve legitimate commercial and risk-management purposes. However, we write to express serious concern about the increasing effort by certain vendors to use the CEA to facilitate **sports wagering** and other **gaming-like products** through so-called “event contracts.” Without clear statutory barriers, these instruments risk becoming a federally enabled pathway for betting activity that directly conflicts with Tribal interests, Tribal-state compacts, and long-settled Federal policy governing gaming.

The CFTC Is Not a Sports Wagering Regulator and Is Unfamiliar with Gaming Oversight

Sports wagering and casino-style games are not simply “another financial product category.” They involve unique issues of **integrity monitoring, suspicious wagering detection, responsible gaming safeguards, consumer harm risks, age and location controls, and the close relationship between wagering and underlying contests**. These are specialized regulatory domains that have historically been handled through **state gaming regulators** and, in Indian Country, through the Federal and compacting framework that respects Tribal sovereignty.

The CFTC’s expertise is in derivatives markets—market structure, clearing, manipulation, and risk transfer—not in the operational realities of sports books, gaming compliance, or the public policy tradeoffs that states and Tribes have navigated for decades. The Tribe is concerned that, absent explicit direction from Congress, the CFTC will be placed in the untenable position of approving or allowing products that function as gaming, without the institutional tools, experience, or framework to regulate them as gaming.

Without Congressional Barriers, Vendors Will Innovate Toward Casino-Style Products

The Tribe is particularly concerned that vendors such as **Kalshi** and others will continue to design contracts that, while styled as “events” or “derivatives,” will increasingly **mimic casino-style games** in their structure and consumer experience.

That evolution is predictable. If a platform can successfully offer contracts that resemble bets on athletic outcomes, the commercial incentives will naturally push toward:

- high-frequency, short-duration contracts resembling **in-play wagering**;
- “prop-style” contracts that resemble **parlays** or other consumer betting formats; and
- contract structures that imitate **games of chance** or casino-style gameplay mechanics through rapid resolution and repeated participation.

In practice, this would allow gambling-like activity to scale nationwide under a commodities-law label, bypassing the licensing, enforcement, and public interest protections that states and Tribes rely upon—and undermining Tribal gaming operations that fund essential governmental services.

Requested Action: Amend the CEA To Draw a Bright Line

The Chumash Tribe respectfully urges the Committee to amend the CEA to make clear that the CFTC should not approve, permit, or otherwise facilitate contracts that constitute **sports wagering** or **casino-style gaming**, including products

whose predominant purpose and practical effect is consumer betting rather than *bona fide* risk management.

Specifically, the Tribe recommends Congress:

1. **Define and exclude sports wagering and casino-style gaming** (including substantially similar products) from CFTC-authorized instruments, regardless of labeling.
2. **Direct the CFTC to treat sports- and casino-style event contracts as “contrary to the public interest,”** and therefore not permissible under the CEA.

Conclusion

Tribal governments have built gaming enterprises within a carefully balanced legal framework that respects sovereignty and state policy choices, and that supports critical governmental services for our communities. The Tribe strongly encourages Congress to ensure that CFTC reauthorization does not inadvertently create a Federal on-ramp for sports betting or casino-style gaming through the derivatives laws.

Thank you for your consideration.
Respectfully submitted,



KENNETH KAHN,
Chairman,
Santa Ynez Band of Chumash Indians.

SUBMITTED STATEMENTS BY HON. DOUG LAMALFA, A REPRESENTATIVE IN CONGRESS
FROM CALIFORNIA; ON BEHALF OF:

STATEMENT 1

HON. RODNEY A. BUTLER, CHAIRMAN, MASHANTUCKET PEQUOT TRIBAL NATION

Reauthorization of the Commodity Futures Trading Commission

Chairman Thompson, Ranking Member Craig, and Members of the Committee:

On behalf of the Mashantucket Pequot Tribal Nation (MPTN), thank you for the opportunity to submit this statement for the record as the Committee considers reauthorization of the Commodity Futures Trading Commission (CFTC) and potential amendments to the Commodity Exchange Act (CEA).

MPTN supports well-regulated derivatives markets that serve legitimate commercial and risk-management purposes. However, we are deeply concerned that the CEA is increasingly being invoked as a vehicle to facilitate widespread sports wagering—and potentially casino-style gaming—through products marketed as “event contracts” or similar financial instruments. These developments threaten Tribal sovereignty and undermine Connecticut’s carefully negotiated gaming framework with federally recognized Indian Tribes.

MPTN is a federally recognized Indian Tribe with inherent sovereign authority and substantial governmental and economic interests in Connecticut. MPTN operates gaming facilities pursuant to the Indian Gaming Regulatory Act (IGRA) and long-standing agreements with the State of Connecticut. Revenue from these operations funds essential governmental services, including public safety, education, health care, housing, infrastructure, and cultural preservation for the Mashantucket Pequot people.

Connecticut’s Gaming System Is Built on Tribal-State Agreements

Connecticut’s gaming framework is unique and deliberate. For decades, gaming in the state has been governed by negotiated agreements between the state and two federally recognized Tribes—MPTN and the Mohegan Tribe. These agreements reflect a carefully balanced exchange of rights and obligations, under which Tribal gaming exclusivity has generated substantial and consistent revenue for the state while supporting Tribal sovereignty, self-determination and economic stability.

In recent years, Connecticut has expanded lawful gaming to include sports wagering and online gaming—but only through legislation that reaffirmed the central role of the Tribes and subjected all such activity outside Tribal lands to strict regulatory oversight by the Connecticut Department of Consumer Protection. Tribal gaming op-

erators remain subject to extensive licensing, integrity monitoring, consumer protections, responsible gaming requirements, and age and geolocation controls.

This system reflects clear policy choices by the state and the Tribes, and it depends on respect for the Tribal-state agreements that underpin it.

Event Contracts Threaten to Undermine Connecticut Law and Tribal Agreements

MPTN is increasingly concerned that sports-related “event contracts” offered by vendors such as Kalshi and Crypto.com threaten to bypass Connecticut’s gaming laws and negotiated agreements entirely. Although these vendors assert that their products are financial instruments governed by the CEA, in practice the products function as sports bets—allowing consumers to wager money on the outcomes of sporting events with no connection to *bona fide* hedging or commercial risk management.

These products directly compete with lawful Tribal gaming operations in Connecticut while avoiding the regulatory obligations set by state and Tribal regulators and longstanding agreements between the state and the Tribes. Event contracts are being marketed to Connecticut residents, including on Tribal lands, without authorization from state or Tribal regulators and without regard to the Tribal-state framework that governs gaming in the state.

Allowing gambling-like products to operate nationwide under the CEA erodes the value of the Tribal exclusivity commitments that Connecticut and the Tribes have relied upon for decades and destabilizes a system that has worked for both the state and the Tribes.

The CFTC Is Not a Gaming Regulator and Should Not Override State-Tribal Policy Choices

The CFTC’s mission and expertise center on derivatives market integrity, clearing, and enforcement against fraud and manipulation. The Commission is not designed or equipped to regulate sports wagering or casino-style gaming, which raise distinct public-interest concerns, including consumer protection, wagering integrity, responsible gaming, and respect for state and Tribal sovereignty.

In Connecticut, those responsibilities are addressed through Tribal-state agreements, state law, and gaming regulators—not Federal commodities law. Allowing gambling-like products to proceed under the CEA risks transforming the CFTC into a *de facto* national gambling regulator and displacing Connecticut’s carefully negotiated gaming system without Congressional authorization.

Such an outcome would undermine IGRA, erode Tribal-state agreements, and weaken a framework Congress has long recognized as essential to Tribal self-determination and economic development.

Without Clear Limits, Event Contracts Will Continue to Expand Toward Casino-Style Gaming

MPTN urges the Committee to recognize the strong commercial incentives driving these products. If sports-style event contracts are permitted to scale under the CEA, vendors will predictably design offerings that increasingly resemble casino-style gaming—short-duration outcomes, rapid repeat play, and wagering mechanics indistinguishable from regulated sports betting.

Without clear statutory boundaries, these products will proliferate in Connecticut outside of state and Tribal oversight, undermining regulatory authority and Tribal revenues that support essential governmental services.

Requested Congressional Action: Draw a Bright Line in the Commodity Exchange Act

MPTN respectfully urges the Committee to include in any CFTC reauthorization legislation targeted amendments to the CEA that:

- Clarify that the CFTC may not approve, permit, or otherwise facilitate contracts that constitute sports wagering, including contracts whose predominant purpose and practical effect is consumer betting rather than *bona fide* hedging or commercial risk management.
- Prohibit event contracts and similar instruments that function as casino-style games or otherwise replicate gambling mechanics, regardless of how such products are labeled or marketed.

Conclusion

MPTN appreciates the Committee’s leadership in overseeing the nation’s derivatives markets. Modernization, however, must not come at the expense of Connecticut’s Tribal-state gaming framework, Tribal sovereignty, or the integrity of nego-

tiated agreements that have served the state and the Tribes for decades. We urge Congress to act now to ensure that the CEA does not become a Federal workaround for sports betting and casino-style gaming—activities that directly conflict with Connecticut law and undermine Tribal self-determination.

Thank you for the opportunity to submit this statement for the record.

STATEMENT 2

HON. AUSTIN LOWES, CHAIRMAN, SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS

Reauthorization of the Commodity Futures Trading Commission

On behalf of the Sault Ste. Marie Tribe of Chippewa Indians, I urge the Committee to oppose unlicensed and unregulated sports betting being offered under the guise of “event contracts” under the Commodity Exchange Act. These products function as sports wagering, yet are designed to evade Michigan law and the Tribal-state gaming compacts that protect consumers, uphold Tribal sovereignty, and fund essential public services. Allowing them to proliferate would directly undermine the Tribe’s gaming operations, disrupt Michigan’s carefully regulated gaming system, and weaken long-standing cooperative agreements between the state and Tribal Nations.

If unchecked, these platforms will siphon revenue from regulated Tribal and state gaming, provide no support for problem-gambling prevention, and expose Michigan residents—including those on Tribal lands—to gambling without meaningful oversight or safeguards. The CFTC is not a gaming regulator, and the Commodity Exchange Act should not be used as a backdoor to impose nationwide sports betting at the expense of Tribal Nations and states. We respectfully urge the Committee to reaffirm that gambling regulation belongs to states and Tribal governments—not Federal commodities law.

STATEMENT 3

MARK MACARRO, CHAIRMAN, PECHANGA BAND OF INDIANS

Reauthorization of the Commodity Futures Trading Commission

Chairman Thompson, Ranking Member Craig, and Members of the Committee:

On behalf of the Pechanga Band of Indians, thank you for the opportunity to submit this statement for the record as the Committee considers reauthorization of the Commodity Futures Trading Commission (CFTC) and potential amendments to the Commodity Exchange Act (CEA).

The Pechanga Band supports well-regulated derivatives markets that serve legitimate commercial and risk-management purposes. However, we are deeply concerned that the Commodity Exchange Act is increasingly being invoked as a vehicle to facilitate widespread sports wagering—and potentially casino-style gaming—through products marketed as “event contracts” or similar financial instruments. These developments threaten Tribal sovereignty and undermine California’s voter-approved gaming framework.

The Pechanga Band of Indians is a federally recognized Indian Tribe with inherent sovereign authority and substantial governmental and economic interests in California, employing nearly 5,000 people and generating an economic impact of over \$1.1 billion for the State of California. The Tribe operates a gaming facility pursuant to the Indian Gaming Regulatory Act (IGRA) and Tribal-state compacts with the State of California. Revenues generated from these operations fund essential governmental services, including public safety, education, health care, housing, infrastructure, and cultural preservation for our citizens.

California’s Gaming Framework Is Voter-Approved and Constitutionally Grounded

California’s gaming system is distinct and deliberate. Tribal gaming in the state is grounded in the California Constitution and repeatedly reaffirmed by California voters. Through ballot initiatives and the compacting process under IGRA, voters and policymakers have made clear choices about where, how, and by whom gaming may occur in California.

Under this framework, Class III gaming—including casino-style gaming and sports wagering—is permitted only pursuant to Tribal-state compacts approved by the Legislature and the Governor, and subject to rigorous oversight. This system reflects a careful balance between Tribal sovereignty, state interests, and public accountability. It has provided regulatory certainty, strong consumer protections, and critical economic support for Tribal governments across California.

Event Contracts Circumvent California Law and Voter Intent

The Pechanga Band is increasingly concerned that sports-related “event contracts” offered by vendors such as Kalshi and Crypto.com are bypassing California’s constitutional and statutory gaming framework altogether. Although these vendors claim their products are financial instruments governed by the CEA, in practice the products function and are advertised as sports bets—enabling gambling on the outcomes of sporting events with no connection to *bona fide* hedging or commercial risk management.

These gaming products directly conflict with California law and voter intent. They compete with lawful Tribal gaming operations that are subject to strict regulatory oversight and public accountability. These unregulated gaming contracts are being marketed to California residents—including on Tribal lands—without approval from the state, without voter authorization, and without regard to Tribal-state compact obligations.

Allowing sports betting to operate nationwide under the CEA is an affront to states’ rights. It effectively circumvents California’s constitutional framework and nullifies the choices California voters have repeatedly made regarding gaming.

The CFTC Is Not a Gaming Regulator and Should Not Set Gambling Policy for California

The CFTC’s expertise lies in regulating derivatives markets to ensure market integrity and protect against fraud and manipulation. It was never designed or equipped to regulate sports wagering or casino-style gaming, which raise distinct public-interest concerns, including consumer protection, wagering integrity, responsible gaming, and respect for state and Tribal sovereignty.

In California, those responsibilities are addressed through the IGRA framework, Tribal-state compacts, and state constitutional processes—not Federal commodities law. Allowing sports betting products to proceed under the CEA would transform the CFTC into a *de facto* national gambling regulator and displacing California’s voter-approved system without Congressional authorization.

Such an outcome would undermine IGRA, erode Tribal-state compacts, and weaken a framework Congress has long recognized as essential to Tribal self-determination and economic development.

Without Clear Limits, Event Contracts Will Continue To Evolve Toward Casino-Style Gaming

The Pechanga Band urges the Committee to recognize the strong commercial incentives driving these products. If sports-style event contracts are permitted to scale under the CEA, vendors will predictably design offerings that increasingly resemble casino-style gaming—short-duration outcomes, rapid repeat play, and wagering mechanics indistinguishable from regulated sports betting. In fact, recent news reports indicate Kalshi has recently launched “combos,” a version of the popular and profitable parlays offered by regulated sports book operators.

Without clear statutory boundaries, these products will proliferate in California outside of voter approval, state oversight, and Tribal gaming regulation.

Requested Congressional Action: Draw a Bright Line in the Commodity Exchange Act

The Pechanga Band of Indians respectfully urges the Committee to include in any CFTC reauthorization legislation targeted amendments to the Commodity Exchange Act that:

- Clarify that the CFTC may not approve, permit, or otherwise facilitate contracts that constitute sports wagering, including contracts whose predominant purpose and practical effect is consumer betting rather than *bona fide* hedging or commercial risk management.
- Prohibit event contracts and similar instruments that function as casino-style games or otherwise replicate gambling mechanics, regardless of how such products are labeled or marketed.

Conclusion

The Pechanga Band of Indians appreciates the Committee’s leadership in overseeing the nation’s derivatives markets. Modernization, however, must not come at the expense of California’s Constitution, voter-approved gaming policies, or Tribal sovereignty.

We urge Congress to act now to ensure that the Commodity Exchange Act does not become a Federal workaround for online sports betting and internet casinos—undermining both state sovereignty and the economic foundations of Tribal governments.

Thank you for the opportunity to submit this statement for the record.

STATEMENT 4

HON. CHARLES MARTIN, TRIBAL CHAIRMAN, MORONGO BAND OF MISSION INDIANS

Chairman Thompson, Ranking Member Craig, and Members of the Committee:

On behalf of the Morongo Band of Mission Indians (“Morongo” or “Tribe”), thank you for the opportunity to submit this statement for the record in connection with the Committee’s work to reauthorize the Commodity Futures Trading Commission (CFTC) and consider potential amendments to the Commodity Exchange Act (CEA).

The Morongo Band of Mission Indians operates Morongo Casino Resort & Spa and Casino Morongo, offering extensive Class III gaming with thousands of slots, a wide range of table games (including blackjack, baccarat, roulette, craps, pai gow, and proprietary poker variants), a large poker room, and bingo. However, Morongo does not operate a retail sportsbook because sports wagering remains illegal in California after voters rejected 2022 ballot measures (Propositions 26 and 27) that would have authorized sports betting at Tribal casinos and online statewide.

Morongo supports well-regulated derivatives markets that serve legitimate commercial purposes—especially those that allow producers, businesses, and market participants to manage risk. At the same time, Morongo is deeply concerned by efforts to use the CEA to facilitate or expand **sports betting and casino-style wagering** through so-called “event contracts” or other instruments that function in practice as gambling. Whatever label is applied, these products resemble and operate as wagering on the outcome of athletic contests or games of chance—not traditional hedging or risk-management tools.

For Tribal governments, these developments are not academic. Tribal gaming is a cornerstone of Tribal economic development and governmental self-determination. It supports essential governmental services such as public safety, healthcare, housing, education, and infrastructure. Tribal gaming is also governed by a carefully balanced framework of Federal law and Tribal-state compacts that reflect state policy choices and respect Tribal sovereignty. Allowing sports wagering or casino-style gambling to proliferate nationwide under the guise of commodities regulation threatens that balance, undermines compacting, and risks preempting state and Tribal regulatory structures that Congress has long recognized as central to gaming policy.

Morongo respectfully urges the Committee to **amend the CEA to provide clear statutory direction that the CFTC should not approve, permit, or otherwise facilitate contracts or instruments that constitute betting on sporting events or casino-style games**. Specifically, Morongo encourages Congress to:

1. **Clarify that “gaming” and “sports wagering” are outside the proper scope of CFTC-regulated derivatives** when the product’s predominant purpose and practical effect is consumer wagering rather than *bona fide* hedging or commercial risk transfer.
2. **Direct the CFTC to treat event contracts tied to sporting events, athletic performance, or casino-style games as contrary to the public interest**, including because they conflict with long-standing Federal policy respecting state and Tribal authority over gaming.
3. **Prevent Federal preemption of state and Tribal gaming policy through CEA mechanisms**, including by ensuring the CFTC cannot use self-certification processes or other procedural paths to enable markets that replicate sports books or online casino products.
4. **Protect Tribal sovereignty and the Federal Tribal-state compacting framework** by requiring that the CFTC’s determinations explicitly account for impacts to Tribes and to state-Tribal compacts whenever proposed products implicate gaming-like activity.

Morongo recognizes that Congress may consider expanding or refining the CFTC’s authority in other contexts. But any reauthorization should strengthen the Commission’s ability to police manipulation, fraud, and market abuse in legitimate derivatives markets—not create a pathway to nationalize sports betting or casino-style gambling through Federal commodities law.

For these reasons, Morongo respectfully requests that the Committee incorporate into its reauthorization package targeted amendments to the CEA that **draw a bright line between legitimate derivatives and gambling products**—and that reaffirm Congress’s intent that gaming remains regulated through the appropriate Federal, state, and Tribal frameworks, not through the CFTC.

Thank you for your consideration.
Respectfully submitted,

CHARLES MARTIN,
Tribal Chairman,
Morongo Band of Mission Indians.

STATEMENT 5

JAMES SIVA, CHAIRMAN, CALIFORNIA NATIONS INDIAN GAMING ASSOCIATION

Chairman Thompson, Ranking Member Craig, and Members of the Committee:

My name is James Siva, and I serve as Chairman of the California Nations Indian Gaming Association (CNIGA), which represents 57 federally recognized Tribal governments in California. Thank you for the opportunity to provide testimony regarding our perspective on the reauthorization of the Commodity Futures Trading Commission (CFTC).

This is a timely matter: Congress urgently needs to conduct oversight of the CFTC and revise its authorizing statute. Why? For nearly a year the CFTC has failed to exercise its authority to halt actions which clearly violate the letter and spirit of the Commodity Exchange Act (CEA) and CFTC regulations, and in so doing allowed private actors to violate the sovereignty of Tribal nations in California and across the country.

I am referring to the proliferation of so-called prediction markets operating under the guise of “sports event contracts.” In fact, these contracts are nothing more than a clever ruse to conduct illegal sports betting across the nation. This includes gaming on Tribal lands, which is a violation of the Indian Gaming Regulatory Act.

If the CFTC cannot or will not act to halt this illegal activity, Congress must do so.

Congress and CFTC Regulations Explicitly Rejected Sports Event Futures as Gambling

The intent of Congress in enacting the Commodity Exchange Act, and the CFTC in its implementing regulations, was to exclude gaming in CFTC-regulated markets. This was made explicitly clear during debate on the most recent modernization of the CEA in 2010, when the then-Senate Agriculture Committee Chairman stated^{1*} the purpose of Sec. 745² of the bill, identifying “gaming”, and other contracts as not in the public interest:

“ . . . I maintained this provision in the conference report to assure that the Commission has the power to prevent the creation of futures and swaps markets that would allow citizens to profit from devastating events and also prevent gambling through futures markets.

“The Commission needs the power to, and should, prevent derivatives contracts that are contrary to the public interest because they exist predominantly to enable gambling through supposed ‘event contracts.’ It would be quite easy to construct an ‘event contract’ around sporting events such as the Super Bowl, the Kentucky Derby, and Masters Golf Tournament. These types of contracts would not serve any real commercial purpose. Rather, they would be used solely for gambling.”

The CFTC acted on this direction from Congress in developing its implementing regulations,³ which explicitly prohibit contracts involving gaming:

(a) *Prohibition.* A registered entity shall not list for trading or accept for clearing on or through the registered entity any of the following:

- (1) An agreement, contract, transaction, or swap based upon an excluded commodity, as defined in Section 1a(19)(iv) of the Act, that involves, relates to, or references terrorism, assassination, war, gaming, or an activity that is unlawful under any state or Federal law;

Years ago, Congress and the CFTC itself acted to ensure that futures markets would not be become a sports betting loophole, yet today prediction markets brazenly flout this law with impunity.

¹ 156 *Cong. Rec.* S5[09]6 (daily ed. July 15, 2010).†

* **Editor’s note:** references annotated with † are retained in Committee file.

² 7 U.S.C. § 7a-2(c)(5)(C).†

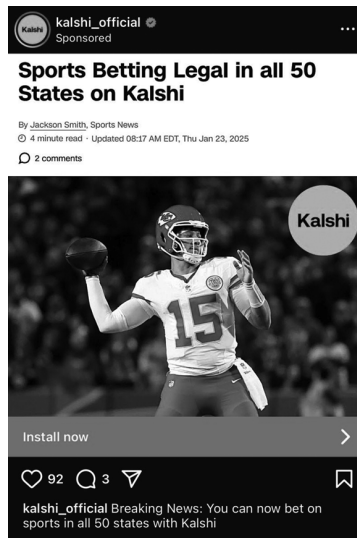
³ 17 CFR § 40.11.†

Prediction Markets Are Operating Illegal Online Sports Betting

Despite a clear regulatory prohibition and direction from Congress, online platforms registered with the CFTC as Designated Contract Markets (DCM) are currently offering online sports betting while asserting that sports event contracts are somehow legitimate futures. These sports event contracts are gaming in every sense of the word and are advertised as such by the operators. However, they lack the robust safeguards required by state, Tribal, and Federal law, and conceal that in these prediction markets, the platform also often acts as the house by taking the other side of consumers' bets.

Prediction markets claim to Congress, the CFTC, and courts that sports bets are simply event futures contracts; however, their own advertising⁴ describes such contracts as legalized sports betting in all 50 states. In countless instances, these entities advertise their products to consumers as “legal betting”, including describing their offerings as legal in states which currently prohibit all forms of sports betting.

One advertisement by prediction market Kalshi claims it is “The First Nationwide Legal Sports Betting Platform”,⁵ a frequent theme in prediction market advertising:



The same prediction market also ran advertisements during the annual college basketball tournament in California—where all sports betting is illegal—urging viewers to “Make \$ on March Madness” and claimed to be “Legal in California”. Prediction markets are intentionally misleading consumers to believe that they are conducting legal gaming activities. It is clear from prediction markets’ advertising that consumers are intended to view these sport event futures contracts as gaming.

The hypocrisy is stunning. While spending millions to advertise “legalized sports betting in all 50 states,” prediction markets simultaneously argue that state and Tribal gaming laws do not apply to them.

Prediction market sports event futures lack virtually all of the core safeguards required by state and Tribal law. Unlike licensed sportsbooks, prediction markets actively seek to avoid compliance with state gaming laws, do not operate pursuant to Tribal-state compacts, and frequently lack mandatory age-verification, responsible-gaming programs, advertising restrictions, and problem-gaming funding requirements. Legal gaming systems also impose integrity monitoring, data-sharing with leagues and regulators, limits on bet types, and robust consumer-protection standards, including dispute resolution and enforcement mechanisms tailored to betting activity.

While prediction markets have argued that they differ from legal sports betting in that they simply facilitate peer-to-peer transaction and do not operate as the

⁴Source: Dustin Gouker, *Ten Times Kalshi Said People Could Bet On Things*, † Event Horizon, <https://nexteventhorizon.substack.com/p/ten-times-kalshi-said-people-could> (last accessed December 16, 2025).

⁵Source: <https://nexteventhorizon.substack.com/p/ten-times-kalshi-said-people-could> (last accessed December 16, 2025). †

house by taking the other side of bets, recent litigation⁶ indicates that claim is false. Rather, it appears prediction markets utilize subsidiaries to conceal their role as the house:

“Kalshi Trading LLC and KalshiEX, both wholly owned subsidiaries of Kalshi, operate as highly sophisticated ‘market makers,’ which bet against consumers when their bets stray from Kalshi’s internal projected odds. A Kalshi representative called Kalshi Trading ‘one of many ‘peers’ in the peer-to-peer ecosystem.’ Kalshi Trading is not a peer; it is the House.”

Thanks to prediction markets’ intentional avoidance of the comprehensive public oversight, integrity, and consumer safeguards that states and Tribes have long deemed essential for legal gaming, it is not unreasonable to suggest that today underage children are gambling away their parents’ savings in the churches, schools and other institutions that are designed to protect them.

Sports Futures on Tribal Lands Violate Federal, Tribal, & State Law

The enactment of the Indian Gaming Regulatory Act (IGRA) in 1988 created a clearly defined structure governing gaming on Tribal lands. Tribal governments may operate gaming on Tribal land in states in which gaming is legal, subject to limitations of state law and, frequently, Tribal-state gaming compacts delineating the scope of gaming which may be operated. IGRA also created the National Indian Gaming Commission, the only Federal gaming regulatory entity. Under IGRA, only Tribal governments may operate gaming on Tribal land, and they may only do so in compliance with state and NIGC requirements.

Tribal gaming has been one of the primary economic development tools available to Tribes. In states where Tribal gaming occurs, Tribes have been able to help address their members’ health care, education, housing, and other needs. Tribal gaming has been beneficial not only for Tribes and their members, but for surrounding communities and states, too. In 2021, CNIGA found that members’ enterprises supported an astounding 85,000 jobs across our state.

In California, all sports betting is prohibited. Neither Tribal governments, the state, nor commercial entities may offer sports betting on lands under Tribal or state jurisdiction.

However, today, prediction markets are offering online sports betting, as described in their own words, on Tribal lands in California and across the nation. Again, this is a crystal clear violation of Federal law, Tribal gaming ordinances, and state gaming laws.

State Attorneys General and Regulators Agree: Sports Futures Are Illegal Sports Bets

The Tribal governments CNIGA represents are not alone in objecting to the illegal online sports betting offered by these prediction markets. Dozens of states have taken legal action in court, or regulatory action through state gaming oversight agencies, to halt the illegal online sports betting offered by prediction markets.

CFTC regulations allowing platforms to self-certify event contracts without pre-clearance from the agency enable an ecosystem in which prediction markets are able to launch gaming products first, then litigate after developing a customer base and generating immense revenue. This business model has resulted in an incredible 26 lawsuits in which states, Tribes, classes, and individuals all argue that these companies are violating the law and exploiting consumers, including vulnerable populations. An *amicus brief*⁷ joined by 34 state attorneys general⁸ supporting litigation against a prediction market operator notes:

“Initially, it claims that its events contracts do not count as sports gambling. As a legal matter, that depends on definitions within state law. But, as a real-world matter, the activity Kalshi facilitates is obviously sports betting.

“To confirm as much, one must only peruse Kalshi’s website. The website has an entire category dedicated to ‘sports’ where—through a few easy clicks—people can bet on things like the Steelers winning more than eight games this sea-

⁶*Pelayo v. Kalshi Inc.*, † No. 1:25-cv-09913 (ALC), Compl. (S.D.N.Y. Nov. 26, 2025).

⁷*Brief of Amici Curiae of Nevada, Ohio, 32 Other States, District of Columbia, and Northern Mariana Islands Supporting Appellants*, † *KalshiEX LLC v. Flaherty*, No. 25-1922 (3d Cir. June 17, 2025).

⁸Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, Hawaii, Idaho, Illinois, Indiana, Iowa, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nevada, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Washington and Wisconsin.

son or the Ravens winning the Super Bowl. Baseball fans can similarly play the odds on whether the Phillies or the Mets will win the National League East.”

State gaming regulators are also engaging to prevent the proliferation of this illegal online gaming, which they believe lack the safeguards established gaming systems impose to ensure integrity, consumer protection, and oversight. For example, the Pennsylvania Gambling Control Board stated in an October letter⁹ to Congress:

“Sports prediction markets operating outside established regulatory frameworks raise significant integrity concerns due to their vulnerability to manipulation. Our frameworks involve mandatory data sharing between licensed operators and sports leagues, sophisticated monitoring systems to detect suspicious betting patterns, and strict rules prohibiting participation by athletes, officials, and other insiders.”

Notably, any sports event contract found by state gaming regulators to be illegal sports betting under state law—as has occurred in at least a dozen states—is therefore also in violation of CFTC regulatory prohibition on contracts which are unlawful under Federal or state law.

The CFTC Has Failed to Act

Despite evidence in plain sight, and prediction markets’ own words that sports event futures constitute illegal gaming, a September 2025 CFTC staff letter¹⁰ notes “the Commission has not . . . taken any official action to approve the listing for trading of sports-related event contracts,” because “all sports-related event contracts that are currently listed for trading . . . have been listed pursuant to self-certifications.” In essence, the CFTC argues that it has not taken action because, by self-certifying their gaming products, prediction markets have demonstrated their compliance. This is a flagrant violation of CFTC regulation, and it is clear that the self-certification system is failing to provide sufficient safeguards against illegal online gaming.

In other words, the CFTC is asleep at the wheel.

Recent court documents show that one prominent prediction market reported more than \$1 billion in gaming volume in a single month, with 90% of that coming from so-called sports event contracts. The sheer volume of this activity demands greater scrutiny by the CFTC, yet the Commission has failed to take any substantive action whatsoever.

If the CFTC Won’t Act, Congress Must

Tribal gaming was authorized by Congress to support government services and enable our nations to address generations of broken promises and underinvestment in our communities. In California, that has resulted in Tribal governments having the exclusive right to offer casino-style gaming under the state Constitution and our Tribal-state gaming compacts. It is a travesty that rogue corporations are allowed to offer bets to our own casino patrons that we cannot offer ourselves, and so I respectfully ask that the House and Senate step in without delay. Congress must take immediate action to reaffirm the integrity of the CEA, restore the proper balance between Federal and Tribal-state authority, and protect consumers from predatory, unregulated online gaming.

The CFTC’s dereliction of its responsibility may be due to a lack of resources, or, unlikely as it is, the CFTC may be unaware of the illegal activity occurring on its watch. Regardless of the reason, the outcome is the same: prediction markets are disregarding Federal, Tribal, and state laws to generate massive revenues at the expense of consumers and those who comply with the law.

Unless Congress reaffirms the boundary between legitimate derivatives markets (which should be insulated from state law and interference) and gaming activity, these companies will continue to expand unchecked.

Thank you for the opportunity to provide testimony. CNIGA stands ready to assist the Committee as it continues its oversight of the CFTC and considers legislative solutions to this growing problem.

⁹Pennsylvania Gaming Control Board, Letter from Kevin F. O’Toole, Executive Director, to Members of Congress (Oct. 3, 2025).†

¹⁰CFTC Staff Letter No. 25–36 (September 30, 2025).†

STATEMENT 6

HON. LUCAS SPRAGUE, CHIEF, SAGINAW CHIPPEWA INDIAN TRIBE

Reauthorization of the Commodity Futures Trading Commission

Chairman Thompson, Ranking Member Craig, and Members of the Committee:

On behalf of the Saginaw Chippewa Indian Tribe of Michigan, thank you for the opportunity to submit this statement for the record as the Committee considers reauthorization of the Commodity Futures Trading Commission (CFTC) and potential amendments to the Commodity Exchange Act (CEA).

The Saginaw Chippewa Tribe supports well-regulated derivatives markets that serve legitimate commercial and risk-management purposes. However, we are increasingly concerned that the Commodity Exchange Act is being invoked to facilitate widespread sports wagering—and potentially casino-style gaming—through products marketed as “event contracts” or similar instruments. These developments were not intended under the Commodity Exchange Act, threaten Tribal sovereignty and undermine Michigan’s carefully constructed gaming regulatory framework.

The Saginaw Chippewa Tribe is a federally recognized sovereign Indian Tribe with governmental authority and substantial economic interests in Michigan. The Tribe operates gaming facilities pursuant to the Indian Gaming Regulatory Act (IGRA), Tribal regulations and a Tribal-state gaming compact with the State of Michigan. Revenue generated from these operations supports essential governmental services for our citizens, including public safety, education, health care, housing, infrastructure, and cultural preservation.

Michigan’s Gaming Framework Reflects Deliberate Policy Choices

Michigan has made deliberate and comprehensive policy choices regarding gaming. Sports wagering and internet gaming are lawful in the state only because the Michigan Legislature enacted detailed statutory frameworks and entrusted oversight and enforcement to the Michigan Gaming Control Board (MGCB). Tribal and commercial internet gaming operators are subject to extensive licensing requirements, integrity monitoring, consumer protections, responsible gaming safeguards, and strict age and geolocation controls.

Tribal gaming in Michigan operates within the framework Congress established under IGRA, which is grounded in respect for Tribal sovereignty and implemented through comprehensive Tribal regulations, Federal oversight and negotiated Tribal-state compacts. This system has provided regulatory certainty, economic stability, and strong consumer protections while supporting Tribal self-determination and economic development.

Event Contracts Threaten to Circumvent Michigan Law and Tribal Compacts

The Saginaw Chippewa Tribe is deeply concerned that sports-related “event contracts” offered by vendors such as Kalshi and Crypto.com threaten to bypass Michigan and Tribal gaming laws and regulatory system entirely. Although these vendors assert that their products are financial instruments governed by the CEA, in practice the products function as sports bets—allowing consumers to wager money on the outcomes of sporting events with no connection to *bona fide* hedging or commercial risk management.

These products compete directly with lawful commercial and Tribal gaming operations in Michigan while avoiding the regulatory obligations imposed by Federal, Tribal and state law and Tribal-state compacts. Event contracts are being offered to Michigan residents, including on Tribal lands, without licensure or approval by the MGCB or the Tribes and without regard to Michigan law or compact requirements.

This approach creates an uneven and unfair playing field. Tribal gaming operators remain subject to extensive regulatory oversight and enforcement, while event-contract vendors claim nationwide authority to offer gambling-like products outside of state and Tribal regulatory and licensing systems.

The CFTC Is Not a Gaming Regulator

The CFTC’s mission and expertise lie in regulating derivatives markets to protect against fraud, manipulation, and systemic risk. It is not designed to regulate sports wagering or casino-style gaming, which raise distinct public-interest concerns, including consumer protection, wagering integrity, responsible gaming, and respect for state and Tribal sovereignty.

In Michigan, those responsibilities rest with the MGCB and, in Indian Country, with Tribal gaming regulators operating under IGRA. Allowing gambling-like prod-

ucts to proceed under the CEA risks displacing Michigan’s regulatory framework and effectively establishing national gambling policy through commodities law—without Congressional authorization and without involvement from states or Tribes.

Such an outcome would also undermine IGRA and the Tribal-state compacting process that Congress has long recognized as essential to Tribal self-government.

Without Clear Limits, Event Contracts Will Continue to Expand Toward Gambling

If sports-style event contracts are permitted to scale under the CEA, vendors will predictably design products that increasingly resemble casino-style gaming—short-term outcomes, rapid repeat play, and wagering mechanics indistinguishable from regulated sports betting. Without clear statutory boundaries, these products will continue to proliferate in Michigan outside of state and Tribal oversight.

Requested Congressional Action

The Saginaw Chippewa Indian Tribe respectfully urges the Committee to include in any CFTC reauthorization legislation targeted amendments to the Commodity Exchange Act that:

- Clarify that the CFTC may not approve, permit, or otherwise facilitate contracts that constitute sports wagering, including contracts whose predominant purpose and practical effect is consumer betting rather than *bona fide* hedging or commercial risk management.
- Prohibit, or deem contrary to the public interest, event contracts and similar instruments that function as casino-style games or otherwise replicate gambling mechanics, regardless of how they are labeled or marketed.

Conclusion

The Saginaw Chippewa Indian Tribe appreciates the Committee’s leadership in overseeing the nation’s derivatives markets. Modernization, however, must not come at the expense of Michigan’s gaming laws, Tribal sovereignty, the IGRA or the integrity of the Tribal-state compacting system. We urge Congress to act now to prevent the Commodity Exchange Act from becoming a Federal workaround for sports betting and casino-style gaming-activities that directly conflict with Michigan law, the IGRA and undermine Tribal self-determination.

Thank you for the opportunity to submit this statement for the record.

STATEMENT 7

MATTHEW J. WESAW, CHAIRMAN, POKAGON BAND OF POTAWATOMI INDIANS

Reauthorization of the Commodity Futures Trading Commission

Chairman Thompson, Ranking Member Craig, and Members of the Committee:

On behalf of the **Pokagon Band of Potawatomi Indians** (Pokagon Band), a federally recognized Indian Tribe, thank you for the opportunity to submit this statement for the record as the Committee considers reauthorization of the Commodity Futures Trading Commission (CFTC) and potential amendments to the Commodity Exchange Act (CEA).

The Pokagon Band supports well-regulated derivatives markets that serve legitimate commercial and risk-management purposes. However, we are deeply concerned that the CEA is increasingly being used to facilitate widespread sports wagering—and will be used for casino-style gaming—through products marketed as “event contracts” or similar financial instruments. These developments threaten Tribal and state sovereignty and undermine the carefully constructed gaming regulatory frameworks in both Michigan and Indiana, where the Pokagon Band exercises governmental authority and operates gaming facilities under the Indian Gaming Regulatory Act (IGRA).

The Pokagon Band has substantial governmental, economic, and regulatory interests in southwest Michigan and northern Indiana. We conduct gaming operations in both states within our Indian lands under IGRA and negotiated Tribal-state compacts. We also conduct sports wagering and internet gaming beyond our Indian lands in Michigan under state law. Revenue from these operations funds essential governmental services for our citizens and others, including public safety, education, health care, housing, infrastructure, and cultural preservation. Importantly, under the Tribal-state compacts, the Pokagon Band shares tens of millions of dollars each year with both states and their local units of government.

Michigan and Indiana Have Distinct but Deliberate and Comprehensive Gaming Frameworks

Both Michigan and Indiana have made deliberate and carefully calibrated policy choices regarding gaming—choices that are unique and reflect state law, Tribal sovereignty, and local public interests.

In Michigan, sports wagering and internet gaming are lawful outside of Indian lands only because the Michigan Legislature enacted comprehensive statutory frameworks, under which the Michigan Gaming Control Board (MGCB) provides robust regulatory oversight. Tribal and commercial operators are licensed under state laws for these activities and are subject to licensing, auditing, integrity monitoring, consumer protection requirements, responsible gaming safeguards, and age and geolocation controls. Importantly, Tribal gaming operations within Indian lands in the state operate pursuant to IGRA and Tribal-state compacts that reflect a balance between Tribal sovereignty and state regulatory interests.

In Indiana, commercial gaming, including sports wagering, is likewise authorized through a comprehensive statutory system overseen by the Indiana Gaming Commission (IGC). Indiana law establishes clear boundaries for permissible gaming activity, requires licensing and regulatory compliance, and entrusts enforcement to a specialized gaming regulator. Like in Michigan, Tribal gaming on Indian lands within Indiana, including retail sports betting, operates under IGRA and a Tribal-state compact that balances the parties' respective interests.

In both states, gaming outside of Indian lands is lawful only because legislatures acted and empowered regulators to oversee and license permitted gaming activities within each state, while within Indian lands, Tribal gaming operates under the comprehensive framework Congress expressly created through IGRA.

Event Contracts Threaten to Bypass IGRA and State Systems

The Pokagon Band is increasingly concerned because sports-related “event contracts” offered by vendors such as Kalshi and Crypto.com bypass these regulatory systems, which mandate fair play and consumer protection. Although these vendors assert that their products fall under the CEA, the products function as sports betting, as they allow consumers to wager money on the outcomes of sporting events with no connection to *bona fide* hedging or commercial risk management.

These products directly compete with lawful Tribal and commercial gaming operations in Michigan and Indiana, in a manner that violates IGRA, Tribal-state compact obligations, and state laws. Event contracts are being marketed and made available to residents of Michigan and Indiana—including on Tribal lands—without the required approvals mandated by these regulatory requirements.

This creates an uneven and unfair playing field. Tribal and commercial gaming operations remain subject to extensive regulatory requirements, enforcement oversight, and public-interest obligations, while event-contract vendors claim nationwide authority under the CEA to offer gambling-like products (currently, sports wagering) free from state and Tribal control.

The CFTC Is Not a Gaming Regulator and Should Not Supplant State and Tribal Authority

The CFTC's expertise lies in derivatives market oversight, not in regulating sports wagering or casino-style gaming. Gaming regulation involves distinct public-interest concerns, including consumer protections tailored to wagering, integrity monitoring, responsible gaming requirements, and respect for state and Tribal sovereignty.

In Michigan and Indiana, those responsibilities are entrusted to specialized gaming regulators and, within Indian lands, to Tribal gaming regulators. Allowing gambling-like products to proceed under the CEA risks displacing both states' regulatory frameworks and IGRA and effectively setting national gambling policy through commodities law—without Congressional authorization and without the involvement of states or Tribes.

Such an outcome is contrary to Congress's intent under the CEA and IGRA, undermines state and Tribal autonomy, violates state law, erodes Tribal-state compacts, and weakens a framework Congress has long recognized as essential to Tribal self-determination and economic stability.

Without Clear Limits, Event Contracts Will Evolve Toward Casino-Style Gaming

The Pokagon Band urges the Committee to recognize the strong commercial incentives at play. If sports-style event contracts are permitted under the CEA, vendors will inevitably design offerings that resemble casino-style gaming—short-duration outcomes, rapid repeat play, and wagering mechanics indistinguishable from regulated sports betting.

Without clear statutory boundaries, these products will continue to proliferate across Michigan and Indiana outside of state and Tribal oversight, thereby undermining regulatory authority and threatening Tribal and state government revenues that support essential services.

Requested Congressional Action: Draw a Bright Line in the Commodity Exchange Act

The Pokagon Band respectfully requests that the Committee include in any CFTC reauthorization legislation targeted amendments to the CEA that:

- Clarify that the CFTC may not approve, permit, or otherwise facilitate contracts that constitute sports wagering, including contracts whose predominant purpose and practical effect is consumer betting rather than *bona fide* hedging or commercial risk management.
- Prohibit event contracts and similar instruments that function as casino-style games or otherwise replicate gambling mechanics, regardless of how such products are labeled or marketed.

Conclusion

The Pokagon Band appreciates the Committee’s leadership in overseeing the nation’s derivatives markets. However, modernization must not come at the expense of Michigan and Indiana gaming law, IGRA, Tribal sovereignty, or the integrity of the Tribal-state compacting system. We urge Congress to act now to ensure that the CEA does not become a Federal workaround for sports betting and casino-style gaming—activities that directly conflict with state law and IGRA and undermine the economic foundations of Tribal governments and threaten state revenue.

Thank you for the opportunity to submit this statement for the record.

STATEMENT 8

MATCH-E-BE-NASH-SHE-WISH BAND OF POTTAWATOMI INDIANS

Reauthorization of the Commodity Futures Trading Commission

Chairman Thompson, Ranking Member Craig, and Members of the Committee:

On behalf of the Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians (Gun Lake Tribe), thank you for the opportunity to submit this statement for the record as the Committee considers reauthorization of the Commodity Futures Trading Commission (CFTC) and potential amendments to the Commodity Exchange Act (CEA).

The Gun Lake Tribe supports well-regulated derivatives markets that serve legitimate commercial, price-discovery, and risk-management purposes. However, we are deeply concerned that the CEA is increasingly being invoked as a vehicle to facilitate widespread sports wagering and potentially casino-style gaming through products marketed as “event contracts”. These developments directly conflict with Tribal gaming interests, infringe on Tribal sovereignty, and threaten the time tested and balanced framework that governs gaming in Indian Country.

Impact on Tribal Gaming in Michigan

The Gun Lake Tribe conducts gaming operations pursuant to a Tribal-state compact with the State of Michigan, in full compliance with the Indian Gaming Regulatory Act (IGRA). This compact reflects our status as a federally recognized Tribe and is the result of extensive, good-faith negotiations with the state to balance Tribal sovereignty, state regulatory interests, and critical public policy considerations.

Michigan has established a comprehensive gaming regulatory framework, including for sports wagering, that expressly recognizes Tribal authority and the central role of Tribal-state compacts. When companies market sports-related “event contracts” on a nationwide basis under the Commodity Exchange Act, they effectively bypass Michigan’s gaming laws and the Tribal compacting process while competing directly with Tribal gaming operations that operate in full compliance with those laws. This circumvention undermines Tribal sovereignty, erodes IGRA exclusivity, weakens responsible gaming safeguards maintained by Tribal operators, and threatens critical revenue streams that support Tribal governmental services and contribute substantially to local and regional economies.

Of particular concern are sports-related event contracts offered by vendors such as Kalshi, and Polymarket. Although characterized as derivatives products regulated by the CFTC, these offerings function as sports bets: consumers stake money on the outcome of sporting events with no connection to commercial risk management or hedging. These products are currently being offered broadly, including to

Michigan residents and on Tribal lands, without meaningful review for compliance with state law or Tribal gaming compact obligations.

The CFTC Lacks Expertise and Authority To Regulate Gaming

The Commodity Futures Trading Commission's core mission and institutional expertise are centered on overseeing derivatives markets, including promoting market integrity, facilitating legitimate risk transfer, and preventing fraud and manipulation. The Commission is neither designed nor resourced to regulate sports wagering or casino-style gaming, which present distinct and well-established public-interest concerns beyond the CFTC's traditional role. These concerns include the integrity of sporting events, age and geolocation verification, wagering-specific consumer protections, and the prevention and mitigation of gambling-related harms. Oversight of these matters has long and appropriately rested with state gaming regulators and Tribal authorities operating under the IGRA and Tribal-state compacts.

Absent clear Congressional direction, the CFTC risks being drawn—through self-certification processes and increasingly aggressive product design—into regulatory decisions that effectively establish national gambling policy under the guise of commodities law. Such an outcome would exceed the Commission's statutory mandate and disrupt the longstanding Federal-state-Tribal balance governing gaming regulation.

Event Contracts Headed Toward Casino-Style Gaming

The Gun Lake Tribe urges the Committee to recognize the strong commercial incentives driving the rapid evolution of these products. If sports-style event contracts are permitted to scale under the Commodity Exchange Act, vendors will be incentivized to push boundaries further—aggressively designing increasingly short-term, repetitive, and game-like contracts that closely resemble traditional sports wagering and casino mechanics.

Absent clear statutory boundaries, innovation in this space will continue to trend toward the nationwide offering of gambling-like products outside established state and Tribal gaming oversight. This trajectory would place compliant Tribal gaming operations at a competitive disadvantage and undermine the integrity of longstanding regulatory frameworks.

Requested Congressional Action

The Gun Lake Tribe respectfully requests that the Committee include targeted amendments in any CFTC reauthorization legislation to:

1. **Clarify that the CFTC may not approve, permit, or otherwise facilitate contracts that constitute sports wagering**, including contracts whose predominant purpose and practical effect is consumer betting rather than *bona fide* hedging or commercial risk management.
2. **Prohibit (or deem contrary to the public interest) event contracts and similar instruments that function as casino-style games** or otherwise replicate gambling mechanics, regardless of the label applied.

Conclusion

The Gun Lake Tribe appreciates the Committee's leadership in modernizing market oversight. However, modernization must not come at the expense of Tribal sovereignty or the integrity of gaming frameworks that Congress has long respected and continuously affirmed. We urge Congress to act decisively to ensure that the CEA does not become a Federal pathway for nationwide sports betting and casino-style gaming, activities that directly conflict with the longstanding Federal-state-Tribal balance governing gaming regulation.

STATEMENT 9

MOHEGAN TRIBE OF INDIANS OF CONNECTICUT

Reauthorization of the Commodity Futures Trading Commission

Chairman Thompson, Ranking Member Craig, and Members of the Committee:

On behalf of the Mohegan Tribe of Indians of Connecticut ("Mohegan"), thank you for the opportunity to submit this statement for the record as the Committee considers reauthorization of the Commodity Futures Trading Commission (CFTC) and potential amendments to the Commodity Exchange Act (CEA).

Mohegan supports well-regulated derivatives markets that serve legitimate commercial and risk-management purposes. But we are deeply concerned that the CEA is increasingly being invoked as a *vehicle* to facilitate widespread sports wagering—and potentially casino-style gaming—through products marketed as "event con-

tracts” or related instruments. These developments are contrary to the clear intent of the CEA, the interests of Tribes, and threatens the carefully balanced framework that governs gaming in Indian Country.

In Connecticut and Pennsylvania, we are already seeing companies expand gambling-like products that compete directly with Tribal gaming operations protected under Tribal-state gaming compacts and Mohegan’s licensed gaming operations in Connecticut and Pennsylvania. Although these vendors claim their products are financial instruments governed by the CEA, they operate and are essentially marketed to the public as sports bets implicating Tribal, Federal and state law. The scope and speed of their actions are unprecedented and of significant concern to Tribes and states across the country.

The CFTC Is Not a Gaming Regulator—and Congress Should Not Let Private Entities Exploit the CEA As a Back Door for Betting

The CFTC’s mission and expertise center on derivatives market integrity, risk transfer, clearing, and enforcement against fraud and manipulation. The Commission is not designed or resourced to regulate sports wagering or casino-style gaming, which involve distinct public-interest concerns: game integrity, consumer protections tailored to wagering, age and location controls, and safeguards against gaming-related harms.

Congress does not hide elephants in mouseholes and did not do so here. Absent Congressional reaffirmation, the CFTC risks being pushed—through these entities’ self-certification dynamics and aggressive product design—into decisions that effectively set national gambling policy under commodities law. Such an outcome is antithetical to the CEA and undermines the policy Congress established through the Indian Gaming Regulatory Act (IGRA). Through IGRA, Congress balanced the sovereign interests of Tribes and states, and made clear that Indian gaming revenues support Tribal self-sufficiency and essential governmental services in Indian Country.

Without Reaffirmation, Vendors Will Predictably Design Contracts That Mimic Casino-Style Games

Mohegan urges the Committee to recognize the strong commercial incentives at play. If sports-style event contracts are permitted to scale under the CEA, vendors will naturally iterate toward products that replicate the look and feel of casino-style gaming—short-duration outcomes, repeated play mechanics, and contract structures that function as wagering rather than risk management. “Innovation” will increasingly mean gaming-like offerings, with nationwide reach, outside of state and Tribal gaming oversight.

Requested Congressional Action: Amend the CEA To Draw a Bright Line

We respectfully request that the Committee include in any CFTC reauthorization package targeted reaffirming amendments to the CEA that:

1. **Clarify that the CFTC may not approve, permit, or otherwise facilitate contracts that constitute sports wagering**, including contracts where the predominant purpose and practical effect is consumer betting rather than *bona fide* hedging or commercial risk management.
2. **Prohibit (or deem contrary to the public interest) event contracts and similar instruments offered through designated contract markets that function as casino-style games** or otherwise replicate gambling mechanics, regardless of the label applied.

Conclusion

Mohegan appreciates the Committee’s leadership in modernizing market oversight. But modernization must not come at the expense of Tribal sovereignty or the integrity of gaming frameworks that Congress has long respected. We urge Congress to act now to prevent the CEA from becoming a new pipeline for sports betting and casino-style gaming—activities that directly conflict with the CEA itself, Tribal interests and Tribal-state compacts.

SUBMITTED LETTER BY HON. DUSTY JOHNSON, A REPRESENTATIVE IN CONGRESS
FROM SOUTH DAKOTA

March 27, 2024

Hon. ROSTIN BEHNAM,
Chairman,
Commodity Futures Trading Commission,

Washington, D.C.

Dear Chair Behnam:

Thank you for your leadership as a Commissioner and Chairman of the Commodity Futures Trading Commission in promoting a robust dialogue about the resilience of derivatives clearinghouses. As a previous sponsor of the CFTC Market Risk Advisory Committee (MRAC), you encouraged a diverse and broad coalition of stakeholders and market participants to develop consensus recommendations for the CFTC to adopt to strengthen the financial markets.

One indispensable tool to strengthen financial derivatives markets is the use of margin to manage the risks of price volatility and protect derivatives markets. During a hearing before the House Committee on Agriculture on March 9, 2023, focused on reviewing volatility in global commodity markets, the topic of margin received significant attention from members.

The hearing focused on the importance of futures markets for end-users during the recent periods of increased stress in the financial system, including the commodity market volatility and disruptions caused by the COVID pandemic and the Russian invasion of Ukraine. At the hearing, witnesses discussed the role of the futures markets as a critical risk management tool for end-users, particularly during increased market volatility. Witnesses also discussed that while markets functioned well during the turmoil, the experiences serve as an important opportunity to examine how to enhance market resilience to the benefit of end-users and financial stability.

We understand that clearinghouse margin requirements should naturally rise when markets are volatile and fall when conditions normalize. However, some witnesses expressed concern that the magnitude and speed with which clearinghouse margin levels increased added stress to markets and forced many end-users and investors to source additional funding. At a time when funding was scarce and more expensive, meeting higher than expected margin calls exacerbated already volatile market conditions.

Last September, a report¹ published by international regulatory authorities examined the impact on markets caused by the rapid and significant margin increases at the onset of the pandemic in March 2020. In May, the report was followed by a more in-depth look² at margin practices in commodities markets during the market volatility associated with the Russian invasion of Ukraine in February 2022.

This is an important issue that we know the CFTC continuously examines, both for the clearinghouses under its own jurisdiction, and as a part of the global standard setting bodies responsible for fostering consistency across jurisdictions.

Stakeholders are also making important contributions to this discussion. In February 2021, the MRAC endorsed a series of consensus recommendations³ from a wide range of market participants for the CFTC to implement to strengthen and improve clearinghouse margin methodology practices. To date, those recommendations have not been adopted by the CFTC. In addition, global regulators continue to review the issue, publishing⁴ a consultative report with recommendations to improve the transparency and responsiveness of initial margin in centrally cleared markets on January 16, 2024.

The events of the last several years demonstrate the importance of initial margin to market resilience. It is essential to ensure that clearinghouse margin models: (1) are adequately transparent to market participants to help clearing members and their clients better prepare for market volatility; (2) are appropriately calibrated and stable to avoid levels that fall too low during normal conditions, only to increase dramatically in stressed markets; and (3) do not threaten the affordability and accessibility of the risk management markets for end-users.

¹The Basel Committee on Banking Supervision (BCBS), Bank for International Settlements' Committee on Payments and Market Infrastructure (CPMI) and the International Organization of Securities Commissions (IOSCO) published a report on margin calls during the high market volatility and "dash for cash" during the onset of COVID-19 in March and April 2020. The report showed that total initial margin requirements across clearinghouses increased by roughly \$300 billion over March 2020, with a further increase in excess collateral of \$115 billion, resulting in an overall increase in collateral prepositioned at clearinghouses of \$415 billion (a roughly 40% increase relative to the average in February 2020). <https://www.bis.org/bcbs/publ/d537.htm>.

²<https://www.bis.org/bcbs/publ/d550.pdf>.

³https://www.cftc.gov/media/6206/MRAC_CCPRGS_DPBPCCPMM022321/download.

⁴<https://www.iosco.org/library/pubdocs/pdf/IOSCOPD757.pdf>.

Respectfully, we ask that you make this a priority for the CFTC to strengthen and improve clearinghouse margin methodology practices and better support end-users in their risk management and liquidity planning.

Sincerely,




Hon. DUSTY JOHNSON

Chairman,

Subcommittee on Commodity Markets,
Digital Assets, and Rural Develop-
ment,

Hon. YADIRA CARAVEO

Ranking Minority Member,

Subcommittee on Commodity Markets,
Digital Assets, and Rural Develop-
ment,

SUBMITTED STATEMENT BY HON. DUSTY JOHNSON, A REPRESENTATIVE IN CONGRESS
FROM SOUTH DAKOTA; ON BEHALF OF NATIONAL GRAIN AND FEED ASSOCIATION

Reauthorization of the Commodity Futures Trading Commission

The National Grain and Feed Association (NGFA) respectfully requests submission of this statement into the written record for the House Agriculture Committee's hearing on reauthorization of the Commodity Futures Trading Commission (CFTC).

The NGFA, established in 1896, consists of grain, feed, processing, exporting and other grain-related companies that operate facilities handling U.S. grains and oilseeds. Its membership includes grain elevators; feed and feed ingredient manufacturers; biofuels companies; grain and oilseed processors and millers; exporters; livestock and poultry integrators; and associated firms that operate over 8,000 facilities providing goods and services to the nation's grain, feed and processing industry. NGFA's membership includes cooperatives and private companies employing 175,000 Americans and supporting over 1.16 million associated jobs nationwide with an annual economic impact of \$401.7 billion.

The NGFA strongly supports reauthorization of the CFTC as a standalone agency. It performs an important oversight and regulatory role benefiting the grain, feed and processing industry—a primary user of agricultural products on regulated exchanges. Our association maintains a strong and professional working relationship with CFTC and believes current regulation helps the United States maintain its agricultural and energy leadership in exchange-traded derivatives.

Our industry, as the first purchaser of grains and oilseeds from producers, has traditionally provided both marketing and risk management services to farmers through a variety of cash contracts. NGFA's membership also represents a substantial portion of the hedge business volume on the grain exchanges, so we have strong interest in the performance of both futures and cash markets.

As the undisputed centerpiece of price discovery and price risk management in grain-based agriculture, exchange-traded futures contracts remain the single most important tool and provide the foundation for many other risk management tools. Virtually all cash contracts offered to grain farmers are designed to permit hedging the risk through exchange instruments. Thus, a high percentage of cash contracting activity establishes a price risk to the buyer that is ultimately "laid off" in futures markets.

NGFA has a long history of working closely with CFTC in many areas, but this statement will focus on several key issues impacting our members that were recently brought before the CFTC.

24/7 Trading

While other CFTC-regulated industries may request 24/7 trading, commercial users oppose 24/7 trading of agricultural commodities contracts for the following reasons:

- Trading is heavier at the market opening and settlement and provides opportunities to price larger orders. Spreading liquidity across a wider trading period creates trade execution risk, potentially widens bid/ask spreads, and expands potential for market manipulation while the market is diluted.
- The underlying domestic cash market does not trade 24/7, thus having futures markets open for more hours while cash markets are closed would create additional exposure and risk.
- Global cash markets are accommodated by current trading hours. Traders in Geneva and Rotterdam are at the end of their workdays when daytime trading

settles at 1:20 p.m. CST and Beijing traders are beginning their workday when overnight trading opens at 7:00 p.m. CST. Thus, the daytime trading hours accommodate European trading, and the overnight futures align with trading hours in Asia.

- Our members perform their daily reconciliation functions when markets are closed. This function is critical in managing risk and exposure in cash markets.
- A pause in trading in futures markets is essential for physical deliveries. This pause allows those involved in physical deliveries to assess what is changing in cash and futures markets, along with their delivery economics. NGFA believes actions in the delivery market are what lead to convergence, and this is a critical function of the agricultural futures contracts.
- Staffing costs would unnecessarily increase to add monitoring of futures markets during the expanded weekday hours and weekends. Extended trading would lead to less time for managing other aspects of their businesses.
- Having a large gap between when the market settles and closes would create confusion for the industry and its customers.

In short, NGFA members believe expanding trading hours to 24/7 would increase price risk and costs without offsetting benefits.

Intermediate Trading

NGFA members appreciate the intermediary role Futures Commission Merchants (FCM) play in futures and other derivative markets by handling customer orders, managing client accounts and ensuring margin requirements are met. NGFA had concerns that the pool of FCMs would shrink further when the Federal Reserve, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency were proposing to increase capital requirements through Basel III endgame rulemakings. NGFA believes the proposal, if implemented, would have disincentivized banks from providing FCM services and led to increased hedging costs. Fortunately, the current Federal Reserve leadership has indicated plans to ease Basel III endgame requirements.

In 2022, FTX proposed disintermediate trading for clearing cryptocurrency derivatives, which NGFA members feared would creep into agricultural and energy futures markets. Under FTX's proposal, customers would have directly cleared trades and bypassed traditional FCM intermediaries. This proposal was touted as innovation and streamlining but caused NGFA members concern about fund custody, the lack of traditional checks and balances, and customer protections offered by FCMs. FTX collapsed before CFTC could provide a final decision on the disintermediate proposal.

NGFA members escaped two proposals that had the potential to disrupt the proven intermediate trading system. We believe a light was shown on the important role FCMs play in risk management.

Commitments of Traders Report

The Commission provides a valuable service to agricultural markets through its weekly publication of Commitments of Traders (COT) reports. The COT report is CFTC's most downloaded item, a testament to its value. The COT report data is collected on Tuesday and reported on Friday. It is a summary of open interest positions held by various types of market participants and helps traders make informed decisions about the market dynamics and their risk exposure.

NGFA believes COT report benefits could be improved by reducing the 3 day lag time between data collection and reporting as well as by increasing the frequency of COT reporting. Further, NGFA urges CFTC to establish a process to publish current COT reports immediately following Federal Government shutdowns. The current process involves publishing missed COT reports in chronological order over the course of weeks or even months and can result in market participants being in the dark for long periods. NGFA members see CFTC's work on COT reports as a great benefit to the marketplace and encourage CFTC to further explore ways to enhance this offering.

Conclusion

NGFA supports CFTC as a standalone agency and appreciates Congress and CFTC's understanding of the agricultural industries' needs for managing risk. Thank you for your consideration of NGFA's statement.

SUBMITTED LETTER BY HON. SHARICE DAVIDS, A REPRESENTATIVE IN CONGRESS
FROM KANSAS

October 3, 2025

Hon. BRIAN K. FITZPATRICK, 1st District U.S. House of Representatives, Washington, D.C.	Hon. LLOYD SMUCKER, 11th District U.S. House of Representatives, Washington, D.C.
Hon. BRENDAN F. BOYLE, 2nd District U.S. House of Representatives, Washington, D.C.	Hon. SUMMER L. LEE, 12th District U.S. House of Representatives, Washington, D.C.
Hon. DWIGHT EVANS, 3rd District U.S. House of Representatives, Washington, D.C.	Hon. JOHN JOYCE, 13th District U.S. House of Representatives, Washington, D.C.
Hon. MADELEINE DEAN, 4th District U.S. House of Representatives, Washington, D.C.	Hon. GUY RESCENTIALER, 14th District U.S. House of Representatives, Washington, D.C.
Hon. MARY GAY SCANLON, 5th District U.S. House of Representatives, Washington, D.C.	Hon. GLENN THOMPSON, 15th District U.S. House of Representatives, Washington, D.C.
Hon. CRISSY HOULAHAN, 6th District U.S. House of Representatives, Washington, D.C.	Hon. MIKE KELLY, 16th District U.S. House of Representatives, Washington, D.C.
Hon. RYAN MACKENZIE, 7th District U.S. House of Representatives, Washington, D.C.	Hon. CHRISTOPHER R. DELUZIO, 17th District U.S. House of Representatives, Washington, D.C.
Hon. ROBERT P. BRESNAHAN, JR., 8th District U.S. House of Representatives, Washington, D.C.	Hon. JOHN FETTERMAN, United States Senate, Washington, D.C.
Hon. DANIEL MEUSER, 9th District U.S. House of Representatives, Washington, D.C.	Hon. DAVID MCCORMICK, United States Senate, Washington, D.C.
Hon. SCOTT PERRY, 10th District U.S. House of Representatives, Washington, D.C.	

RE: Sports Prediction Markets Threat to Pennsylvania Gaming Regulatory Framework

Dear Representatives and Senators,

I am writing to you today on behalf of the Pennsylvania Gaming Control Board (PGCB) to respectfully share our concerns about the growing presence of sports prediction markets and the significant threat they pose to Pennsylvania's long-established regulatory framework for gaming.¹

¹ To be clear, the PGCB feels prediction markets on non-sports related events (*e.g.*, Will there be a civil war in the United States in 2025? Will Taylor Swift announce her pregnancy in 2025? See polymarket.com) are equally—if not more—troubling than sports related event contracts; however, given our regulatory role in this area is limited to sports wagering, that will be the focus of this letter. Notwithstanding that fact, the same basic concerns exist across “current event” related contracts as well.

Following the U.S. Supreme Court's decision in *Murphy v. National Collegiate Athletic Association*, 584 U.S. 453 (2018), which struck down the Professional and Amateur Sports Protection Act of 1992 (PASPA) and recognized a state's right to authorize and regulate sports wagering within its boundaries, Pennsylvania began to authorize intrastate sports wagering. A comprehensive framework was developed through statute, 4 Pa.C.S. Chapter 13C, and regulation, 58 Pa. Code Part VII, Subpart Q, which is administered by the PGCB, an independent state agency also tasked with overseeing casino gaming, iGaming, video gaming terminals, and fantasy sports contests within the Commonwealth. Our system is designed to ensure consumer protections, responsible gaming, and the integrity of sporting events.

However, sports prediction markets operate under the assertion that they are financial derivatives, or swaps, and therefore claim to not be gambling under state law (or at the very least that state law is pre-empted). These markets claim primary regulatory oversight falls under the Federal Commodity Futures Trading Commission (CFTC). This assertion creates a direct conflict regarding regulatory authority, pitting Federal derivatives law against Pennsylvania's established power to regulate gambling activities within its borders and criminalize illegal gambling. The introduction of these markets operating under purported Federal oversight poses a direct threat to the comprehensive regulatory system that Pennsylvania, and many other state jurisdictions, have meticulously constructed for gaming.

The Threat to State Sovereignty and Regulatory Integrity

The regulation of gambling has historically been a matter left to individual states, reflecting the principle of state sovereignty. This was reaffirmed in *Murphy*. The framework Pennsylvania enacted was based on a long-standing understanding that regulation is crucial to the success of gaming. Allowing sports prediction markets to operate under the primary jurisdiction of the CFTC, which allows prediction markets to be self-certified by the private entities making them available, directly undermines this state authority. These markets effectively create a backdoor to legalized sports betting, operating parallel to, but outside of, the state-regulated system, and without strict oversight.

This strategy employed by prediction market operators appears to be one of regulatory arbitrage. State-regulated sports betting operators in Pennsylvania face significant requirements, including thorough background investigations, licensing fees, state taxation on gross gaming revenue for the benefit of the Commonwealth's citizens, and mandatory compliance with detailed rules providing consumer protections, responsible gaming provisions, and integrity monitoring. By seeking classification as financial derivatives, prediction markets aim to sidestep these crucial state-level requirements. This creates an uneven playing field where prediction markets could gain a competitive advantage by exploiting a perceived loophole between Federal financial regulation and state gaming law. Perhaps most troubling, the CFTC regulates a system that also allows wagers on events that a single person can control—something the PGCB would never allow for fear of manipulation of the market and a cascading loss of confidence in the integrity of the betting system.

With all due respect to the CFTC, it would take years for them to create the regulatory system and oversight that state gaming authorities have in place, which would create a redundancy for a system that already exists and works exceptionally well. The CFTC is a financial market regulator, lacking the specific expertise and historical mandate for overseeing consumer gambling activities. State bodies like the PGCB possess specialized knowledge and experience in this area to protect the public interest.

Inadequate Consumer Protection and Sports Integrity

The jurisdictional clash carries a significant risk of resulting in inconsistent and inadequate regulation. The CFTC's framework is designed for derivatives markets often involving sophisticated institutional participants. In contrast, state gaming regulators prioritize consumer protection for the public, implementing detailed measures for responsible gaming, age verification, and problem gambling prevention. Sports prediction markets, despite their financial framing, are marketed broadly and attract retail participation, including potentially-vulnerable populations, including individuals as young as 18.² Without state oversight, these markets operate without the specific, consumer-focused protections Pennsylvania mandates for its licensed gaming operators.

²Regulated gaming in the Commonwealth pursuant to the Pennsylvania Race Horse Development and Gaming Act requires an individual to be at least 21 year of age. 4 Pa.C.S. §1207(8).

Pennsylvania law and PGCB regulations require licensed online gambling operators to implement specific consumer protection and responsible gaming measures. These include:

- The ability to place limits on deposits, wagers, and time spent gambling.
- Implementing strict procedures to verify the age and identity of players.
- Displaying clear information about the risks of gambling and providing easy access to resources like the 1-800-GAMBLER helpline and the Council on Compulsive Gambling of Pennsylvania.

Crucially, the PGCB also has the ability to penalize the operators should they not live up to the strict and necessary statutory and regulatory requirements the operator agreed to upon application for licensure—something that an operator who “self-certifies” their contracts/wagers would never be subjected to. Indeed, the CFTC self-certification process, coupled with, to date, *laissez-faire* oversight into products due to a lack of the regulatory infrastructure even seems disconcerting to the CFTC which wrote, in a September 30, 2025, industry guidance document, the following:

The Commission has not, to date, been requested to take or taken any official action to approve the listing for trading of sports-related event contracts . . . All sports-related event contracts that are currently listed for trading on DCMs have been listed pursuant to self-certifications filed by the relevant DCM . . . and the Commission has not, to date, made a determination regarding whether any such contracts involve an activity enumerated or prohibited under (the) CEA.

In addition to the above, it is further noteworthy that the PGCB and other state regulators are heavily involved in monitoring the integrity of sporting events. Sports prediction markets operating outside established state regulatory frameworks raise significant integrity concerns due to their vulnerability to manipulation. Our frameworks involve mandatory data sharing between licensed operators and sports leagues, sophisticated monitoring systems to detect suspicious betting patterns, and strict rules prohibiting participation by athletes, officials, and other insiders. If prediction markets successfully carve themselves out of the “gaming” definition, they risk creating a parallel wagering ecosystem where bets on sports outcomes occur with significantly less oversight regarding potential match-fixing or the exploitation of insider information. Even worse, the parallel tracks risk confusing patrons who engage in these markets by utilizing the veneer of a highly-regulated market when, in reality, their markets are more akin to the “wild west”.

For decades, Pennsylvania has demonstrated its capability to oversee a successful and safe gaming environment. We urge you to recognize and support the state’s role in this area. Maintaining the integrity of our established regulatory framework is paramount to protecting the public interest, ensuring consumer safety, and safeguarding vital state revenue streams.

Thank you for your attention to this critical matter. Of course, I and my staff are more than willing to meet and discuss this very important issue should you have any questions.

Sincerely,

Kevin F. O'Toole
 KEVIN O'TOOLE,
Executive Director,
 Pennsylvania Gaming Control Board.

SUBMITTED OPINION BY HON. SHARICE DAVIDS, A REPRESENTATIVE IN CONGRESS
 FROM KANSAS

Opinion No. 2025-073

October 23, 2025

Hon. BRYAN B. KING,
State Senator,
 Green Forest, AR

Dear Senator King:

You have requested an opinion from this Office concerning prediction markets and event contracts. In making your request, you note that Kalshi, “one of the largest exchange platforms for predictive markets,” allows people to “bet on future events”

like “election outcomes, the occurrence of natural disasters, sports outcomes, and who will win the Nobel Peace Prize this year.”

In that light, you ask the following four questions:

1. Would a company like Kalshi be operating in violation of Arkansas law if it was not licensed to engage in gaming operations?

Brief response: Yes, based on the information provided in the opinion request, a business model like you have described constitutes gambling or gaming and requires licensure.

2. Under Arkansas law, would sports related event contracts be subject to Arkansas’s tax on fantasy sports games?

Brief response: No, unless the contracts meet the definition of a “paid fantasy sports game” under A.C.A. § 23–116–102, they are not subject to such a tax. Only games that meet this definition pay the tax and benefit from the exemption under A.C.A. § 23–116–101.

3. If companies like Kalshi are not required to possess gaming licenses, would they be subject to any other Arkansas regulatory body as a financial exchange?

Brief response: My response to *Question 1* renders this question moot.

4. If companies like Kalshi can operate under Arkansas law without a gaming license, is there any type of event contract that could not be exchanged under Arkansas law, such as election contracts or contracts related to future tragedies?

Brief response: My response to *Question 1* renders this question moot.

Discussion

Question 1: Would a company like Kalshi be operating in violation of Arkansas law if it was not licensed to engage in gaming operations?

To answer your question, one must first determine whether a company like Kalshi facilitates or offers “gambling” or “gaming.” Although neither word is defined by statute, the Arkansas Supreme Court uses these words interchangeably and has defined them as “the risking of money between two or more persons, on a contest or chance of any kind, where one must be loser and the other gainer.”¹

Generally, gambling and gaming are prohibited in Arkansas.² Regulating or prohibiting such activities falls “within the police powers of a state.”³ When interpreting statutes that prohibit gambling or gaming, judges will read “the statutes liberally” and “in favor of the prohibition,” to prevent someone “from evading the penalty of the law” by changing the name or creating a new name or device.⁴

The acts you describe meet the Supreme Court’s definition of gambling and gaming: a participant is risking money on a chance that some future event occurs. The fact that a company has rebranded this gambling activity as a “prediction market” does not protect it from scrutiny. Further, it is unlawful for anyone to “receive or transmit information” concerning sports or games “for the purpose of gaming.”⁵ Thus, to the extent that a company like Kalshi facilitates wagers on sports outcomes or transmits data for gaming purposes (and your correspondence suggests that it does), those actions violate the law as well.

Question 2: Under Arkansas law, would sports related event contracts be subject to Arkansas’s tax on fantasy sports games?

Arkansas law permits the online operation of “paid fantasy sports games,” which are expressly exempt from the state’s gambling and gaming prohibitions.⁶ To qualify for this exemption, the operator of such games must pay a tax⁷ and meet multiple other requirements.⁸ For purposes of this opinion, the most relevant requirements are:

- The value of “all prizes and awards offered to winning game participants” must be “established and made known” in advance of the game.

¹ *Sharp v. State*, 350 Ark. 529, 534, 88 S.W.3d 848, 851–52 (2002) (quoting *Portis v. State*, 27 Ark. 360, 362 (1872)); Ark. Att’y Gen. Op. 2025–022.

² *E.g.*, A.C.A. §§ 5–66–101 to –120; Ark. Att’y Gen. Ops. 2025–022, 2023–008, 2016–073, 2009–123, 2006–052.

³ See *Ah Sin v. Wittman*, 198 U.S. 500, 505–07 (1905).

⁴ A.C.A. § 5–66–101; Ark. Att’y Gen. Op. 2009–123.

⁵ A.C.A. § 5–66–114(a).

⁶ *Id.* §§ 23–116–101, –103.

⁷ *Id.* § 23–116–104.

⁸ *Id.* § 23–116–102(5).

- The winning outcomes must be determined “predominantly by accumulated statistical results of the performance of individual athletes.”
- A winning outcome cannot be “based on the score, point spread, or performance or performance of any single team or combination of teams on any single performance of an individual athlete.”⁹

Because the business model as you have described does not meet the above requirements, it would not fall under the statutes governing “paid fantasy sports games.” Consequently, it would not be subject to Arkansas’s tax on fantasy sports and would not benefit from A.C.A. § 23–116–101(b)’s exemption from certain state gambling laws.

Question 3: If companies like Kalshi are not required to possess gaming licenses, would they be subject to any other Arkansas regulatory body as a financial exchange?

My response to *Question 1* renders this question moot.

Question 4: If companies like Kalshi can operate under Arkansas law without a gaming license, is there any type of event contract that could not be exchanged under Arkansas law, such as election contracts or contracts related to future tragedies?

My response to *Question 1* renders this question moot.

Assistant Attorney General William R. Olson prepared this opinion, which I hereby approve.

Sincerely,



TIM GRIFFIN,
Attorney General.

SUBMITTED INDIAN GAMING ASSOCIATION BRIEFS BY HON. DONALD G. DAVIS, A
REPRESENTATIVE IN CONGRESS FROM NORTH CAROLINA

BRIEF 1

2025 CFTC Timeline

****9/12/2024—*KalshiEx v. CFTC***—The U.S. District Court for the District of Columbia grants Kalshi’s motion for summary judgment, finding that the CFTC exceeded its statutory authority under the CEA, and that Kalshi’s event contracts on the outcome of the 2024 elections did not involve illegal activity or constitute gaming.**

January

- 1/17—January 17, 2025—D.C. Circuit Court of Appeals hears oral arguments in *KalshiEX v. CFTC*.
- 1/17—Kalshi argues in a Federal court case concerning election contracts that “gaming” involves games and conceded that sports contests are games, which would qualify as prohibited activities under the Commodity Exchange Act and applicable Federal regulations.
- 1/22—Kalshi files self-certification to list contracts on sports events and certified that “the contract complies with the [Commodity Exchange] Act and Commission regulations thereunder.”
- 1/25—Kalshi officially announced its entry into sports trading, advertising itself as the **“first app for legal sports betting in all 50 states”**.

February

- 2/5—the Commodities Futures Trading Commission (CFTC) issued a statement of their intent to allow “futures contracts” on sporting events, and other events such as political elections and even weather events.
 - CFTC did not issue a rulemaking to implement this change of policy, and nothing in writing from CFTC attorneys or Commissioners explaining the change in policy.
- CFTC states they would host a roundtable in DC with interested parties in April.

⁹*Id.*

- 2/12—White House announces nomination for Brian Quintenz to serve as CFTC Chair
- 2/21—Rep. Dina Titus (NV–01) files comments to the CFTC expressing concern about the public policy implications of certain platforms offering prediction contracts on the outcome of political and sports events.

March

- 3/4—Nevada Gaming Control Board issues cease-and-desist to [Kalshi]
- 3/27—New Jersey Division of Gaming Enforcement issues cease-and-desist to Kalshi and Robinhood
- 3/29—*KalshiEX, LLC v. Flaherty* (NJUDGE) [No. 1:25-cv-02152], response to NJ cease-and-desist
- 3/29—*KalshiEX, LLC v. Hendrick* (Nevada NGCB) [No. 2:25-cv-00575], response to NV cease-and-desist
- 3/31—Ohio Casino Control Commission issues cease-and-desist to Kalshi, Crypto.com, and Robinhood.
- With a large joint effort, CFTC agrees to have a Tribal portion of roundtable at the end of April and IGA is confirmed as the moderator.

April

- 4/1—Rep. Dina Titus (NV–01) sends petition to the CFTC to require changes to the terms and conditions of all event contracts that involve the outcome of sports and political contests. Additionally requests contracts to be stayed.
- 4/12—Maryland Lottery & Gaming issues cease-and-desist to Kalshi
- 4/21—*Derivatives North America (Crypto.com) v. Maryland L&G* [No. 1:25-cv-01285]
- 4/24—CFTC roundtable for 4/30 is canceled with no reasoning given to participants nor any indications of a timeline for reschedule.
- IGA (Jason Giles), AGA, and CNIGA (Chairman James Siva) met with Kalshi CEO, Tarek Monsour, as well as Sporttrade CEO, Alex Kane, discuss their justifications about why they consider these futures contracts were legal.

May

- 5/1—*KalshiEX, LLC v. Martin* (Maryland) [No. 1:25-cv-01283], response to MD cease-and-desist
- 5/5—Department of Justice drops appeal pending before the D.C. Circuit Court of Appeals in *KalshiEx v. CFTC*.
- 5/19—Rep. Tom Cole (OK–04) sends letter to CFTC urging action to protect Tribes from negative impacts of sports events contracts.
- 5/21—Arizona Department of Gaming issues cease-and-desist

June

- 6/10—Senate Ag Committee holds nomination hearing for Brian Quintenz
- 6/17—Tribal joint *amicus brief* filed in NJ case, 60 Tribes and 8 Tribal orgs/entities

July

- 7/10—*Derivatives North America (Crypto.com) v. Nevada NGCB* [No. 2:25-cv-00978]
- 7/22—*Blue Lake Rancheria; Chicken Ranch; Picayune v. Kalshi & Robinhood* [No. 3:25-cv-06162]
- 7/28—*Ohio Gambling Recovery LLC v. Kalshi, et al.* [No. 4:25-cv-01573-BYP]

August

- 8/15—Montana and Minnesota AGs issue cease-and-desist
- 8/20—*Ho-Chunk Nation v. Kalshi Inc.; KalshiEX LLC; Robinhood* [No. 3:25-cv-00698]

September

- 9/12—*Commonwealth of Massachusetts v. KalshiEX, LLC* [No. 2584CV02525]
- 9/15—Tribal joint *amicus brief* filed for Crypto.com case in NV, 24 Tribes and 10 Tribal orgs/entities
- 9/19—*Illinois Gambling Recovery LLC v. Kalshi, et al.* [No. 1:25-cv-11394]

- 9/19—Senator Catherine Cortez Masto (D–NV) sends letter to CFTC prompting responses to questions regarding the CFTC claims to validity over sports events contracts and explaining the lack of exercising enforcement.
- 9/22—*Massachusetts Gambling Recovery LLC v. Kalshi, et al.* [No. 1:25–cv–12707]
- 9/29—SEC hosts joint roundtable with CFTC
- 9/30—CFTC issues staff an advisory clarifying sports event contracts not approved; § 5c(c)(5)(C) applies.
- 9/30—Tribal joint *amicus brief* filed for Robinhood case in NV, 23 Tribes and 8 Tribal orgs/entities

October

- 10/02—*Georgia Gambling Recovery LLC v. Kalshi, et al.* [No. 2025–10–02]
- 10/07—*KalshiEX, LLC v. Schuler (Ohio Casino Control Commission)* [No. 2:25–cv–01165]
- 10/08—*South Carolina Gambling Recovery LLC v. Kalshi, et al.* [No. 8:25–cv–12867]
- 10/16—Nevada Gaming Control Board advises licensees re: prediction-market partnerships (post-Preliminary Injunction denial).
- 10/16—*Yee v. Kalshi, et al.* [No. 1:25–cv–08585–JLR]
- 10/16—Tribal joint *amicus brief* filed for Robinhood case in MA, 17 Tribes and 8 Tribal orgs/entities
- 10/20—*Kentucky Gambling Recovery LLC v. Kalshi, et al.* [No. 2025–10–20]
- 10/20—New York State Gaming Commission issues cease-and-desist
- 10/20—Illinois Gaming Board issues advisory to treat sports event contracts as gambling under state law.
- 10/24—White House announces Michael Selig as new nominee for CFTC Chair
- 10/27—*KalshiEX LLC v. New York State Gaming Commission* [No. 1:25–cv–08846], response to NY cease-and-desist

November

- 11/11—Senate Ag announces nomination hearing for Michael Selig on 11/19
- 11/14—Tribal joint *amicus brief* filed for Kalshi case in OH, 22 Tribes and 9 Tribal orgs/entities

BRIEF 2

Overview of the CFTC and Sports Betting Through Events Contracts

In 2025, the rapid emergence of online sports betting offered under the guise of prediction markets licensed by the Commodity Futures Trading Commission (“CFTC”) poses a direct threat to Tribal sovereignty and the Indian gaming industry. Despite being “licensed” by the CFTC, online sports betting/prediction markets constitute unregulated illegal gambling, lack adequate consumer protections, and undermine Tribal, state and Federal laws.

Prediction Markets and Sports Betting

A growing number of online and cryptocurrency-related corporations have registered with the CFTC to offer sports betting through their platforms, claiming that their offerings are “event contracts” that are subject to the exclusive jurisdiction of the CFTC. With the implicit blessing of the CFTC, these corporations offer online sports betting in every jurisdiction in the United States, regardless of whether Tribal or state governments permit gambling on their lands and without regard to existing Tribal or state government laws.

The emergence of DCMs offering online sports betting stems from unwritten policy changes within the Trump Administration’s CFTC. Prior to 2025, it was understood that Congress sought to prohibit sports betting, and the CFTC had consistently enforced its prohibitions on event contracts involving gambling. However, unilateral policy changes and general inaction by the CFTC have fostered the growth of sports betting through prediction markets in 2025.

By allowing such sports betting contracts, the CFTC is permitting these corporations to circumvent legal frameworks designed to protect Tribal sovereignty, state rights, and consumer protection—while also overriding IGRA, the Wire Act and other Federal laws.

Threats to Tribal Sovereignty

The Supreme Court struck down the Federal law prohibiting sports betting in 2018. Since then, sports betting has grown slowly on a Tribe-by-Tribe and state-by-state basis, building a comprehensive regulatory system to protect consumers and the integrity of sports. This slow growth has followed the traditional role of local control over gaming at the Tribal and state level.

Tribes offer sports betting as part of their class III operations, through compacts that have been negotiated with states pursuant to IGRA. These compacts often include revenue sharing provisions, under which Tribes share a portion of their revenue with a state in return for exclusivity agreements, which limit the expansion of gaming within the state. Tribes delivered more than \$2 billion in revenue sharing payments to states in 2024, and states collected approximately \$3 billion in taxes from sports betting through commercial gaming operations.

Tribes and states have developed comprehensive sports betting regulations that include stringent consumer protections, including establishing minimum age requirements, identity and location verifications, strict responsible gaming standards, extensive background checks for operators, and cooperation with amateur and professional leagues to detect suspicious activity.

Prediction market platforms offer none of these safeguards. Self-certified and essentially self-regulated corporations—with the blessing of the CFTC—offer no consumer protections, permit gambling by 18 year olds, and offer no location verification requirements or responsible gaming rules. These operators aggressively advertise without the background checks and disclosures, all while avoiding, Federal, Tribal, and state laws, regulations, and taxes.

The CFTC is not equipped to regulate gambling. The CFTC has an annual budget of \$365 million with 636 full time employees. Congress approved this budget in FY 2024, before the CFTC unilaterally decided to add nationwide sports betting to its workload.

Compare that to Tribal and state government gaming regulation, which invest more than \$1.3 billion annually, including a workforce of 8,000+ full time employees that provide immediate oversight, customer security, consumer protections, cyber-security and much more.

In short, the CFTC's inaction to prediction markets from offering online sports betting as agency-approved contracts has created a regulatory vacuum and represents a disaster waiting to happen.

*Action Items: What You Can Do To Protect Tribal Sovereignty**Contact Your Members of Congress*

Congress must address the regulatory vacuum created by CFTC-approved sports betting prediction markets by pressuring the CFTC to enforce its own laws and regulations. In addition, Congress must enact an amendment to the CEA to further clarify that sports betting through prediction markets are prohibited.

We urge Member Tribes to consider contacting your local House and Senate delegation and the House and Senate Agriculture Committees, urging them to question the CFTC about concerns with sports betting on CFTC-approved platforms and urging the agency to enforce its own regulations. This outreach should also urge Congress to directly amend the Commodity Exchange Act to further clarify that the CEA prohibits sports betting.

Engage in a Public Relations Effort

Despite the significant disruption caused by the rapid growth of prediction markets offering online nationwide sports betting, too many Members of Congress and the public are unaware of this issue, its impacts, and pending consequences. To correct this oversight, we urge all Tribes and Tribal organizations to consider submitting op-eds that detail the threat of online sports betting through prediction markets, and the dangers it poses to Tribal youth and those impacted by problem gambling, impacts on Tribal government economies, and the direct threat to Tribal sovereignty and the Indian Gaming Regulatory Act, among other impacts.

Build Coalitions

We urge all Members Tribes and regional Tribal organizations to contact your state governor, state attorney general, and state gaming commissions, urging them to join both the litigation and legislative efforts seeking to put a stop to sports betting through prediction markets. We also ask you to consider working with problem gambling organizations, religious organizations, and the major and amateur sports leagues to join these efforts.

Litigation to Stop Prediction Markets on Sports Betting

Tribal and state governments and consumer protection advocates have sued companies that offer sports betting through their prediction markets in at least 20 ongoing Federal and state court cases. Litigation is costly and time-consuming, but necessary to protect Tribal sovereignty. We continue to encourage all Member Tribes to work with your attorneys general and in-house counsel to consider signing on to *amicus briefs* in ongoing cases that seek to put a stop to prediction markets on sports betting.

SUBMITTED LETTER BY HON. DONALD G. DAVIS, A REPRESENTATIVE IN CONGRESS FROM NORTH CAROLINA; ON BEHALF OF BILL MILLER, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN GAMING ASSOCIATION

December 11, 2025

Chairman Thompson, Ranking Member Craig, and Members of the Committee:

On behalf of the American Gaming Association (AGA), thank you for the opportunity to submit testimony as you begin the important process of reauthorizing the Commodity Futures Trading Commission (CFTC), which has not seen a formal reauthorization since 2008.

The AGA is the premier national trade group representing the \$329 billion U.S. casino gaming industry. Our diverse membership includes commercial and Tribal casino operators, U.S.-licensed sportsbook operators, gaming suppliers, and other stakeholders committed to the highest standards of integrity, responsibility, and regulatory compliance. Collectively, the legal gaming industry supports 1.8 million jobs, generates over \$104 billion in wages and salaries, and contributes more than \$52 billion in tax revenue to Federal, state, and local governments annually. Gaming has been embraced by communities across 46 states and the District of Columbia, where various forms of regulated gaming are now permitted.

While the gaming industry has not historically had significant interests before this Committee before we appreciate this opportunity to add our voice on an increasingly urgent issue under your jurisdiction: the proliferation of so-called “sports event contracts” via CFTC-registered prediction markets and the significant threat they pose to state regulatory authority, responsible gaming standards, and the economic foundation of legal sports betting in the United States.

Legal Sports Betting: A Responsible, State-Led Framework

Since the Supreme Court’s 2018 decision in *Murphy v. NCAA* overturned the Professional and Amateur Sports Protection Act (PASPA), 39 states and the District of Columbia have legalized sports betting. These markets are governed by robust state regulatory frameworks tailored to reflect local values, public interests, and consumer protections.

This state-led system has generated substantial economic benefits:

- Americans legally wagered nearly \$150 billion on sports in 2024 alone
- Commercial legal sports betting produced \$13.8 billion in operator revenue and more than \$2.8 billion in tax revenue for Federal, state, and local governments in 2024—excluding revenue and state revenue produced by Tribal sports betting, further increasing the industry’s impact
- Over 77% of online sports bets now occur in the legal market—up from 44% in 2019—as consumers continue to migrate from the illegal marketplace

States have designed these frameworks to ensure strong protections:

- Minimum betting ages (21+ in most jurisdictions)
- Licensing and suitability requirements for operators
- Anti-money laundering (AML) and Know Your Customer (KYC) protocols
- Mandatory responsible gaming resources, including self-exclusion programs that give individuals the option to self-bar from wagering and gaming platforms, as well as wager limits
- Independent integrity monitoring and compliance audits

The state-run regulatory system ensures that operators utilize the best technology for ID verification, geolocation services, and determining the source of a patron’s funds. The licensing process is intentionally intrusive, with extensive background investigations for company personnel to ensure the integrity of those working in the gaming industry. Gaming operators also rely on extensive academic research and proven programs to provide resources to their customers on responsible gaming. Im-

portantly, they are all required to participate in state-run self-exclusion programs that allow individuals who have a problem with gambling to essentially ban themselves from both in person and online gaming across the state. Legal sports book operators also work with integrity monitors, sports leagues and law enforcement to track suspicious wagering patterns and potential manipulation during games to root out match fixing and corruption.

In short, legal sports betting is a tightly regulated activity designed to protect consumers, preserve game integrity, and ensure tax compliance. It is a far cry from the opaque and unregulated illegal market that existed under PASPA and from what the prediction markets are offering today.

Sports Event Contracts: Sports Betting by Another Name

Despite this progress, certain prediction market platforms have introduced retail products based on the outcome of sporting events such as “Will the Yankees win the World Series?” or “Will Patrick Mahomes throw three touchdowns on Sunday?” These sports event contracts are functionally indistinguishable from traditional sports wagers. Platforms have *openly marketed*^{1*} these products as a way to bet on sports in states where it is not permitted, and Americans *overwhelmingly view*² sports event contracts as gambling.

The AGA strongly opposes the use of CFTC-registered platforms to facilitate sports betting activity, for several reasons:

1. **Circumvention of State Law:** Sports event contracts undermine the authority of state legislatures and regulators to govern gaming within their borders. In many cases, these contracts are offered in states where sports betting remains illegal or where Tribal exclusivity agreements are in place.
2. **Evasion of Regulatory Standards:** Unlike licensed sportsbooks, prediction markets offering sports event contracts are not subject to state-level oversight or consumer protection standards that address age verification, AML/KYC compliance, responsible gaming protocols, and integrity monitoring—all tools that are essential to maintaining public trust in the legal gaming industry.
3. **Public Policy Conflicts:** The Commodities Exchange Act (CEA) and CFTC’s own regulation 17 CFR § 40.11, explicitly prohibits contracts based on “gaming” or events that are unlawful under Federal or state law. In addition, the Indian Gaming Regulatory Act gives Tribes exclusivity to offer gaming products on their land, and the Wire Act makes it illegal to offer sports wagers over state lines.
4. **CFTC Is Not Equipped to Regulate Sports Betting:** The CFTC was established to oversee complex financial derivatives and commodities trading, not to referee athletic contests or assess the integrity of player performances. Commercial and Tribal gaming is overseen by approximately 8,400 regulators with \$1.1 billion in budgets, compared to the CFTC’s roughly 600 staff and \$365 million budget, illustrating that some states have nearly as many gaming regulators as the entire Federal agency. Additionally, unlike state gaming commissions, the CFTC lacks expertise in sports integrity monitoring, capacity for age or location-based access controls, or experience in administering responsible gaming controls.
5. **Market Confusion and Consumer Risk:** Presenting speculative contracts on sports outcomes as investment vehicles blurs the lines between entertainment-based betting and financial trading. This not only risks misleading consumers—especially younger participants—but also undermines the regulated industry’s message that sports betting should be treated as entertainment, not a means of wealth generation.
6. **Loss of Tax Revenue and Economic Harm:** Every dollar wagered through unregulated, CFTC-sanctioned platforms is a dollar diverted from licensed sportsbooks that pay taxes and invest in local economies. As of today, we estimate that states have lost more than \$165 million in state tax revenue to prediction markets operating illegally in their states, to say nothing of lost licensing fees.

In response to the spread of sports event contracts, a growing number of state regulators have begun to take enforcement action. Nevada, New Jersey, Arizona, Ohio, Montana, Maryland, New York, Connecticut and Illinois have issued cease-and-de-

¹ <https://nexteventhorizon.substack.com/p/kalshi-is-advertising-sports-betting-legal-in-california-texas>.†

* **Editor’s note:** references annotated with † are retained in Committee file.

² <https://americangaming.org/resources/sports-events-contracts-public-opinion-landscape/>.†

sist orders to platforms attempting to operate outside of their legal gaming frameworks, asserting that these activities constitute illegal gambling under state law. The platforms have subsequently sued several of these states and are currently in litigation. Additionally, there are several pending Tribal lawsuits and Massachusetts has sued prediction market companies in state court.

In the pending case in New Jersey, the *AGA*,³ *several Tribes*,⁴ and *34 state Attorneys General*⁵ all filed briefs in support of state regulated gaming. This strong bipartisan statement from the chief law enforcement officers from across the country reasserted that states have the right to regulate gaming and rejected the claim from prediction markets that the CEA says otherwise. From the brief, “When Congress removes the states’ historic police powers, it does not whisper in the dark of night. Rather, courts expect Congress to speak clear as day when it intends a dramatic shift in our country’s traditional balance of power . . . This federalism canon proves quite significant here. Nothing in the Commodity Exchange Act’s language clearly signals that Congress was trying to strip the states of their traditional power to regulate sports gambling. Indeed, several parts of the statutory scheme overtly recognize the continued application of state law.”

In addition to state enforcement actions, jurisdictions such as Pennsylvania, Tennessee, and Michigan have taken other actions to express their concerns regarding sports prediction markets through comments to the CFTC and their Congressional delegations, and notices to sportsbook operators that their licenses may be in jeopardy if they enter this space. Attorneys General in Arkansas and South Carolina have stepped up, issuing opinions that these platforms require sports betting licenses and sending letters of concern to their U.S. Senators respectively.

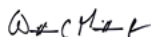
These actions reflect the clear intent of state authorities to defend their jurisdiction, protect consumers, and uphold the integrity of their legal markets. They also underscore the broader industry and governmental consensus that such platforms pose unacceptable risks and should not be permitted to operate under the guise of financial innovation. However, because of complete inaction by the CFTC to reign in these sport event contracts, states across the country are being forced to litigate the prohibition on gaming contracts.

Conclusion and Recommendation

In the CFTC’s own *staff advisory to prediction market platforms*,⁶ they acknowledged that the Commission has not approved any of these sports event contracts, instead relying on the self-certifications by registered entities. The CFTC’s refusal to prevent platforms from using a backdoor to offer nationwide sports betting should concern every Member of this Committee and has serious implications for your states’ ability to effectively regulate gaming within its borders. The CFTC reauthorization process offers a timely opportunity to reaffirm Congressional intent to prevent gambling through the commodities markets. As part of this effort, we respectfully urge the Committee to use its oversight powers to press the CFTC to stop sports betting contracts, and for the Committee to take appropriate legislative action if the agency continues to ignore its own regulations that preclude contracts involving gaming and other excluded commodities.

The American Gaming Association welcomes continued dialogue with Congress, the Commission, and stakeholders on this matter. Thank you for your leadership and for the opportunity to contribute to this important discussion.

Sincerely,



BILL MILLER,
President & CEO,
American Gaming Association.

³ <https://docsend.com/view/dusvfqyfsthhs894>.†

⁴ <https://docsend.com/view/ifd43m6y88cbigei>.†

⁵ <https://docsend.com/view/krbzv38fw5ijjxn>.†

⁶ <https://docsend.com/view/yfzhixphr3uyaqc3>.†

SUBMITTED STATEMENTS BY HON. DONALD G. DAVIS, A REPRESENTATIVE IN
CONGRESS FROM NORTH CAROLINA; ON BEHALF OF:

STATEMENT 1

JEFF MILLER, EXECUTIVE VICE PRESIDENT, COMMUNICATIONS, PUBLIC AFFAIRS AND
POLICY, PLAYER HEALTH AND SAFETY, NATIONAL FOOTBALL LEAGUE

There is no greater priority for the National Football League (“NFL”) than protecting the integrity of our games. Our fans deserve confidence that games are free from improper influences, and our players, coaches, and personnel deserve protection from unfair allegations relating to sports gambling or manipulation.

We welcome the opportunity to provide this written testimony to the House Agriculture Committee to express concerns regarding the potential impact of sports-related events contracts on the integrity of our games. Since our August 2024 comment in response to the Commodity Futures Trading Commission’s (CFTC’s) proposed amendments to §§ 40.11 of the Commodity Exchange Act, these concerns have only intensified given recent sports betting scandals affecting professional and college sport. As Commissioner Goodell recently discussed at a public forum, the league has no plans to participate in prediction markets due to several outstanding legal, regulatory, and commercial concerns on how these markets operate and the possible impact on the integrity of sporting events.

We are particularly troubled that several sports-related futures contracts have been launched nationwide, including in jurisdictions where sports betting has not been legalized. These contracts fall outside the purview of state regulatory authorities and the safeguards they impose upon the industry, including information-sharing requirements, integrity monitoring, prohibitions on easily manipulated markets, official league data requirements, know-your-customer protocols, and problem gambling resources. For example, just this past weekend, one prediction market exchange was accepting bets on whether or not “concussion protocol,” “late hit,” or “roughing the passer” would be mentioned during the broadcast. Congress and the CFTC should prohibit these and other types of objectionable bets among the many consumer and integrity protective measures needed before sports-related events contracts are legalized.

The amounts potentially wagered through unregulated gaming contracts markets could significantly exceed those in regulated sports betting markets, creating substantially greater risks to contest integrity. Without the comprehensive regulatory framework that now exists in 39 states and the District of Columbia, these products could be susceptible to manipulation or price distortion. In each of these state-regulated markets, regulators and state legislators closely monitor betting activity and, with input from professional sports leagues, can determine which bets and wager levels are acceptable. Those guardrails do not exist in prediction markets.

We would welcome the opportunity to work with the House Agriculture Committee and the CFTC to understand whether the game integrity safeguards that exist in regulated sports betting markets can be effectively implemented on self-regulated exchanges under the regulatory purview of the CFTC. Until such time that professional sports leagues and fans can be certain that effective game integrity and consumer protection measures can be enforced, sports-related events contracts should not be approved by the CFTC and Congress should consider clarifying the definition of “gaming” contracts in the prohibited categories of the Commodity Exchange Act.

The NFL appreciates the House Agriculture Committee’s consideration of these critical matters and remains available for further discussion.

STATEMENT 2

COALITION FOR PREDICTION MARKETS¹

The Coalition for Prediction Markets (CPM) appreciates the opportunity to submit this written testimony for the record following the House Committee on Agriculture’s recent hearing on the Reauthorization of the Commodity Futures Trading Commission (CFTC). CPM represents a cross-section of the U.S. prediction markets ecosystem, including companies such as Coinbase, Crypto.com, Kalshi, Robinhood, and Underdog, all of which operate within the Federal regulatory framework established under the Commodity Exchange Act (CEA). CPM and its members strongly support the timely reauthorization of the CFTC and believe that a well-resourced,

¹ Coinbase, Crypto.com, Kalshi, Robinhood, and Underdog.

modern regulator is essential to ensuring market integrity, protecting consumers, and maintaining U.S. leadership in financial innovation.

The CFTC plays a central role in preserving confidence in U.S. derivatives markets, and its oversight responsibilities have expanded significantly as markets have become more technologically sophisticated and interconnected. Prediction markets, like other derivatives markets, depend on effective supervision, market surveillance, and enforcement to function properly. Reauthorization provides an opportunity to ensure that the Commission has the staffing, technical expertise, and data capabilities necessary to oversee emerging products and trading models while continuing to fulfill its core mission under the Commodity Exchange Act.

Prediction markets are regulated financial markets, not gambling enterprises. Contracts traded on prediction markets are swaps whose underlying value turns on the resolution of a future event, and they are listed, traded, cleared, and settled through CFTC-regulated entities, including Designated Contract Markets and Designated Clearing Organizations. Market participants trade directly on regulated exchanges or through registered Futures Commission Merchants and Introducing Brokers, and transactions are subject to comprehensive Federal oversight. Unlike casinos, sportsbooks, or other wagering industries, prediction markets are governed by the CEA and its implementing regulations, not state gaming laws. Prices are established through transparent market mechanisms, trading activity is surveilled for fraud and manipulation, and transactions flow through entities subject to the Bank Secrecy Act and applicable anti-money laundering and know-your-customer requirements.

Effective regulation of prediction markets relies on the CFTC's ability to conduct ongoing market surveillance and to respond quickly to potential misconduct. As event-based contracts increase in volume and complexity, the Commission's access to real-time data, analytical tools, and specialized personnel becomes increasingly important. A reauthorized and well-equipped CFTC is better positioned to detect fraud, deter manipulation, and address emerging risks before they undermine market confidence or harm participants.

CPM members believe that the CFTC is the appropriate Federal regulator for prediction markets and support clear statutory authority and strong enforcement tools to oversee this growing segment of the derivatives marketplace. Our members do not seek to evade regulation; rather, they seek regulatory certainty, consistent oversight, and a framework that evolves alongside innovation. Properly regulated prediction markets can contribute to price discovery, information aggregation, and risk management, all of which align with the CFTC's core mission under the Commodity Exchange Act.

Regulatory clarity from the CFTC also supports compliance and consumer protection by providing market participants with predictable expectations regarding product design, disclosures, and operational safeguards. Clear and consistent oversight enables firms to invest in compliance infrastructure, internal controls, and risk-management systems that reinforce market integrity. This clarity benefits not only regulated entities, but also consumers and regulators by promoting transparency and reducing uncertainty across the marketplace.

CPM members have strong internal rules governing trading activity, including comprehensive prohibitions on insider trading. These rules restrict participation by individuals with material non-public information, by those who can influence or control the outcome of an event, and by certain employees trading on contracts offered by their own platforms. CPM members also collaborate with third parties, including government agencies, professional sports leagues, and other public and private institutions, to enhance screening protocols and prevent misuse of insider information.

In conclusion, CPM and its members strongly support the reauthorization of the CFTC and believe that prediction markets, when properly regulated, can continue to operate as legitimate financial markets that serve the public interest. Clear statutory authority, strong enforcement, and modernized oversight will allow the CFTC to fulfill its mission while enabling responsible innovation. CPM and its members stand ready to work with Congress and the Commission to ensure that prediction markets operate with integrity, transparency, and robust consumer protections, and to help establish the United States as the global standard for well-regulated prediction markets.

Thank you for the opportunity to provide this testimony.

SUBMITTED INDIAN GAMING ASSOCIATION BRIEF BY HON. GABE VASQUEZ, A
REPRESENTATIVE IN CONGRESS FROM NEW MEXICO

Overview of the CFTC and Sports Betting Through Events Contracts ¹

In 2025, the rapid emergence of online sports betting offered under the guise of prediction markets licensed by the Commodity Futures Trading Commission (“CFTC”) has posed a direct threat to Tribal sovereignty and the Indian gaming industry. Despite being “licensed” by the CFTC, online sports betting/prediction markets constitute unregulated illegal gambling, lack adequate consumer protections, and violate Tribal, state and Federal laws. This memo outlines the concerns posed by prediction markets.

Prediction Markets and Sports Betting

A growing number of online and cryptocurrency-related corporations have registered as designated contract markets (“DCMs”) with the CFTC to offer sports betting through their platforms, claiming that their offerings are “event contracts” or financial instruments that are subject to the exclusive jurisdiction of the CFTC. With the implicit blessing of the CFTC, these DCMs and their partnering “futures commission merchants” (FCMs) have offered online sports betting in every jurisdiction in the United States—all 50 states and within the lands of every federally recognized Indian Tribe, regardless of whether the Tribal or state government permits gambling on their lands.

DCMs self-certify that they meet or will comply with the CFTC’s regulations and core principles. As a self-regulatory organization, a DCM is responsible for enforcing its own rules, but it must comply with CFTC principles and regulations, which cover areas like rule compliance, market manipulation prevention, and financial integrity.

As of November 2025, the most prominent DCMs offering sports betting through the CFTC are Kalshi and Crypto.com. Robinhood is an FCM partnering with Kalshi to offer its online sports betting contracts. The CFTC’s inaction on this issue is enabling even more platforms to flood the CFTC marketplace. Last week, FanDuel and DraftKings announced that they will engage in prediction markets, with more platforms expected to enter the market in the coming weeks.

The emergence of DCMs offering online sports betting stems from the CFTC’s unwritten policy changes. Prior to 2025, it was understood that the Commodity Exchange Act (“CEA”) prohibited sports betting through the CFTC. In 2010, through an amendment to the CEA, Congress included a special rule for approval of event contracts that *authorized* the CFTC to prohibit “transactions that involve—activity that is unlawful under any Federal or state law, terrorism, assassination, war, *gaming*, other similar activity . . .”

On July 27, 2011, the CFTC promulgated regulations to implement this provision that expressly prohibit swaps and event contracts relating to gaming. The rule provides that “a registered entity shall not list for trading [a swap, contract, or transaction] that involves, relates to, or references . . . gaming, or an activity that is unlawful under any state or Federal law.”

Prior to 2025, the CFTC had consistently enforced its prohibitions on event contracts involving gambling. DCM platforms, fearing legal repercussions, did not offer sports-related contracts, which even existing DCM/prediction market platforms admitted in Federal court filings were prohibited under current law.

Unilateral policy changes and general inaction by the CFTC have fostered the growth of sports betting through prediction markets in 2025. In February, the CFTC indicated that it would take a more hands off regulatory approach to prediction markets, which has been interpreted as tacit approval for prediction market expansion.

Further encouraging this expansion, in May of 2025, the CFTC sought—and was granted—a voluntary dismissal of its appeal against Kalshi, a self-certified DCM offering event contracts, in a case involving betting on the outcome of the 2024 elections. This move ended the Federal Government’s legal challenge and opened the door for enhanced prediction market offerings.

This extraordinary step takes the Tribes and states out of the regulation of sports wagering. By allowing such contracts to exist on the market, the CFTC is permitting the conduct of unregulated sports betting, circumventing legal frameworks designed to protect Tribal sovereignty, state rights, and consumer protection. Ongoing litigation to halt these bets and regulatory enforcement actions across multiple jurisdictions highlight the urgent need for clear Federal guidance to resolve these ju-

¹ **Editor’s note:** there does not appear to be an extant online version of this “brief”. There are differences in the brief submitted by Mr. Davis of North Carolina as compared to the brief submitted by Mr. Vasquez. As such both are published herein.

jurisdictional conflicts and protect consumers and established gaming regulatory structures.

The traditional purpose of event contracts was to aggregate information and predict the likelihood of specific events for decision-making, planning, or financial tools, usually tied to events with clear, defined economic-related outcomes such as corporate earnings or quantifiable damage from natural disasters. However, companies offering event contracts are expanding the class of tradable instruments to include sporting events and elections, among other things.

The CFTC has yet to prohibit sports-related futures contracts outright, but it has expressed concern that such products may blur the line between regulated financial instruments and unlawful gambling. On September 30th, the CFTC issued a “Staff Advisory” to all “market participants”, including DCMs like Kalshi and Crypto.com, and FCMs like Robinhood, that they “should” provide customers notice of potential litigation risks and regulatory enforcement actions that could impact “sports-related event contract positions.” The Staff Advisory clarifies that the CFTC “has not, to date, been requested to take or taken any official action to approve the listing for trading of sports-related event contracts . . . All sports-related event contracts that are currently listed for trading on DCMs have been listed pursuant to self-certifications . . . and the Commission has not, to date, made a determination regarding whether any such contracts involve an activity enumerated or prohibited under the [CEA or CFTC regulations].”

While this most recent statement by the CFTC undercuts DCM’s legal arguments that the agency fully backs their offering of sports-related event contracts, it falls far short of enforcing existing Federal laws—including the CEA and the CFTC’s own regulations, the Indian Gaming Regulatory Act (“IGRA”), and the Wire Act, and completely fails to protect Tribal and state sovereignty, consumers, and the integrity of American sports.

Threats to Tribal Sovereignty

Gambling laws in the U.S. have traditionally been regulated at the local level, allowing each Tribe and state the autonomy to decide which forms of gambling are legal and how they should be governed. For state governments, this decentralized model has allowed states to tailor gambling regulations to their specific needs and concerns, whether it be for casinos, lotteries, sports betting, online gambling, or horse racing. Additionally, Tribal sovereignty plays a critical role in gaming regulation on Tribal lands, where Tribes have the “exclusive right to regulate [and operate] gaming activity” under IGRA.

Nationwide online sports betting through the CFTC’s platforms threatens to preempt Tribal and state laws. These platforms allow for interstate gambling, bypassing the regulations, controls, and tax revenues relied upon by Tribal and states governments. This undermines the federalism that has allowed local governments to maintain control over gambling within their territories.

In the 7 years since the Supreme Court’s 2018 *Murphy v. NCAA* decision, sports betting in the United States has grown slowly on a Tribe-by-Tribe and state-by-state basis, which have built a comprehensive regulatory system to protect consumers and the integrity of sports.

Tribes offer sports betting as part of their class III gaming operations, through compacts that have been carefully negotiated with state governments pursuant to IGRA. These compacts often include revenue sharing provisions, under which Tribes share a portion of their revenue with a state in return for exclusivity agreements, which limit the expansion of gaming within the state. Tribes delivered more than \$2 billion in revenue sharing payments to states in 2024, and billions more in indirect income, sales and other taxes paid by Tribal employees and customers. In 2024, states collected approximately \$3 billion in taxes from sports betting through commercial gaming operations.

Tribes and states have developed comprehensive sports betting regulations that include stringent consumer protections, including establishing minimum age requirements, identity and location verifications, strict responsible gaming standards, extensive background checks for operators, and cooperation with amateur and professional leagues to detect suspicious activity.

Prediction market platforms offer none of these essential safeguards. Self-certified and essentially self-regulated DCMs offer no consumer protections, permit gambling by 18 year olds, and offer no location verification requirements or responsible gaming rules. These operators aggressively advertise without the background checks and disclosures of licensed gaming operations, all while avoiding, Federal, Tribal, and state laws, regulations, and taxes.

The CFTC is not equipped to regulate gambling. The CFTC has an annual budget of approximately \$365 million with 636 full time employees, a staff that is rapidly

shrinking due to recent firings and voluntary resignations. Congress approved this budget in FY 2024, before the CFTC unilaterally decided to add nationwide sports betting to its workload.

Those numbers pale in comparison to the regulatory systems of Tribal and state governments, which invest more than \$1.3 billion annually gaming regulation, including a workforce of 8,000+ full time employees that provide immediate oversight, customer security, consumer protections, cyber-security and much more.

In short, the CFTC's inaction to prediction markets from offering online sports betting as agency-approved contracts has created a regulatory vacuum and represents a disaster waiting to happen.

Unless acted upon, the number of sports-based event contracts traded on the Derivatives/Futures market is only expected to grow, ushering in growing reason for concern for Tribal gaming operators and regulators across the United States. It will be crucial moving forward for Tribal governments to closely follow this matter as it evolves in the CFTC and in the courts.

Enforce Existing Law and Reinforce the CEA

On October 24th, President Trump nominated Mike Selig to serve as Chairman of the CFTC. Selig currently serves as Chief Counsel of the SEC's Crypto Task Force and Senior Advisor to SEC Chairman Paul Atkins. Selig was nominated just weeks after the Trump Administration pulled the nomination of Brian Quintenz to serve as the CFTC Chair. The Senate Agriculture Committee approved his nomination by a vote of 12–11 on November 20, 2025.

During his nomination hearing, Mr. Selig failed to commit to enforcing existing laws or regulations that clearly prohibit use of the CFTC marketplace for gambling and sports betting. Instead, Selig repeatedly stated that he would wait for direction from the Federal courts. (Note: there are 20+ cases challenging DCMs offering sports betting through CFTC-approved platforms).

It will take years for the Federal courts to reach a final determination in these cases, and even that decision may not fully settle the question. In the meantime, DCMs will continue to flood the market with products that threaten consumer protections and violate Tribal, state, and Federal laws.

Congress must fill the regulatory vacuum. We urge Congress to increase oversight of the CFTC, pressing the agency to enforce the CEA and the agency's existing regulations. In addition, we ask Congress to amend the CEA to reinforce the existing prohibition against CFTC-approved DCM's issuing event contracts relating to sports betting or gambling.

SUBMITTED LETTER BY HON. GABE VASQUEZ, A REPRESENTATIVE IN CONGRESS FROM NEW MEXICO; ON BEHALF OF HON. LEONARD FORSMAN, CHAIRMAN, SUQUAMISH INDIAN TRIBE

December 17, 2025

Hon. GLENN THOMPSON,
Chairman,
U.S. House Committee on Agriculture,
Washington, D.C.;

Hon. ANGIE CRAIG,
Ranking Minority Member,
U.S. House Committee on Agriculture,
Washington, D.C.

Re: Suquamish Tribe's Comments on CFTC Reauthorization

Dear Chairman Thompson, Ranking Member Craig, & Members of the Committee:

On behalf of the Suquamish Indian Tribe, a signatory to the 1855 Treaty of Point Elliott, I write to share our views as the Committee considers reauthorization of the Commodity Futures Trading Commission (CFTC) and potential amendments to the Commodity Exchange Act (CEA). While the Suquamish Tribe supports well-regulated derivatives markets that serve legitimate commercial and risk-management purposes, we are increasingly concerned that the CEA is being used to circumvent Federal, state, and Tribal gaming laws by enabling sports wagering and casino-style gaming through so-called "event contracts." These developments undermine the carefully negotiated legal framework governing gaming in Indian Country.

Under the Treaty of Point Elliott, the Suquamish people expressly reserved the right to self-govern, manage our own affairs, and protect the well-being of our com-

munity, including through the exercise of gaming rights as defined and protected under Federal law. Event contracts marketed and traded under CFTC oversight risk encroaching upon these rights by creating *de facto* gambling products outside the jurisdiction and safeguards of the Indian Gaming Regulatory Act (IGRA).

The Tribe's concerns were heightened by recent testimony before the Senate during consideration of a nominee for CFTC Chairman. In response to questions regarding potential conflicts between the CEA and IGRA, the nominee declined to acknowledge those conflicts and stated that his primary obligation would be to defend the Commodity Exchange Act above all else. This testimony raises serious questions about the future role of the CFTC in areas that directly intersect with Tribal gaming and signals a troubling disregard for the Federal trust responsibility, treaty obligations, and Congress's role in safeguarding Tribal rights.

As Congress considers CFTC reauthorization, it must carefully evaluate the consequences of any expansion of the CFTC's regulatory authority into areas that intersect with IGRA and Tribal gaming. Tribal gaming is not simply a commercial endeavor. It is a fundamental exercise of Tribal sovereignty conducted pursuant to IGRA and carefully negotiated Tribal-state gaming compacts approved by the Secretary of the Interior. Revenues generated from Tribal gaming provide essential government services and programs for our community.

To everyday consumers, "event contracts" or "prediction markets" are not perceived as federally regulated commodities products, but as indistinguishable from traditional forms of gaming, including sports wagering. Permitting the nationwide expansion of these products without clear Congressional direction risks undermining Tribal sovereignty and destabilizing the regulatory balance carefully established by IGRA.

The Suquamish Indian Tribe respectfully urges the Committee to address existing regulatory ambiguities and to consider targeted amendments to the CEA that prohibit, or deem contrary to the public interest, event contracts and similar instruments that function as casino-style games. The Tribe further recommends that the Committee clarify that CFTC may not approve, permit, or facilitate contracts that constitute sports wagering.

I appreciate the Committee's leadership in modernizing the oversight and regulation of commodity futures and derivatives markets. Thoughtful and proactive action during CFTC reauthorization will preserve the integrity of those markets while honoring Congress's commitments to Tribal nations.

The Suquamish Indian Tribe stands ready to work with the Committee as it considers this important reauthorization. Thank you for your attention to these comments.

Respectfully,



LEONARD FORSMAN,
Chairman.

CC:

The Honorable EMILY RANDALL, U.S. House of Representatives
The Honorable PATTY MURRAY, U.S. Senate
The Honorable MARIA CANTWELL, U.S. Senate

SUBMITTED STATEMENTS BY HON. GABE VASQUEZ, A REPRESENTATIVE IN CONGRESS
FROM NEW MEXICO; ON BEHALF OF:

STATEMENT 1

DAVID BEAN, CHAIRMAN, INDIAN GAMING ASSOCIATION

Chairman Thompson, Ranking Member Craig, and Members of the Committee, on behalf of the Indian Gaming Association ("IGA"), thank you for holding this hearing to receive stakeholder perspectives for the reauthorization of the Commodities Futures Trading Commission. My name is David Bean, and I serve as the Chairman of the Indian Gaming Association.

Founded in 1985, IGA is a national association of federally recognized Indian Tribes united behind the mission of protecting Tribal sovereignty and preserving the ability of Tribal governments to attain economic self-sufficiency through gaming and other forms of economic development.

We appreciate this timely opportunity to provide testimony for your hearing to examine the need to reauthorize the Commodity Futures Trading Commission

(“CFTC”). We share the views expressed by witnesses and Committee Members during the hearing that as Congress considers the CFTC reauthorization it must also revisit the Commodity Exchange Act (“CEA”) itself.

Inaction by the CFTC has led to the explosion of prediction market platforms offering event contracts that are in fact nationwide online sports gambling sites. In January of 2025, prediction markets initially offered simple “yes” or “no” bets on the outcomes of a single sporting event. However, the CFTC’s complete lack of oversight or even questioning of swaps or transactions relating to sporting events has emboldened prediction markets to offer a wider range of gambling options, including parlays, individual player proposition bets, and more.

Just yesterday, KalshiEX LLC, notified the CFTC that it has self-certified contracts on whether college athletes will enter the transfer portal. The move drew immediate condemnation:

“The NCAA vehemently opposes college sports prediction markets . . . It is already bad enough that student-athletes face harassment and abuse for lost bets on game performance, and now Kalshi wants to offer bets on their transfer decisions and status. This is absolutely unacceptable and would place even greater pressure on student-athletes while threatening competition integrity and recruiting processes. Their decisions and future should not be gambled with, especially in an unregulated marketplace that does not follow any rules of legitimate sports betting operators.”^{a*}

It is crystal clear that prediction markets will not stop at sports gambling. They will continue to push the envelope as long as the CFTC continues to turn a blind eye.

This activity represents a direct threat to Tribal governments, state governments, the public, and the very integrity of American sports. We respectfully urge Congress to amend the CEA to reinforce these existing prohibitions and ask that you conduct thorough oversight of the CFTC to ensure that the agency is enforcing its own laws and regulations.

The Importance of Indian Gaming to Tribal Government Economies

When the United States formed, it acknowledged Indian Tribes as sovereign governments, entering into hundreds of treaties with Tribal governments to establish commerce and trade agreements, form alliances, and preserve the peace. The U.S. Constitution affirmed these treaties and the sovereign authority of Indian Tribes as separate governments. The Constitution’s Commerce Clause expressly provides that “Congress shall have power to . . . regulate commerce with foreign nations, and among the several states, and with the Indian Tribes.”¹

A handful of Tribal governments in the 1970’s, tired of waiting on the United States to fulfill its treaty and trust obligations to Tribes, took measures to rebuild their communities by opening the first modern Indian gaming operations. Tribes used the revenue generated from Indian gaming to fund essential programs for reservation residents, cover the Federal shortfalls, and to meet the basic needs of their people. These acts of self-determination were met with legislative and legal challenges lodged by states and commercial gaming interests.

In 1987, after years of contentious litigation, the U.S. Supreme Court, in *Cabazon Band of Mission Indians v. California*, affirmed that Tribal governments have full civil regulatory authority to govern Tribal gaming activities on Tribal lands, exclusive of state government regulation so long as state law did not criminally prohibit all forms of gaming. On October 17, 1988, having been enacted by Congress, President Reagan signed the Indian Gaming Regulatory Act (IGRA) into law. IGRA divided gaming activities into three categories. Class I gaming encompasses social and traditional forms of gaming conducted by Tribes traditionally, assigning full regulatory oversight to Tribal governments. Class II gaming encompasses bingo, lotto, and similar games as well as non-house banked card games, assigning regulatory oversight to Tribal governments and the newly established National Indian Gaming Commission. Class III gaming encompasses all other forms of gaming but requires the execution of a Tribal-state gaming compact before a Tribal government may conduct Class III gaming. Sports betting falls within Class III gaming, thereby requir-

^a https://www.espn.com/college-football/story/_/id/47341610/prediction-market-kalshi-intends-offer-trading-portal.[†]

* **Editor’s note:** references annotated with † are retained in Committee file.

¹ In addition, the U.S. Constitution refers to Tribal citizens in the Apportionment Clause, as “Indians not taxed”, excluded from enumeration for Congressional representation. The 14th Amendment repeats the original reference to “Indians not taxed” and acknowledges that Tribal citizens were not subject to the jurisdiction of the United States. The Constitution also acknowledges that treaties are the Supreme law of the land.

ing a Tribal-state gaming compact before a Tribal government may conduct sports betting.

The NIGC is the first and only Federal agency created and explicitly authorized by Congress to provide regulatory oversight in relation to gaming activities. In fact, the Justice Department strongly opposed IGRA in the years prior to its enactment on the grounds that as a matter of policy the Federal Government should not be involved in the direct regulation of gaming activities, which DOJ believed comes within the province of the states. Like most legislation, IGRA is the product of compromise between Federal, state, and Tribal interests. Congress made clear that the purposes of IGRA are to: (1) provide a statutory basis for the operation of gaming by Indian Tribes as a means of promoting Tribal economic development, self-sufficiency, and strong Tribal government; (2) provide a statutory basis for the regulation of gaming by an Indian Tribe adequate to shield it from organized crime, and to ensure that the Indian Tribe is the prime beneficiary of the gaming operation; and (3) establish an independent Federal regulatory authority for gaming on Indian lands, Federal standards for gaming, and the NIGC to meet Congressional concerns regarding gaming and to protect such gaming as a means of generating revenue.

To understand the significance of IGRA and why Congress was willing to overlook the longstanding policy of leaving gaming regulation to state governments, there are two key historic facts that must be understood. The first is the special trust relationship between the United States, which entails both moral and legal obligations to Tribal governments. The second is that Tribal governments, like state governments, are an integral part of the Constitutional framework of the United States as reflected in Article I, Section 8 cl. 3 of the Constitution itself.

Except in the few, rare cases where Tribes owned developable natural resources, such as oil, gas, and other extractive minerals, Tribal governmental revenues were largely insufficient to meet the needs of Tribal citizens. Most Tribal governments were largely dependent on Federal resources for basic governmental services and even these were not sufficient fill the gap for even the most basic services. Much of Indian Country lacked adequate education, law enforcement, fire protection, water and sewage, doctors, clinics, hospitals, schools, roads, bridges, and other basic infrastructure and services. Even today, many Tribal citizens have no or limited access to clean water and electricity, much less cellular and internet services.

IGRA reflects Congress' "outside the box" approach to addressing these terrible conditions. For those Tribal governments that have been able to use gaming as a means of generating governmental revenue, the difference has been astounding. By any socioeconomic measure, improvements have been dramatic from increases in life expectancy to community health and public safety, to education to infant mortality rates to jobs and employment, and the list goes on. Gaming revenues serve as the tax base that Tribal governments previously never had.

Tribal gaming revenue builds and strengthens Tribal governments and improves the quality of life in Indian Country. It does not enrich the few; it builds nations. Indian gaming is the economic bloodline for 243 Tribal governments. Tribal governments use Indian gaming revenue to put a new face on their communities, dedicating resources to improving basic health, education, and public safety services on Indian lands. Tribes use gaming revenue to improve infrastructure, including the construction of roads, hospitals, schools, police buildings, water projects, communications systems, and so much more.

In 2024, 243 Tribal governments in 29 states generated \$43.9 billion in direct revenues through Indian gaming operations and \$5.7 billion in ancillary revenues² for a total of \$49.6 billion in total revenues. Without question, Indian gaming is the most successful tool for economic development for many Indian Tribes in over 2 centuries.

For many Tribes, Indian gaming is first and foremost about jobs. Nationwide, Indian gaming is a proven job creator. In 2024, our industry generated more than 274,000 direct jobs. When indirect jobs are included, Indian gaming employs more than 672,000 Americans. Indian gaming has provided many Native Americans with their first opportunity for work at home on the reservation. Because of Indian gaming, reservations are again becoming livable homesteads, as promised in hundreds of treaties. These American jobs go to both Indians and non-Indians alike.

Tribal governments realize that none of these benefits would be possible without a strong regulatory system to protect Tribal gaming revenues and preserve the integrity of our operations. Tribes invest more than \$450 million annually, employing

² Ancillary revenues include hotels, food and beverage, entertainment, and other activities related to a Tribal government's gaming operation.

more than 6,000 regulators to oversee Indian gaming operations daily.³ The regulatory system established under IGRA vests local Tribal government regulators with the primary day-to-day responsibility for regulating Indian gaming operations. No one has a greater interest in protecting the integrity of Indian gaming and our assets than Tribal governments. While Tribes take on the primary day-to-day role of regulating Indian gaming operations, IGRA requires coordination and cooperation with the Federal and state governments to make this comprehensive regulatory system work. Our comprehensive regulatory system ensures consumer protection, fraud prevention, and local decision-making to address social implications like problem and underage gaming.

At the Federal level, Tribes work with the NIGC, the FBI and U.S. Attorneys offices to investigate and prosecute anyone who would cheat, embezzle, or defraud an Indian gaming facility—this applies to management, employees, and patrons. 18 U.S.C. § 1163. Tribal regulators also work with the Treasury Department’s Internal Revenues Service to ensure Federal tax compliance and the Financial Crimes Enforcement Network (FinCEN) to prevent money laundering.

This comprehensive multi-layered system of regulation is costly and time consuming, but it has proven its worth year after year. The credit for this system goes to the Tribal leaders who make the decisions to fund this system and to the thousands of men and women who have devoted their lives to protecting Tribal assets and the integrity of our operations.

Gambling through the CFTC Violates Tribal, State, and Federal Laws

Sports betting that is being conducted through prediction markets—Designated Contract Markets (“DCM”) licensed by the CFTC—violates Tribal, Federal, and state laws, including the Indian Gaming Regulatory Act, which expressly provides Tribal governments with exclusive authority to regulate gaming on Indian lands in partnership with states and the NIGC.

Background: Sports Betting in the United States

Historically, gambling in the United States has been subject to the local decision making of Tribal and state governments. Where they chose to legalize the activity, states and Tribes establish gaming commissions and control boards to oversee the industry and enforce local laws and regulations.

Gambling on the outcomes of sporting events has a more complicated and relatively recent history. In 1992, Congress sought to prohibit all forms of sports betting in the United States through enactment of the Professional and Amateur Sports Protection Act (“PASPA”). While several state governments were exempted from the nationwide prohibition, gambling on sporting events was generally prohibited at the Federal level for more than 25 years.

In May of 2018, the United States Supreme Court, in *Murphy v. NCAA*, struck down PASPA as violating the Tenth Amendment’s anti-commandeering doctrine. *Murphy* returned oversight of sports betting to local Tribal and state government policy makers. In the 8 years since the *Murphy* decision, sports betting has grown slowly on a Tribe-by-Tribe and state-by-state basis.

In the more than 7 years since *Murphy*, a number of states chose to continue the prohibition against sports betting for religious, moral, and other reasons. Two states, Utah and Hawaii, criminally prohibit nearly all forms of gambling within their jurisdictions. Nine other states—Alabama, Alaska, California, Georgia, Idaho, Minnesota, Oklahoma, South Carolina, and Texas—prohibit sports betting.

Those jurisdictions that have legalized sports betting set parameters that include age restrictions—with the great majority restricting sports betting to persons 21 years old and older, problem gambling measures, prohibitions against betting on local sports teams, prohibitions against betting on high school and college sports, prohibitions against player proposition bets, and some also require operators to offer mandatory deposit limits and session time limits, integrated with local problem gambling helplines and self-exclusion systems.

Tribal and state regulatory systems ensure full transparency, work with the leagues to protect the integrity of American sports and maintain strict consumer safeguards and responsible gaming practices. It’s a proven framework that protects players and the public while delivering resources to benefit local community.

Under this system, elected leaders in each Tribe and state decide whether to allow sports betting, and in return, economic and tax benefits flow directly back to their communities.

³NIGC Budget Justifications and Performance Indication FY2025 at NIGC-1; <https://www.doi.gov/sites/default/files/documents/2024-03/fy2025-508-nigc-greenbook.pdf>.

Under IGRA, Tribal governments use 100 percent of all revenue generated from gaming, including sports betting, to Tribal programs and services as well as contributions to state and local governments. Pursuant to some Tribal-state gaming compacts, Tribes also share a portion of their sports gambling revenue with state governments.

In 2024, state governments generated approximately \$2.5 billion from sports wagering. States use the revenue generated from sports gambling to offset costs of regulation, employ problem gambling programs, and direct remaining revenue towards local priorities, including education and elder programs, property tax relief, infrastructure and public services, and other initiatives.

There is an ongoing debate among Tribes and states that have legalized sports gambling about whether to offer the activity on the internet. To some, online sports betting poses added risks to underage and problem gambling, heightened risks of addiction, mental health concerns, and personal financial and other concerns.

Prediction markets that offer gambling on the outcome of sports through event contracts completely sidestep these debates, ignoring the consequences, and for nearly 1 year now, have forced their way into the homes of every American family in direct subversion of Tribal and state policy makers. Sports betting conducted pursuant to prediction markets also circumvents the ability of states to generate revenue, offers no local benefits, and offers none of the consumer protections or detailed gambling regulations required by Tribal and state governments.

In addition, for Indian Country, prediction markets that offer sports gambling directly violate Tribal sovereignty and IGRA. Prediction markets offer their online gambling contracts nationwide in all 50 states and on every Indian reservation in the nation. These operators conduct gaming activities on Indian lands without Tribal government consent, licensure, or regulatory oversight. This is a direct violation of IGRA, which confers exclusive authority to Tribal governments to regulate gaming activities on Indian lands. The proponents of sports wagering contend that the activity is an innovative use of the prediction market, but their advertising reveals the truth. The wagering aspect can hardly be characterized as thinly disguised. To grant these proponents a path around true regulatory oversight abandons the interests of consumers and constitutes a betrayal of Tribal governments to whom the United States holds the highest duty of trust.

The CFTC Lacks the Capacity to Regulate Gambling

The CFTC was never intended to serve as a regulatory agency over gaming activities and has neither the capacity nor the expertise to provide regulatory oversight at the level needed to protect consumers, prevent fraud and criminal infiltration, or protect against cheating and corruption.

The CFTC is a statutory agency created under the Commodity Futures Trading Commission Act of 1974, charged with the responsibility of regulating futures and derivatives markets in order to promote market integrity, protect market participants, and ensure the proper functioning of price discovery and risk management mechanisms. Its mission is essential to protect both market participants and the broader public from fraud, manipulation, and systemic risk. As Congress considers reauthorization of this agency, we urge you to address the significant concerns raised by CFTC's recent willingness to allow prediction markets to manipulate the authority of the CEA and the CFTC's own regulations to offer event contracts that constitute illegal sports betting primarily designed to avoid state, Tribal and other Federal laws and regulations.

The CEA, codified at 7 U.S.C. § 1 et seq., provides the CFTC with jurisdiction over "contracts of sale of a commodity for future delivery" and related derivatives. Congress has consistently reaffirmed that the purpose of this jurisdiction is to regulate markets that serve *bona fide* hedging and price-discovery functions that serve an inherent economic interest, not to authorize speculative gambling on the outcomes of events unrelated to economic commodities.

The Commodity Futures Modernization Act of 2000 ("CFMA") significantly deregulated derivatives markets, with an express goal of limiting regulation of over-the-counter swaps and energy derivatives. That law established a regulatory void that permitted the highly risky credit default swap market to flourish, which proved a key factor in the 2008 Financial Crisis.

Congress acted to fill the regulatory voids created by the CFMA when it enacted the Dodd-Frank Act of 2010, which significantly overhauled the CFTC.

While Dodd-Frank did not directly restore a broad economic purpose test, it did empower regulators, especially the CFTC, to use public interest standards, effectively bringing back aspects of the economic purpose test for new derivatives, par-

ticularly event contracts, by requiring evaluation for hedging/commercial uses *versus* pure gambling.

Dodd-Frank amended the CEA at 7 U.S.C. § 7a-2 (“Common Provisions Applicable to Registered Entities”), which included a special rule for CFTC review and approval of event contracts and swaps. The special rule provides that the CFTC may determine that “agreement, contracts, or transactions are contrary to the public interest if the agreements, contracts, or transactions involve—activity that is unlawful under any Federal or state law; terrorism, assassination, war, gaming or other similar activity determined by the Commission by rule or regulation, to be contrary to the public interest.”

On July 27, 2011, the CFTC published a regulation implementing the special rule under § 7a-2. The regulation expressly provides that “[a] registered entity shall not list for trading or accept for clearing on or through the registered entity any of the following:

“(1) An agreement, contract, transaction, or *swap* based upon an excluded commodity, as defined in Section 1a(19)(iv) of the Act, that involves, relates to, or references terrorism, assassination, war, gaming, or an activity that is unlawful under any state or Federal law; or

“(2) An agreement, contract, transaction, or swap based upon an excluded commodity, as defined in Section 1a(19)(iv) of the Act, which involves, relates to, or references an activity that is similar to an activity enumerated in § 40.11(a)(1) of this part, and that the Commission determines, by rule or regulation, to be contrary to the public interest.”

17 CFR §40.11 Review of event contracts based upon certain excluded commodities. As a result, the CEA and the CFTC’s existing regulations prohibit registered entities from listing transactions that involve or relate to gaming—commonly defined as gambling. Despite this clear prohibition, over the past year, the CFTC has permitted a growing number of its registered entities to offer an ever-growing range of gambling contracts on the outcomes of sporting events, including moneyline bets on individual games, parlays on multiple games, proposition bets on individual performance.

While the law and regulation are clear, prediction markets have attempted to blur the lines between gambling and investing.

The most prolific DCM currently licensed by the CFTC that offers gambling on the outcome of sports is KalshiEX LLC (“Kalshi”). Kalshi has attempted to exploit the lack of defined terms in the CEA and CFTC regulations to further complicate the issue of prediction market-sports gambling in its legal filings and its lobbying efforts to oppose the enforcement of existing laws and regulations that prohibit gambling through financial exchanges.

Last year, in defense of its event contracts relating to the outcomes of the 2024 Federal elections, Kalshi admitted that the CEA and CFTC regulations did prohibit event contracts on the outcome of sporting events. Below is a list of examples provided by Mr. Daniel Wallach, a well-respected sports betting attorney, through a post on LinkedIn, where Kalshi admits in court proceedings that event contracts relating to the outcome of sports violate the CEA and CFTC regulations:

- “Congress did not want sports betting to be conducted on derivatives markets.”—Kalshi’s Initial Brief filed in the D.C. Circuit on Nov. 15, 2024, at p. 41
- “Evidently, Congress sought to prevent exchanges from facilitating casino-style or sports gambling.”—Kalshi’s Initial Brief filed in the D.C. Circuit on Nov. 15, 2024, at p. 45
- “[C]ontracts relating to games—again, activities conducted for diversion or amusement—are unlikely to serve any ‘commercial or hedging interest.’”—Kalshi’s Initial Brief filed in the D.C. Circuit on Nov. 15, 2024, at p. 45
- “Congress was particularly concerned at the time it enacted this statute about sports betting and that was probably what they were getting at with the word ‘gaming.’”—Kalshi to the D.C. Circuit at the January 17, 2025 oral argument (at 49:50–50:08)
- “The ‘gaming’ category reaches contracts contingent on games—for example, whether a certain team will win the Super Bowl. It thus functions as a check on attempts to launder sports gambling through the derivatives markets.”—Kalshi MOL in Support of MSJ, Jan. 25, 2024, at 16
- “Football, horseracing and golf. They’re all games . . . It’s something that has no inherent economic significance.”—Kalshi’s May 30, 2024 oral argument to the district court on its motion for summary judgment, Dkt. # 40, at p. 15

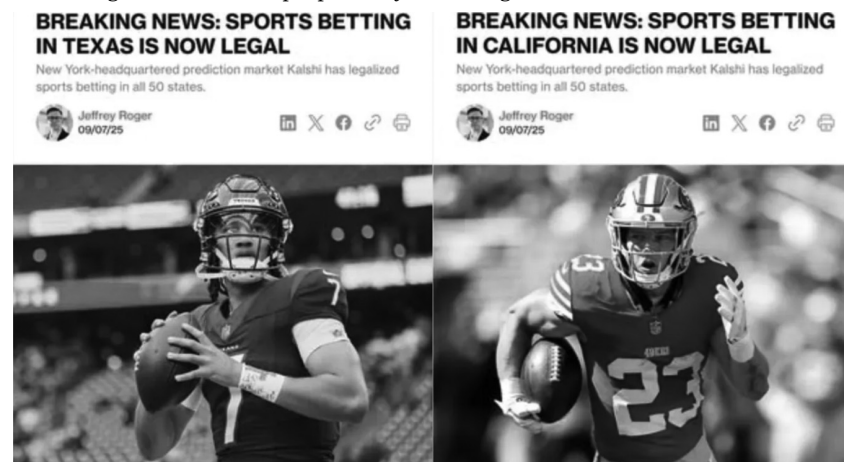
- “Contracts that involve games are probably not the type of contracts that we want to be listed on an exchange, because they don’t have any real economic value to them.”—Kalshi’s 5/30/24 oral argument to the district court on its motion for summary judgment, Dkt. # 40, at p. 15.^b

In January of 2025, Kalshi completely reversed the positions listed above by self-certifying event contracts directly related to the outcomes of sporting events.

Kalshi and other prediction markets recognized enforcement weaknesses at the CFTC and have quickly exploited them. The first sport event contracts that CFTC inaction enabled were offered by DCMs in January 2025. There was approximately \$1.3 million in volume related to Super Bowl LIX. Ten months later, in October of 2025, prediction markets reported more than \$4 billion in monthly volume related to sport event contracts.

Because CFTC regulations allow prediction markets to self-certify event contracts without pre-clearance from the agency, companies can launch gambling products, generate profits, and then litigate in court later. This litigation-driven business model has resulted in 26 pending lawsuits to date, where states, Tribal governments, and individual consumers argue that the prediction markets violate Federal, state and Tribal law and exploit consumers.

While prediction markets argue in court that their contracts on the outcomes of sporting events are not gambling, they openly advertise that their contracts are “legal” gambling. Prediction markets have spent millions of dollars to advertise their products as legalized sports betting in all 50 states. One advertisement from January by prediction market Kalshi stated that it is “The First Nationwide Legal Sports Betting Platform.” Kalshi also ran advertisements during the college basketball tournament in Texas and California—where all sports betting is illegal—that said “Make \$ on March Madness” and “Legal in Texas” and “Legal in California”. Another advertisement said “Sports betting is officially legal in Texas with Kalshi. The first federally regulated exchange where you can bet on real outcomes.” Again, all sports betting is illegal under state law in Texas and California. Thus, these prediction markets are offering contracts on sport event outcomes and intentionally misleading consumers and purposefully thwarting state laws.



As noted above, this amounts to nationwide online gambling that has deluged every corner of the United States. For decades, state and Tribal governments have debated concerns about the impacts of online gambling as it draws teenagers, poses added risks to problem gambling, and heightens risks of addiction, mental health concerns, and personal financial and other concerns. **Prediction markets sidestep these debates and ignoring the consequences.**

Conclusion

It is no coincidence that the prediction market corporations selected the CFTC as the financial regulatory agency to push out their self-certified self-regulated online gambling platforms. The prediction markets recognized regulatory weakness at the

^bSee Daniel Wallach LinkedIn Post at [https://www.linkedin.com/posts/amanda-fischer-21877210_the-maryland-federal-court-is-right-to-demand-activity-7335376474855661570-uib_?_f](https://www.linkedin.com/posts/amanda-fischer-21877210_the-maryland-federal-court-is-right-to-demand-activity-7335376474855661570-uib_?)

CFTC, and they have actively exploited the agency's lack of capacity or lack of will to enforce its regulations.

Complete inaction by the CFTC proves this point. Prediction markets have offered sports betting for 11 months now. Just weeks ago, the CFTC issued a statement that the agency "has not, to date, made a determination regarding whether" these contracts involve a prohibited activity. No legitimate Federal regulatory agency would publicly admit that it has failed to even question activity that blatantly violates the law and regulations directly under its charge.

The prediction market platforms are counting on continued inaction from the CFTC. They will continue to push the limits of and blur the lines between event contracts and gambling. Sports betting is only the beginning.

We respectfully urge this Committee and Congress to put a stop to this illegal activity by amending the CEA to reinforce the existing prohibition against casino gambling in general and sports betting in particular.

STATEMENT 2

HON. KENNETH CHOKE, CHAIRMAN, NISQUALLY INDIAN TRIBE

Chair Thompson, Ranking Member Craig, and Honorable Members of the Agriculture Committee, thank you for the opportunity to submit this testimony. My name is Ken Choke, and I have the honor of serving as Chairman of the Nisqually Indian Tribe ("Tribe"), a signatory to the Treaty of Medicine Creek of 1854. The Tribe resides on the Nisqually Reservation, which was established by the treaty and represents a mere fragment of the Tribe's ancestral lands. On January 20, 1856, an executive order enlarged the reservation to 4,717 acres on both sides of the Nisqually River.

The United States promised the Tribe that the Reservation would be its forever. Unfortunately, in the winter of 1917 the U.S. Army moved onto Nisqually lands and ordered our ancestors from their homes without any warning. Later, Pierce County condemned 3,353 acres of Nisqually land and transferred it to the Army to expand the Fort Lewis base, which would become Joint Base Lewis-McChord ("JBLM").

This condemnation deprived the Tribe of 70% of our lands and forced our people to crowd on the remaining land on one side of the Nisqually River. Today, the Tribe is bounded on one side by the Nisqually River and surrounded by JBLM. Overcrowding is a major issue as the Tribe has nowhere to expand to meet its growing population.

Under that treaty, the Nisqually Tribe reserved—not received—the right to self-govern. That treaty is supreme law of the land, and it carries with it a Federal trust responsibility to uphold promises made by the United States to our people, including the protection of our inherent rights to govern our lands, our economy, and our future.

I provide this testimony to share Tribal expertise and perspective, and to offer caution as the Committee considers the reauthorization of the Commodity Futures Trading Commission ("CFTC").

The CFTC is a statutory agency established by Congress under the Commodity Futures Trading Commission Act of 1974. Its mission is to regulate futures, options, and derivatives markets that serve legitimate economic purposes, including price discovery and risk management, while protecting market participants and the public from fraud, manipulation, and systemic risk. The Nisqually Tribe supports the CFTC's core mission and recognizes the importance of clear and modern Federal oversight of U.S. derivatives markets.

As part of the CFTC reauthorization process, the Nisqually Tribe respectfully recommends that Congress address a growing issue that needs additional statutory clarity. This past year, certain "prediction markets" have offered event contracts tied to the outcomes of sporting events.

Operating within regulatory gaps, these products raise important questions about the appropriate boundary between federally regulated derivatives markets and gambling activities regulated under Tribal, state, and Federal law.

These event contracts function in practice like sports betting. Their rapid emergence has created uncertainty regarding the scope of the Commodity Exchange Act ("CEA"), codified at 7 U.S.C. § 1 et seq., the respective roles of Federal, state, and Tribal regulators, and the expectations of consumers. Clear guidance from Congress would help ensure consistent interpretation of the law and greater regulatory certainty for all stakeholders.

Current CFTC regulations permit self-certification of new contracts, a framework that has supported innovation in derivatives markets. But at the same time, the introduction of sports-based event contracts has highlighted challenges in applying ex-

isting regulatory tools to novel products. These developments suggest that additional direction from Congress would help ensure continued alignment with the intent of the CEA.

Federal law, including the Indian Gaming Regulatory Act (“IGRA”), establishes a cooperative framework requiring Tribal nations and states to coordinate on certain gaming activities, including sports betting where authorized. The Nisqually Tribe operates the Red Wind Casino, a cornerstone of our self-sufficiency, which provides jobs, supports vital programs, and generates revenue to support Tribal health care, education, and housing. The regulatory framework of IGRA and the carefully negotiated Tribal-state compacts that implement it, form the foundation of that success.

IGRA ensures there is a comprehensive regulatory structure that reflects deliberate policy choices made by Congress, Tribes, and states and is designed to protect consumers and ensure accountability. As Congress reauthorizes the CFTC, it is important that this process reflect a clear commitment to the integrity of IGRA and the rights of Tribal governments. Regulatory ambiguity poses a real and imminent threat to both the U.S. derivatives market and Tribal economies.

As part of the CFTC reauthorization process, the Nisqually Tribe respectfully encourages Congress to provide statutory clarity confirming that the CFTC’s jurisdiction is focused on regulating contracts that serve legitimate hedging and price-discovery functions, to provide express guidance in the Commodity Exchange Act regarding the treatment of event contracts tied to sports outcomes, and to direct the CFTC to apply enforceable standards that any permitted event contracts serve a legitimate economic purpose and maintain public confidence in regulated markets. Clarifying the treatment of sports-based event contracts would support regulatory certainty, consumer protection, and respect for existing Tribal and state governance structures.

The treaty our ancestors signed requires that our right to self-determination be honored not only in law, but in practice. Today, that right is being eroded by regulatory ambiguity that Congress has the power to clarify and correct. We seek a path forward that protects U.S. derivatives markets while honoring the Federal trust responsibility.

Thank you for the opportunity to share our concerns and for your commitment to upholding treaty rights. The Nisqually Tribe looks forward to working collaboratively with Congress, regulators, Tribes, and stakeholders as these matters are considered.

STATEMENT 3

HON. GLEN D. NENEMA, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, KALISPEL TRIBE

My name is Glen Nenema, and I serve as Chairman and CEO of the Kalispel Tribe located in eastern Washington State. Thank you for the opportunity to submit testimony for the record regarding the reauthorization of the Commodity Futures Trading Commission (“CFTC”).

The CFTC is a statutory agency established by Congress under the Commodity Futures Trading Commission Act of 1974. Its mandate is clear: to regulate futures, options, and derivatives markets that serve legitimate economic purposes, including price discovery and risk management, while protecting market participants and the public from fraud, manipulation, and systemic risk.

As Congress considers reauthorization of the CFTC, the Kalispel Tribe raises an urgent concern. Over the past year, the CFTC has permitted so-called “prediction markets” to exploit gaps and ambiguities in the current regulatory framework to offer event contracts that are, in substance and effect, illegal sports betting. These products are deliberately structured to evade state, Tribal, and other Federal laws governing gambling, and they undermine the integrity of the Commodity Exchange Act (“CEA”), Tribal sovereignty, and consumer protections.

The Commodity Exchange Act Does Not Authorize Sports Betting

The Commodity Exchange Act, codified at 7 U.S.C. § 1 et seq., provides the CFTC with jurisdiction over contracts of sale of a commodity for future delivery and related derivatives. Congress has consistently affirmed that this jurisdiction exists to regulate markets serving *bona fide* hedging and price-discovery functions, not to authorize speculative sports wagering. The CFTC has historically enforced this limitation and prohibited contracts based on unrelated events such as terrorism, assassination, gambling, or other events deemed inappropriate for regulated derivative markets. Despite this history, over the past year, the CFTC has failed to prevent several prediction markets from offering event contracts tied to sporting event outcomes. These contracts are indistinguishable from sports betting and are openly marketed as such.

Regulatory Loopholes Result in Litigation

Prediction markets are exploiting a weakness in the CFTC's regulatory framework that allows self-certification of event contracts without pre-clearance from the agency. Combined with limited agency resources, this structure results in slow, reactive oversight, allowing prediction markets to launch gambling products, generate substantial profits, and force governments to challenge them after the fact through litigation.

To date, this approach has resulted in 26 pending lawsuits brought by states, Tribal governments, and individuals. These cases allege violations of Federal, state, and Tribal law, as well as consumer protection violations that disproportionately affect vulnerable populations. While the Kalispel Tribe is not involved in litigation, we are carefully monitoring all developments that may impact the Federal Government's trust obligations to Tribes and Federal Indian law.

Tribal Governments Are Being Undermined

Federal law, including the Indian Gaming Regulatory Act ("IGRA"), requires Tribal nations to coordinate with states regarding certain gaming activities, including sports betting. At Kalispel, we held sovereign-to-sovereign negotiations for our Tribal-state gaming compact and implemented strong regulatory frameworks that include age verification, responsible gaming programs, consumer protections, and enforcement. Prediction markets offering sports event contracts do none of this, reduce the value of these agreements, and threaten critical services funded by gaming revenue.

Impacts to Tribal Economies

The Kalispel Tribe wholly-owns Northern Quest Resort & Casino. Indian gaming, and Northern Quest Resort & Casino, have been a game changer for the Tribe and our members. The Tribe went from being one of the poorest communities in the country before Indian gaming to utilizing our gaming revenue to support our government infrastructure, housing, education, healthcare, and essential community services. Our Tribal gaming operations are rigorously regulated by our Tribal regulators, the National Indian Gaming Commission, and state partners. These systems exist to protect consumers and address problem gambling. Prediction markets lack comparable regulatory oversight and pull revenue away from Tribal nations providing essential government services to residents in our community. Any infringement into Tribal sovereignty and Indian gaming is a direct threat on the Tribe's infrastructure and future.

Recommendations for Congressional Action

The Kalispel Tribe strongly urges Congress to act decisively and prevent prediction markets from further expanding illegal sports betting and other forms of traditional gambling under the name of "event contracts." To restore the integrity of the CEA and the CFTC's mission, the Kalispel Tribe makes the following recommendations:

- Clarify and reaffirm that the CFTC's jurisdiction extends only to contracts that serve legitimate hedging and price-discovery functions, not speculative wagering on sporting events;
- Amend the Commodity Exchange Act to expressly prohibit the listing, trading, or clearing of event contracts based on sports outcomes; and
- Require the CFTC to adopt and enforce rigorous standards ensuring that any permissible event contract advances legitimate economic purposes and does not erode public trust in regulated markets.

Conclusion

The CFTC's mission is to promote the integrity, resilience, and vibrancy of the U.S. derivatives markets through sound regulation. Allowing ambiguous event contracts based on sporting events stretches the agency's mandate and entangles the CFTC in areas that belong within state and Tribal gaming regulation. CFTC reauthorization presents an opportunity for Congress to reinforce the agency's core mission, protect consumers, and respect Tribal sovereignty by preventing the unchecked expansion of unregulated gambling. The Kalispel Tribe appreciates the opportunity to submit this testimony and looks forward to working with the Committee.

STATEMENT 4

THORA W. PADILLA, PRESIDENT, MESCALERO APACHE TRIBE

Thank you, Chairman Thompson, Ranking Member Craig, and Members of the Committee, for the opportunity to submit testimony for the record for the Committee's December 11, 2025 hearing on efforts to reauthorize the Commodity Futures Trading Commission ("CFTC").

My name is Thora Walsh Padilla, and I am honored to serve as President of the Mescalero Apache Tribe ("Mescalero" or "Tribe"). The Tribe shares the views expressed by witnesses and Committee Members during the hearing that as Congress considers a reauthorization for the CFTC it must also revisit the Commodity Exchange Act ("CEA") itself. Inaction by the CFTC has led to the explosion of prediction markets offering event contracts that are in fact nationwide online sports betting sites.

Just yesterday, KalshiEX LLC, notified the CFTC that it has self-certified contracts on whether college athletes will enter the transfer portal. The move drew immediate condemnation:

"The NCAA vehemently opposes college sports prediction markets . . . It is already bad enough that student-athletes face harassment and abuse for lost bets on game performance, and now Kalshi wants to offer bets on their transfer decisions and status. This is absolutely unacceptable and would place even greater pressure on student-athletes while threatening competition integrity and recruiting processes. Their decisions and future should not be gambled with, especially in an unregulated marketplace that does not follow any rules of legitimate sports betting operators."^{a*}

It is crystal clear that prediction markets will not stop at sports gambling. They will continue to push the envelope as long as the CFTC continues to turn a blind eye.

This activity represents a direct threat to Tribal governments, state governments, the public, and the very integrity of American sports. We respectfully urge Congress to amend the CEA to reinforce these existing prohibitions and ask that you conduct thorough oversight of the CFTC to ensure that the agency is enforcing its own laws and regulations.

Importance of Indian Gaming to Tribal Government Economies

Mescalero has strived to achieve economic self-sufficiency. Indian gaming has proven to serve as the most reliable tool for Tribal governments nationwide to achieve this goal. The Inn of the Mountain Gods is the primary economic engine of the Mescalero Apache Tribe. Our gaming operation provides hundreds of jobs for our citizens and those in nearby communities. It fuels revenue for our Tribe to provide essential services to Reservation residents in the form of enhanced education, health care, fire suppression, conservation law enforcement, and critical infrastructure.

Fourteen Tribal governments in the State of New Mexico carefully negotiated gaming compacts pursuant to the Indian Gaming Regulatory Act ("IGRA") that carefully balance the economic interests of Tribes and the state with social and moral concerns raised by gambling. For thirty years now, Tribal governments have offered casino gambling at brick-and-mortar operations. Tribes share a portion of this revenue with the State of New Mexico to offset regulatory costs incurred by the New Mexico Gaming Control Board and fund the state's problem gaming programs.

Tribal governments realize that none of these benefits would be possible without a strong regulatory system to protect gaming revenues and preserve the integrity of our operations. Tribes nationwide invest more than \$450 million annually, employing more than 6,000 regulators to oversee Indian gaming operations daily.¹ Our regulators work with the New Mexico Gaming Control Board, the National Indian Gaming Commission, the FBI, the IRS, the Financial Crimes Enforcement Network, and other agencies.

Since the Supreme Court's 2018 *Murphy* decision that struck down the Federal prohibition against sports betting, several Tribes, including Mescalero, began to offer sports wagering at Indian gaming operations. To protect the integrity of our

^ahttps://www.espn.com/college-football/story/_/id/47341610/prediction-market-kalshi-intends-offer-trading-portal.[†]

* **Editor's note:** references annotated with † are retained in Committee file.

¹NIGC Budget Justifications and Performance Indication FY2025 at NIGC-1; <https://www.doi.gov/sites/default/files/documents/2024-03/fy2025-508-nigc-greenbook.pdf>.[†]

sporting events, we ensure that our operations comply with our gaming compact, which includes a strict 21 year age restriction and problem gambling measures.

Our regulatory system ensures full transparency, working with the leagues to protect the integrity of American sports and maintain strict consumer safeguards and responsible gaming practices. It's a proven framework that protects players and the public while delivering resources to benefit local communities.

The State of New Mexico and Tribes continue to prohibit sports betting on the internet. After much debate, we view that online sports betting poses added risks to underage gambling and problem gambling, heightened risks of addiction, mental health concerns, and personal financial and other concerns.

Prediction markets that offer gambling on the outcome of sports through event contracts violates this local decision, ignores the consequences, and for nearly 1 year now—they have forced their way into the homes of every New Mexican family in direct subversion of our voters and elected Tribal and state leaders.

The CFTC Lacks the Capacity and Will to Regulate Online Gambling

The CFTC was never intended to serve as a gambling regulator and has neither the capacity nor the expertise to provide regulatory oversight at the level needed to protect consumers, prevent fraud and criminal infiltration, or protect against cheating and corruption.

The CFTC is a statutory agency created under the Commodity Futures Trading Commission Act of 1974, charged with the responsibility of regulating futures and derivatives markets to promote market integrity, protect market participants, and ensure the proper functioning of price discovery and risk management mechanisms. Its mission is essential to protect both market participants and the broader public from financial manipulation and systemic risk.

The CEA, codified at 7 U.S.C. § 1 et seq., provides the CFTC with jurisdiction over “contracts of sale of a commodity for future delivery” and related derivatives. Congress has consistently reaffirmed that the purpose of the agency’s authority is to regulate markets that serve *bona fide* hedging and price-discovery functions that serve an inherent economic interest, not to authorize speculative gambling on the outcomes of events unrelated to economic commodities.

Prediction markets recognized enforcement weaknesses at the CFTC and have quickly exploited them. The first sport event contracts that CFTC inaction enabled were offered by designated contract markets in January 2025. There was approximately \$1.3 million in volume related to Super Bowl LIX. Ten months later, in October of 2025, prediction markets reported more than \$4 billion in monthly volume related to sport event contracts.

Because CFTC regulations allow prediction markets to self-certify event contracts without pre-clearance from the agency, companies can launch gambling products, generate profits, and then litigate in court later. This litigation-driven business model has resulted in 26 pending lawsuits to date, where states, Tribal governments, and individual consumers argue that the prediction markets violate Federal, state and Tribal law and exploit consumers.

While prediction markets argue in Federal court that their contracts on the outcomes of sporting events are not gambling, they openly advertise that their contracts are “legal” gambling intentionally misleading consumers and purposefully thwarting Tribal and state laws. Prediction markets have spent millions of dollars to advertise their products as legalized sports betting in all 50 states. One advertisement from January of 2025 by prediction market Kalshi says it is “The First Nationwide Legal Sports Betting Platform.”

As noted above, this amounts to nationwide online gambling that has deluged every corner of the United States. For decades, state and Tribal governments have debated concerns about the impacts of online gambling as it draws teenagers, and poses added risks to problem gambling, heightened risks of addiction, mental health concerns, and personal financial and other concerns. **Prediction markets sidestep these debates and ignore the consequences.**

Unless Congress reaffirms the boundary between legitimate derivatives markets and gambling activity, these prediction markets will continue to expand their illegal sports betting into other traditional gambling activity. Congress must take immediate action to reaffirm the integrity of the CEA and CFTC, restore the proper balance between Federal and state-Tribal authority, and protect consumers from predatory, unregulated online gambling offered by prediction markets.

Conclusion

It is no coincidence that the prediction market corporations selected the CFTC as the financial regulatory agency to push out their self-certified self-regulated online

gambling platforms. The prediction markets recognized regulatory weakness at the CFTC, and they have actively exploited the agency's lack of capacity or lack of will to enforce the CEA and its own regulations.

Complete inaction by the CFTC proves this point. Prediction markets have offered sports betting for 11 months now. Just weeks ago, the CFTC issued a statement that the agency "has not, to date, made a determination regarding whether" these contracts involve a prohibited activity. No legitimate Federal regulatory agency would publicly admit that it has failed to even question activity that blatantly violates the law and regulations directly under its charge.

The prediction market platforms are counting on continued inaction from the CFTC. They will continue to push the limits of and blur the lines between event contracts and gambling. As evinced by Kalshi's recent foray into the college athlete transfer portal, sports betting is only the beginning.

We respectfully urge this Committee and Congress to put a stop to this illegal activity by amending the CEA to reinforce the existing prohibition against casino gambling in general and sports betting in particular.

SUBMITTED LETTER BY HON. JONATHAN L. JACKSON, A REPRESENTATIVE IN CONGRESS FROM ILLINOIS; ON BEHALF OF JAMES B. "JB" MACKENZIE, PRESIDENT, ROBINHOOD DERIVATIVES, LLC; VICE PRESIDENT AND GENERAL MANAGER, FUTURES AND INTERNATIONAL, ROBINHOOD MARKETS, INC.

Dear Chairman Thompson, Ranking Member Craig, and Members of the Committee,

Robinhood Derivatives, LLC appreciates the opportunity to provide comments on the record for the House Committee on Agriculture's December 11th, 2025 hearing on "CFTC Reauthorization: Stakeholder Perspectives."

We submit the attached policy paper on prediction markets. At Robinhood, we view prediction markets as a powerful mechanism for aggregating dispersed information, and a tool that can help decision-makers seek the best possible insights to navigate the future.

Robinhood Derivatives, LLC operates a Prediction Markets Hub where customers can trade on real-life events. Our goal is to enable anyone, anywhere, to trade, invest or earn any financial asset and conduct any financial transaction through Robinhood. With an emerging asset class like event contracts, we recognize an opportunity to better serve our customers as their interests converge across the markets, news, economics, sports, and entertainment.

We hope that our policy paper can help provide more information on our position and our support for this emerging asset class. Please contact us if you have any questions or comments. Thank you for this opportunity to contribute.

Sincerely,

JB MACKENZIE,
President,
 Robinhood Derivatives, LLC;
Vice President and General Manager, Futures and International,
 Robinhood Markets, Inc.

ATTACHMENT

March 2025

Prediction Markets

Prediction markets offer a powerful mechanism for aggregating dispersed information, allowing participants to hedge and speculate based on their beliefs about future events. Because prediction markets incorporate diverse perspectives and involve institutional and retail participants putting their own capital behind their predictions, these markets can produce highly accurate forecasts, often outperforming expert analysis and other traditional sources of news and information. By allowing individuals to buy and sell contracts tied to specific outcomes—known as "event contracts"—prediction markets help reduce uncertainty by providing real-time probabilities that reflect the collective wisdom of participants. In other words, prediction markets can enhance the economic value of information itself, allowing businesses and individuals to make better decisions which, in turn, creates a variety of benefits.¹ Prediction markets can be particularly valuable in fields such as finance, poli-

¹Consider, for example, a manufacturing business that is able to commit substantial capital toward building a new plant and hiring thousands of workers in the U.S. because it has access

tics, and technology, among others, where decision-makers seek the best possible insights to navigate an unpredictable future.

Another key advantage of prediction markets is their ability to serve as a risk management tool. Businesses and investors can use these markets to hedge against uncertain events and associated risks, such as election outcomes, regulatory changes, or economic shifts. By taking positions in these markets, they can offset potential losses elsewhere in their portfolios. On the other side of the trade are the speculators who provide important liquidity in these markets by attempting to profit from price changes in futures contracts. This is no different than those speculators and retail participants who buy or sell futures contracts in agricultural products such as corn or wheat.

Additionally, prediction markets have educational value, as they encourage critical thinking and data analysis skills. Participants must assess probabilities, interpret trends, and understand how new information affects market prices, fostering a deeper understanding of decision-making under uncertainty.

The combination of risk mitigation, information aggregation, speculation, and learning potential makes prediction markets a valuable economic and informational tool for businesses and individuals alike.

Background on Event Contracts

“Event contracts” are the most common tool in prediction markets, allowing participants to trade on the likelihood of specific outcomes. These contracts function as simple binary (or “yes-or-no”) predictions on events including, but not limited to, elections, economic indicators, commodity price movements, weather, and sports. Prices can fluctuate based on market sentiment and new information, reflecting the collective probability assigned to each outcome. Event contracts are straightforward and adaptable, and therefore, widely used for forecasting, risk management, and speculation across various industries and products. Event contracts are traded directly in orderly, transparent, two-sided markets on federally regulated platforms. Types of event contracts include, among other things:

- Political events, like elections;
- Economic events, such as corporate earnings releases and macroeconomic data releases;
- Commodity price movements;
- Weather events; and
- Sports and entertainment events.

General Benefits of Prediction Markets

Prediction markets can provide many benefits to market participants, including:

- **Hedging:** Prediction markets allow businesses and individuals to hedge risks associated with various events. For example, a small manufacturing business might use political event contracts to hedge risks related to elections. Event contracts can also be used to hedge risks in financial portfolios. Moreover, because they are smaller in size than futures contracts, event contracts can allow for a more accurate hedge to be created. Larger futures contracts can lead to investors being over-hedged which can be just as risky and harmful as being under-hedged. By providing liquidity to the markets, retail trading generally facilitates the ability of market participants to effectively hedge risk.
- **Customer Protection:** Prediction markets and event contracts are regulated at the Federal level by the Commodity Futures Trading Commission under the Commodity Exchange Act. Federal regulation provides a number of customer safeguards and market integrity measures. For example, the exchanges that provide prediction markets via event contracts, as well as the firms that provide customers access to those markets, are required to safeguard customer funds by segregating them from the firms’ own proprietary business activities. These firms also are required to prevent manipulative trading activity to help ensure the integrity of predictions markets, instilling greater confidence in the usefulness and predictive value of the event contracts.
- **Information Aggregation:** Prediction markets are a powerful predictive tool that can aggregate diverse opinions and sets of information into accurate forecasts. Prediction markets often exhibit lower statistical errors than professional forecasters and polls, and can be more reliable than other traditional sources

to more accurate information about expected macro- or micro-economic and political conditions generated by prediction markets.

of news and information. As a result, prediction markets can enhance the economic value of all types of information.

- **Reduce Uncertainty:** The prediction markets generally reflect the “best estimate” of the probability of an event occurring. Prediction markets can reduce uncertainty about the likelihood of future events and can be an effective tool in predicting the outcome of those events. For example, prediction market event contracts can generate information that is useful for businesses when planning their future operations, as well as information that is useful for an individual’s portfolio and how the outcome of events can impact the pricing of financial instruments.
- **Speculation:** Like traditional securities, options, and futures markets (*e.g.*, corn and wheat), prediction markets can be used by market participants, including retail investors, to profit from price movements. In doing so, speculative investors provide important liquidity to prediction markets.
- **Educational Value:** Prediction markets create a financial incentive for market participants to be better informed about the likelihood of future events occurring. By making information publicly available, prediction markets can democratize access to information.

Types of Prediction Markets and Event Contracts

As noted above, there are several types of prediction markets and event contracts including, but not limited to:

- **Politics.** Political prediction markets and event contracts allow businesses to hedge risks associated with political and electoral factors. Companies and individuals can hedge against risks stemming from or speculate on the partisan composition of government, or from the uncertainty of which political party will control Congress, which can impact the probability of legislation impacting a company or individual. Moreover, by providing an unbiased and market-based mechanism for viewing and understanding complex issues, political event contracts can strengthen the democratic process and improve public analysis.
- **Economics.** Economic prediction markets and event contracts enable market participants to hedge risks related to macroeconomic announcements, such as unemployment rates, payroll data, and the Federal funds rate. These contracts allow participants to hedge exposure to specific events without sacrificing the upside of their instruments and can revolutionize the hedging process. For example, event contracts can augment the utility of hedging by allowing participants to directly hedge macroeconomic risks before the data is released.
- **Weather.** Prediction markets and event contracts for weather-related events and patterns allow market participants to hedge risks related to future weather events, associated government policies, and related activities carried out by market participants (for example, insurers). They can protect an investor from risks related to the degree to which weather events impact the economy and particular industries. These contracts can also be created around specific weather-related events such as drought, sea level rise, polar ice volumes, and agricultural yields, providing a more refined hedge. Weather event contracts can also provide information that will be valuable to policymakers. For example, an event contract based on the rise of sea level would provide policymakers with valuable information on the potential future costs of the government programs like the National Flood Insurance Program.
- **Sports.** Sports prediction markets and event contracts are one subset of the broader prediction markets that have recently gained popularity. Unlike sports gambling, in which there is a “House” and oddsmakers, sports event contracts are binary products traded directly between buyers and sellers in open, transparent, two-sided markets on federally regulated exchanges (known as “designated contract markets”). Various commercial entities, including team sponsors, media outlets, and vendors, can use sports event contracts to manage risks related to team performance. For example, team sponsors could hedge their risk of a team having a losing season. Consumer-focused businesses near a sports stadium may want to hedge the possibility of cancellation or lower attendance that would impact their revenue for the day. Similarly, the price discovery provided by these prediction markets can result in more accurate and valuable information which would, for example, enable consumer-focused businesses to better predict the labor and material resources they might need to successfully serve customers.

The Path Forward

Policymakers should adopt policies that continue to recognize that the prediction markets, including event contracts related to economic events, commodities, weather events, sporting events, and political events, have economic value and are generally in the public interest, as they can provide legitimate hedging, risk-management, speculative and informational benefits for individuals and businesses of all sizes. Moreover, policymakers should avoid rules that prohibit retail customers from taking advantage of the same opportunities available to institutional investors.

SUBMITTED LETTER BY HON. CHELLIE PINGREE, A REPRESENTATIVE IN CONGRESS
FROM MAINE

December 19, 2025

Hon. JOHN BOOZMAN,
Chairman,

Hon. AMY KLOBUCHAR,
Ranking Minority Member,
Senate Committee on Agriculture, Nutrition, and Forestry,
Washington, D.C.;

Hon. TIM SCOTT,
Chairman,

Hon. ELIZABETH WARREN,
Ranking Minority Member,
Senate Committee on Banking, Housing, and Urban Affairs,
Washington, D.C.;

Hon. GLENN THOMPSON,
Chairman,

Hon. ANGIE CRAIG,
Ranking Minority Member,
House Committee on Agriculture,
Washington, D.C.

RE: Stop Illegal and Unregulated Gambling Occurring on Prediction Markets from Encroaching on Tribal Nations' Sovereign Rights

Dear Chairs Boozman, Scott and Thompson and Ranking Members Klobuchar, Warren, and Craig:

On behalf of the United South and Eastern Tribes Sovereign Protection Fund (USET SPF), we write to express urgent concern about sports event contracts and the illegal and unregulated gambling occurring on prediction markets, including by entities such as Kalshi, Crypto.com, and Robinhood. These entities are being unlawfully permitted by the Commodity Futures Trading Commission (CFTC) to engage in online sports gambling under the guise of “event contracts” pursuant to the Commodity Exchange Act (CEA). These entities are encroaching on Tribal Nations’ exclusive rights as sovereign governments to regulate and conduct gaming occurring on our Indian lands-gaming we rely upon to generate revenue to fund our governments.

USET SPF is a nonprofit, inter-Tribal organization advocating on behalf of thirty-three (33) federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico.¹ USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations and in assisting its membership in dealing effectively with public policy issues. Tribal Nations are inherently sovereign governments that predate the arrival of Europeans, which the United States acknowledged early on. U.S. Const. art. I, § 8, cl. 3; *Worcester v. Georgia*, 31 U.S. 515 (1832). The United States has also recognized Tribal Nations’ inherent and exclusive sovereign rights to regulate gaming activities occurring on our Indian lands. *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987).

Congress enacted the Indian Gaming Regulatory Act (IGRA) to provide a comprehensive Federal regulatory framework for such gaming. Pub. L. 100–497, 102 Stat. 2467 (Oct. 17, 1988) (codified at 25 U.S.C. §§ 2701–2721). IGRA mandates that Tribal Nations “have the exclusive right to regulate gaming activity on Indian lands.” 25 U.S.C. § 2701(5); *see also* 24 U.S.C. § 2710. IGRA controls all gaming ac-

¹USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Catawba Indian Nation (SC), Cayuga Nation (NY), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe-Eastern Division (VA), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mi’kmaq Nation (ME), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Monacan Indian Nation (VA), Nansemond Indian Nation (VA), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Rappahannock Tribe (VA), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), Upper Mattaponi Tribe (VA), and Wampanoag Tribe of Gay Head (Aquinnah) (MA).

tivity occurring on Indian lands, including placement of wagers that are then received off Indian lands. *W. Flagler Assocs., Ltd. v. Haaland*, 71 F.4th 1059, 1061 (D.C. Cir. 2023), *cert. denied*, 144 S. Ct. 2671, 219 L. Ed. 2d 1292 (2024).

Tribal Nations' gaming activities, among other economic development activities, have been integral to generating funding for our government coffers so that we may provide essential government services for our communities. The United States took the lands and resources with which we traditionally cared for our communities without ever fully funding its resulting trust and treaty obligations. We now face convoluted legal precedent that siphons revenue away from Tribal lands and prevents us from collecting taxes like other governmental entities do, all while the Federal Government strictly regulates the development activities we attempt to undertake on our lands.

Congress recognized these realities when it enacted IGRA, acknowledging many Tribal Nations already engaged in gaming "as a means of generating Tribal governmental revenue," 25 U.S.C. § 2701(1), and that one purpose of IGRA was "to provide a statutory basis for the operation of gaming by Indian Tribes as a means of promoting Tribal economic development, self-sufficiency, and strong Tribal governments," 25 U.S.C. § 2702(1). For this reason, Congress made clear in IGRA that Tribal Nations must "have the sole proprietary interest" in gaming occurring on our lands. 25 U.S.C. § 2710(b)(2)(A). And Tribal Nations and states have negotiated through IGRA compacts for revenue sharing payments from Tribal Nations to states in exchange for Tribal Nations' rights to exclusively offer certain types of gaming throughout those states without competition—benefiting Tribal Nations and states alike. 25 U.S.C. § 2710(d); *Rincon Band of Luiseno Mission Indians of Rincon Rsrv. v. Schwarzenegger*, 602 F.3d 1019 (9th Cir. 2010). Tribal gaming has succeeded as a tool for allowing Tribal Nations to build our governance structures and care for our people. *Michigan v. Bay Mills Indian Cmty.*, 572 U.S. 782, 810 (2014) (Sotomayor, J., concurring) (explaining that "Tribal gaming operations cannot be understood as mere profit-making ventures that are wholly separate from the Tribes' core governmental functions").

Despite the clear mandates of IGRA and Tribal Nations' inherent sovereignty, entities engaged in sports event contracts and illegal and unregulated gambling occurring on prediction markets argue their activities are lawful because they fall outside the scope of IGRA and Tribal jurisdiction. USET SPF believes this impingement on Tribal sovereignty and economic development must be stopped. It is for this reason we have joined amicus briefs in litigation attempting to rein in these bad actors. See, e.g., *Amicus Brief of Indian Gaming Association, et al., Kalshix LLC v. Flaherty, et al.*, No. 1:25-cv-2152 (June 17, 2025) (first of multiple amicus briefs we have joined). We now request legislative affirmation and clarification that their actions are unlawful.

Your committees are in the process of reviewing and revising the authorities of the CFTC. We ask that you amend the CEA to reinforce existing law and regulations prohibiting prediction markets from offering event contracts on sport events or casino-style gambling activities.

Sincerely,



CHIEF KIRK FRANCIS,
President



KITCKI A. CARROLL,
Executive Director

SUBMITTED LETTERS BY HON. CHELLIE PINGREE, A REPRESENTATIVE IN CONGRESS
FROM MAINE; ON BEHALF OF:

LETTER 1

HON. KIRK FRANCIS, SR., CHIEF, PENOBSCOT NATION

Chairman Thompson, Ranking Member Craig and Members of the Committee:

On behalf of the Penobscot Nation, located in what is now the State of Maine, thank you for providing an opportunity to submit testimony on the reauthorization of the Commodity Futures Trading Commission (CFTC). We are very concerned about the failure of the CFTC over the past year to prohibit prediction markets from offering event contracts based on the outcome of sporting events. These contracts, which some prediction markets are now calling swaps, are merely illegal online

sports wagering intended to thwart state and Tribal government laws and regulations.

These illegal gambling activities have skyrocketed over the past 11 months with news reports indicating that the two leading prediction markets—Kalshi and Polymarket—posted a combined trading volume of almost \$10 billion for November 2025.^{1*} This was a 32% month-over-month increase for [Kalshi] and a 23.8% increase for Polymarket.² The vast majority of these increases are due to the companies expanding their offerings of sports betting. There are now at least 26 lawsuits between states and these prediction markets because they violate state gambling laws. Yet, again, the CFTC remains silent on whether these contracts based on outcomes of sporting events are illegal and the incoming Chair of the CFTC says that he will defer to the courts. That is exactly what these prediction markets want: a long drawn-out court fight that will go on for at least 5 years so they can normalize this illegal sports betting industry and get the CFTC to provide a Federal mechanism that allows them to avoid state and Tribal government laws. Congress needs to take immediate action to reaffirm that these activities are gambling and should continue to be governed at the local government level.

These prediction markets' illegal online sports betting products directly harm the State of Maine, the Wabanaki Tribal Nations, and the consumers located in Maine who cannot easily identify the difference between legalized online sports betting and the illegal products offered by prediction markets. These prediction markets pay no taxes to the state, contribute nothing to problem gambling programs, and offer no consumer protection. More, the legalized sports betting system in Maine was specifically designed to provide economic development opportunities for the Tribal Nations in Maine, who have long struggled to meet the basic needs of our communities. Prediction markets offering illegal sport event contracts within the state steal away from the Tribal Nations monies we use for infrastructure, education, health care, housing, law enforcement and other basic governmental services.

The Tribes in Maine worked with the Governor and state legislature to develop a highly regulated system for legalized online sports betting. Only the four federally recognized Tribal Nations have licenses to conduct online sports betting within the borders of the state. We are allowed to partner with companies who can meet the suitability requirements set forth in state regulations, and any vendors that we or our partners use must get licensed by the state's gambling control unit. Licensees, operators and vendors must meet extensive disclosure requirements about financial stability, gambling history, and business reputation. Annual reporting requirements ensure ongoing compliance with state regulations. State law includes robust consumer protection measures, such as self-exclusion programs and responsible gambling resources. Additionally, Maine law only allows people 21 years of age and older to participate in sports betting, and operators must employ systems to verify age and identity in order to protect minors from gambling activities.

We and our vendors pay licensing fees to the state along with a 10% tax on gross sports betting revenue. This revenue offsets the cost of regulation and funds education and addiction prevention programs. Maine law also requires operators to provide consumer protection tools, such as self-exclusion options and make resources available promoting responsible betting.

Maine law bans certain individuals from sports betting to maintain sports integrity. Individuals with influence over sports events, such as athletes, coaches, referees, and officials, cannot engage in sports betting. Also, individuals with access to non-public information that can influence betting outcomes are prohibited from participating in sports betting. This includes team executives and medical staff. The goal of restricting these individuals from participating in sports betting is to prevent unfair advantages from privileged information and protect consumers and the integrity of our sports systems.

Prediction markets that offer illegal contracts on sport events follow none of these Maine law requirements. And they contribute nothing to the Tribal Nations or local economy. Moreover, they offer no meaningful consumer protection and contribute nothing to problem gambling programs or resources. Prediction markets' illegal sports betting is a scourge on our society, Tribal Nations, and consumers. This Committee and Congress need to take quick action to stop this harm.

Prediction markets offering contracts on sport event outcomes argue that they are financial instruments and swaps regulated by the Commodity Exchange Act. This is nonsense and you only need to look at the way they advertise their products to

¹ *Kalshi and Polymarket Record Nearly \$10 Billion in November Trading Volume* † (<https://www.sportsbookreview.com/news/kalshi-polymarket-trading-volume-november-2025/>).

* **Editor's note:** references annotated with † are retained in Committee file.

² *Id.*

consumers to understand that they are marketing themselves as legalized sports betting. The leading prediction market, Kalshi, has been aggressively advertising its products as legalized sports betting since January. The company has taken a national approach and focused on large consumer markets in states that have refused to legalize sports betting. One advertisement by prediction market Kalshi says it is “The First Nationwide Legal Sports Betting Platform.” Kalshi also ran advertisements during the college basketball tournament in Texas and California—where all sports betting is illegal—that said “Make \$ on March Madness” and “Legal in Texas” and “Legal in California.” Another advertisement said “Sports betting is officially legal in Texas with Kalshi. The first federally regulated exchange where you can bet on real outcomes.” Again, all sports betting is illegal under state law in Texas and California. Thus, these prediction markets are offering contracts on sport event outcomes and intentionally misleading consumers and purposefully thwarting state laws.

Congress has long been concerned about consumers wagering on sport events. In 1992, Congress sought to prohibit all forms of sports betting in the United States through enactment of the Professional and Amateur Sports Protection Act (“PASPA”). Only a few states that were offering sports betting at the time were exempted from the nationwide prohibition. In 2018, the United States Supreme Court, in *Murphy v. NCAA*, struck down PASPA as violating the Tenth Amendment’s anti-commandeering doctrine. The Supreme Court’s *Murphy* decision returned the legalization and oversight of sports betting to state governments. In the 8 years since the *Murphy* decision, sports betting has been legalized on a state-by-state basis. Several states continue to prohibit sports betting, and two states—Utah and Hawaii—criminally prohibit nearly all forms of gambling within their jurisdictions. Whether a state chooses to legalize sports betting is a local decision. Yet, these prediction markets intentionally and purposefully are using the Commodity Exchange Act and CFTC to avoid and bypass local governments and citizens.

The CFTC is responsible for regulating futures and derivatives markets in order to promote market integrity, protect market participants, and ensure the proper functioning of price discovery and risk management mechanisms. Its mission is essential to protect both market participants and the broader public from fraud, manipulation, and systemic risk. As Congress considers reauthorization of this agency, we urge you to address the significant concerns raised by CFTC’s recent willingness to allow prediction markets to manipulate the authority of the CEA and the CFTC’s own regulations to offer event contracts that constitute illegal sports betting primarily designed to avoid state, Tribal and other Federal laws and regulations.

We ask that the Committee and Congress amend the Commodity Exchange Act to reaffirm and clarify that the derivatives market cannot be used for illegal sports betting or casino-style gaming. We ask that you take the following actions:

- Clarify that the CFTC cannot approve, permit, or otherwise facilitate contracts that resemble sports wagering, including contracts where the predominant purpose and practical effect is consumer betting rather than *bona fide* hedging or commercial risk management; and
- Prohibit (or deem contrary to the public interest) event contracts and similar instruments that function as casino-style games or otherwise replicate gambling mechanics, regardless of the label applied.

The legalized sports betting system in Maine was carefully negotiated to protect consumers and sports, while providing a regulated entertainment option that provides revenues to the Tribal Nations within the state. Prediction markets offering sport event contracts are purposefully violating state law and regulations and harming local governments and consumers. We need the Committee and Congress to take immediate action to stop this illegal activity.

Thank you for considering these comments.

LETTER 2

REBECCA GEORGE, EXECUTIVE DIRECTOR, WASHINGTON INDIAN GAMING ASSOCIATION

Hon. GLENN THOMPSON,
Chairman,
House Committee on Agriculture,
Washington, D.C.

RE: Stop the Proliferation of Unregulated Sports Betting and Gambling using Prediction Market Financial Platforms

Dear Chairman Thompson:

We write to express deep concern about certain financial platforms engaging in unlicensed and unregulated online sports betting and gambling under the guise of “event contracts” pursuant to the Commodity Exchange Act (CEA). These financial platforms argue that they are registered through the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC), and thus, their activities are outside the scope of state and Tribal government laws and regulations. This argument is nonsensical and clearly not what Congress intended when it last modernized the CEA.

We request that your Committee review and revise the authorities of the CFTC and SEC, and reaffirm existing law and regulations prohibiting these financial platforms from offering event contracts on sport events or casino-style gambling activities. Your failure to do so allows these companies to continue to ignore and avoid state and Tribal government law and regulations, jeopardizing the public, who have unfettered access to, and minimal protections from these illegal and aggressive companies.

These companies are attempting to use the Federal courts to create ambiguity in the CEA to circumvent state and Tribal law and offer illegal gambling with no regulation or oversight. In less than 1 year, these prediction market platforms have proliferated online even though state and Tribal governments have informed these companies that they are operating illegally. The leading company took in more than \$1 billion in volume in October with 90% being from event contracts on sports events.

Although sports betting is explicitly banned in many states, the companies are aggressively advertising their products as “legalized sports betting in all 50 states.” They pay no taxes and contribute nothing to problem gambling programs. They ignore state laws that ban such activities from being available at schools, colleges and churches and refuse to comply with state and Tribal laws intended to prevent harm to consumers and regulate gambling activities. Recently, Kalshi, a leading Prediction Market, advertised that its platform is “kind of addicting.”

The proliferation and rapid expansion of these prediction market financial platforms into gambling activities such as sports betting is a public safety and health crisis. Because these companies can self-certify these event contracts under existing CFTC law and regulations, they go through no review or approval process at the CFTC or SEC before being made widely available to anyone with access to the internet. Although there are now 20 lawsuits pending across the country in Federal and state courts, these operators have shown no willingness to abide by state or Tribal laws and regulations and argue that only Congress can provide clarity on the matter.

We need your committees to engage on this matter now, as it will only continue to grow at rapid speed if quick action isn’t taken by Congress. Gambling activities have long been within the purview of state, Tribal and local government authority and regulation, and Congress and the Supreme Court have long recognized that. We need your committees to reinforce this longstanding position and act now to protect consumers and state, local and Tribal governments.

Thank you for your timely consideration of this matter.

Sincerely,

Rebecca George

REBECCA GEORGE,
Executive Director,
Washington Indian Gaming Association (WIGA).

On behalf of WIGA Member Tribes.¹

¹Chairman DUSTIN KLATUSH, Chehalis Confederated Tribes; Chairman TIMOTHY GREENE, Makah Tribe; Chairman GUY MILLER, Skokomish Tribe; Chairman JARRED ERICKSON, Colville Confederated Tribes; Chairman KEN CHOKE, Nisqually Tribe; Chairman KRIS PETERS, Squaxin Island Tribe; Chairman WILLIAM IYALL, Cowlitz Indian Tribe; Chairwoman ROSEMARY LACLAIR, Nooksack Tribe; Chairman ERIC WHITE, Stillaguamish Tribe; Chairman LEONARD FORSMAN, Squamish Tribe; Chairman STEVE EDWARDS, Swinomish Tribal Community; Chairman NINO MALTOS, Sauk-Suiattle Tribe; Chairwoman DARLENE HOLLUM, Hoh Tribe; Chairman GUY CAPOEMAN, Quinault Nation; Chairman GLEN NENEMA, Kalispel Tribe; Chairman ANTHONY HILLAIRE, Lummi Nation; Chairman DOUG WOODRUFF, Quileute Tribe; Chairman W. RON ALLEN, Jamestown S’Klallam Tribe; Chairwoman AMBER CALDERA, Port Gamble S’Klallam Tribe; Chairwoman FRANCIS CHARLES, Lower Elwha Klallam Tribe; Chairman QUINTIN SWANSON, Shoalwater Bay Tribe; Chairwoman TERI GOBIN, Tulalip Tribes of Washington; Chairman GERALD LEWIS, Yakama Nation.

LETTER 3

HON. TERI GOBIN, CHAIR, TULALIP TRIBES

Chairman Thompson, Ranking Member Craig, and Members of the Committee:

On behalf of the Tulalip Tribes, we thank you for the opportunity to submit this statement for the record as the Committee considers reauthorization of the Commodity Futures Trading Commission (CFTC) and possible amendments to the Commodity Exchange Act (CEA).

The Tulalip Tribes support well-regulated derivatives markets that serve legitimate commercial and risk-management purposes. However, we are deeply concerned that the Commodity Exchange Act is increasingly being used as a vehicle to facilitate widespread sports wagering—and potentially casino-style gaming—through products marketed as “event contracts” or similar instruments. These developments run counter to Tribal interests and risk undermining the carefully balanced legal and regulatory framework that governs gaming in Indian Country.

In Washington State, we are already seeing companies expand gambling-like products that directly compete with Tribal gaming operations protected under Tribal-state gaming compacts and raise serious and unresolved questions under state law. These developments threaten the carefully negotiated balance reflected in those compacts, which recognize Tribal exclusivity in certain forms of gaming in exchange for robust regulatory oversight and public-safety commitments.

The Tulalip Tribes also raised concerns about the emergence of sports-related “event contracts” offered by vendors such as Kalshi and Crypto.com. Although these vendors characterize their products as financial instruments regulated under the Commodity Exchange Act, in practice they function as sports wagers and compete directly with tribally regulated sports betting authorized under state-Tribal compacts. As such, they not only undermine Tribal gaming exclusivity, but also implicate Washington State gaming laws and regulatory frameworks that were never designed to accommodate nationwide, unvetted betting products.

Equally troubling is that these products operate outside the robust consumer-protection regimes that govern lawful sports wagering, including safeguards related to problem gambling, responsible play, and age and location verification. Without those protections, unregulated sports-style event contracts increase the risk of gambling-related harms and make it more difficult to prevent access by minors under the age of 18. Allowing these products to proliferate outside established regulatory systems creates significant public-safety concerns and undermines the protections that states and Tribes have deliberately built into their gaming frameworks.

Our concern is heightened by both the scope and the speed of this expansion. As outlined in our comments, these products are already being offered across multiple states, with event contracts marketed and made available nationwide—including on Tribal lands—without meaningful review for compliance with state law, Tribal-state gaming compacts, or established regulatory safeguards. This rapid proliferation risks eroding compact-based protections, creating uneven regulatory treatment, and allowing *de facto* sports betting to operate outside the systems designed to ensure legality, accountability, and consumer protection.

The CFTC Is Not a Gaming Regulator—and Congress Should Not Let the CEA Become a Back Door for Betting

At the hearing, much of the testimony and many of the responses focused on challenges related to the CFTC’s limited resources and capacity to regulate these products. To be clear, however, this is not a resource issue. Regardless of funding or staffing levels, the CFTC should not be vested with expansive authority to regulate sports wagering or casino-style gaming through the Commodity Exchange Act.

The CFTC’s mission and expertise are centered on derivatives market integrity, risk transfer, clearing, and enforcement against fraud and manipulation. The Commission is not designed—nor intended—to regulate sports wagering or casino-style gaming, which raise distinct public-interest concerns, including game integrity, consumer protections specific to wagering, age and location controls, and safeguards against gaming-related harms.

Without clear direction from Congress, the CFTC risks being driven—through self-certification processes and increasingly aggressive product design—into decisions that effectively establish national gambling policy under the guise of commodities regulation. Such an outcome would override state policy choices and erode the Tribal-state compacting framework that upholds Tribal sovereignty and supports essential governmental services in Indian Country.

Without Barriers, Vendors Will Predictably Design Contracts that Mimic Casino-Style Games

The Tulalip Tribes urge the Committee to acknowledge the strong commercial forces driving these products. If sports-style event contracts are allowed to expand under the CEA, vendors will inevitably evolve them into offerings that mirror casino-style gaming—featuring short-duration outcomes, rapid repeat play, and contract structures that operate as wagers rather than tools for risk management. Absent clear statutory limits, so-called “innovation” will predictably lead to increasingly gaming-like products with nationwide distribution, operating outside established state and Tribal gaming oversight.

Requested Congressional Action: Amend the CEA Establishing a Bright Line Rule

We respectfully urge the Committee to incorporate targeted amendments to the Commodity Exchange Act in any CFTC reauthorization package that would:

1. **Clarify that the CFTC may not approve, permit, or otherwise facilitate contracts that constitute sports wagering**, including contracts where the predominant purpose and practical effect is consumer betting rather than *bona fide* hedging or commercial risk management.
2. **Prohibit (or deem contrary to the public interest) event contracts and similar instruments that function as casino-style games** or otherwise replicate gambling mechanics, regardless of the label applied.

Conclusion

The Tulalip Tribes recognize and appreciate the Committee’s efforts to update and strengthen market oversight. At the same time, those efforts should not erode Tribal sovereignty or disrupt the long-standing gaming frameworks that Congress has consistently acknowledged and upheld. We respectfully urge Congress to act to ensure that the Commodity Exchange Act is not used as a pathway for sports wagering or casino-style gaming—activities that directly conflict with Tribal interests, undermine Tribal-state gaming compacts, and pose serious risks to consumer protection and public welfare.

Thank you for the opportunity to submit these comments for the record.



TERI GOBIN,
Tulalip Tribes *Chair*.

SUBMITTED QUESTIONS

Response from Hon. Dawn D. Stump, Principal, Stump Strategic LLC; former Commissioner, Commodity Futures Trading Commission

Question Submitted by Hon. Eric A. “Rick” Crawford, a Representative in Congress from Arkansas

Question. What is the tax treatment on premiums for puts and calls for *bona fide* hedgers?

Answer. Assuming you are referring to the up-front premium payment to initiate a call or put options contract, I am not familiar with the tax treatment of such premiums and would recommend you seek an answer from a tax professional.

If helpful, I am familiar with the tax treatment of the option itself and can offer the following: Options on futures and broad based indexes (generally non-equity options) are regulated by the Commodity Futures Trading Commission and benefit from what is commonly known as “60/40” tax treatment: 60% of the gains/losses are taxed at the long-term capital gains tax rate and 40% at the short-term capital gains tax rate, as stipulated by Section 1256 of the U.S. Internal Revenue Code. These contracts are marked-to-market each year regardless of how long they are held or whether any benefit is realized. However, this mark-to-market requirement does not generally apply to “hedging transactions” so long as (1) the taxpayer properly identifies the transactions as a hedging transaction, (2) the transaction occurs in the normal course of the taxpayer’s trade/business to manage certain risks, and (3) the transaction results only in ordinary income/loss. Rather all gains/losses from properly identified hedges are treated as ordinary income/loss. Note, additional rules apply to straddles and capitalized expenses.

If your question refers to puts and calls on equity options regulated by the Securities and Exchange Commission (specifically options on individual stocks and certain exchange traded funds), my knowledge is limited.

Question Submitted by Hon. Alma S. Adams, a Representative in Congress from North Carolina

Question. Farmers and ranchers rely on futures markets to manage risk and protect their livelihoods, yet these markets can be complex and difficult to navigate without specialized knowledge.

How can the CFTC improve their educational efforts, outreach and practical guidance to help farmers and ranchers navigate the futures markets, ensuring they fully understand the tools available to manage risk effectively?

Answer. The CFTC has historically hosted a Learning Resources page on the agency's website. The range of topics is vast and lately focused on identifying scams and fraudulent activity. Perhaps the agency could look to the Agricultural Advisory Committee to identify more general educational topics of specific interest to agricultural markets. Thereafter, resources would need to be dedicated to developing such materials to supplement the Learning Resources page.

Questions Submitted by Hon. Sharice Davids, a Representative in Congress from Kansas

Question 1. During your tenure as Commissioner, how did the Commodity Futures Trading Commission (CFTC) interpret its authority to disallow “gaming” or public-interest-contrary contracts, and would you view sports or contest-based event contracts as falling into those prohibited categories?

Answer. As a Commissioner, I thoroughly examined Section 5c(c)(5)(C)—the relevant authority contained within the Commodity Exchange Act (CEA), as enacted by Congress in the Dodd-Frank Act. I concluded that this section of the CEA does not ban “gaming” contracts. Rather, my reading is that Congress expected the CFTC to make a determination as to whether these contracts are contrary to the public interest as a prerequisite to disallowing such. My interpretation stems from use of the words “may” and “if” as follows: By using the words “the Commission *may* determine” that these types of contracts are contrary to public interest “*if* the agreements, contracts, or transactions involve . . . gaming”. Only if found to be contrary to the public interest, may a contract then be prohibited. As you know, the use of these words in legislative construction is considered very intentional. There must be a reason Congress did not use the word “shall” but rather chose “may” and conditioned it with “if”.

As a Commissioner, it was my position that the CFTC was required to apply a two-part process to (1) make an initial determination as to whether the contract involved gaming and (2) subsequently apply a public interest test before imposing the prohibition called for by the Act. Unfortunately, in 2011, under then-Chairman Gensler, the CFTC promulgated Rule 40.11 to implement this provision without developing a process explaining how the CFTC would assess whether such contracts are contrary to the public interest. As a Commissioner I repeatedly recommended that we address this by revisiting the rule as I feared the rule's application was vulnerable to legal challenge. Now, we have seen how the lack of such a process may render the rule arbitrary and capricious. At this point, the courts are heavily engaged in deciding these questions.

Question 2. Would you agree that if the CFTC authorizes sports event contracts with mass retail access, it risks creating a parallel, competing sports betting regime that Congress never intended when it carefully designed a structure for Tribal and commercial sports wagering through the Indian Gaming Regulatory Act (IGRA) and state law?

Answer. I am unaware of any attempt by Congress to harmonize intent between the Indian Gaming Regulatory Act (IGRA) of 1988 and the subsequent changes to the Commodity Exchange Act (CEA), which the CFTC must apply independently to event contracts. There is no specific reference to the IGRA in the CEA, and a public interest determination would only be triggered where explicit unlawful activity is proposed.

Question 3. Are you concerned or aware that when a platform uses CFTC registration to offer sports-betting-like products nationwide, it is effectively sidestepping the Tribal State Compact system that Congress established for Class III gaming, including sports wagering?

Answer. My expertise is in regulating futures and swaps (including event contracts) under the Commodity Exchange Act. I am unable to compare such to the Tribal State Compact system of which my familiarity is limited.

Questions Submitted by Hon. Jonathan L. Jackson, a Representative in Congress from Illinois

Question 1. Securing U.S. critical mineral supply chains remains a bipartisan priority for Congress and a key focus of the Trump Administration. In May of this year the Energy and Environmental Markets Advisory Committee of the CFTC released a report titled “Considerations on the Evolution and Development of Critical Minerals Markets”* in which the authors recommend the CFTC continue to acquire more knowledge of the critical minerals industry.

What steps should this Committee take to ensure CFTC staff have the knowledge and experience necessary to oversee, police, and regulate the growing but small critical minerals markets, as called for in the report?

Answer. As you note, this is a developing market. As such it seems the CFTC would benefit from evaluating fragmentation, liquidity, and volatility factors. This is the type of analysis conducted by the CFTC’s Office of the Chief Economist (OCE). The Committee should therefore ensure that OCE remains a significant component of the agency’s multi-functional system.

Question 2. Are any of you aware of what steps, if any, the President’s Acting CFTC Chair has taken to respond to this report.

Answer. I am unaware of any such actions.

Question 3. How can this Committee use the CFTC reauthorization process to foster the development of critical minerals derivatives markets that can enable critical minerals trading and risk management, which could promote growth in this industry?

Answer. As stated in the report, “the CFTC is poised to do the most good by doing no harm”. The recommendations section of the report suggests no new authority is needed at this time and in fact, cautions against singling out the critical minerals market by asserting that “the price discovery function of derivatives in mineral markets could be significantly impaired if the CFTC took any action toward critical mineral derivatives that was different from its oversight relating to other underlying commodities . . . The temptation is strong to push the boundaries of what one controls, but the CFTC can do the most good by continuing to do what it does well within its authority”. Therefore, I believe the Committee can best assist the development of this market by ensuring existing functions are preserved and validated, such as that of the Office of the Chief Economist (mentioned in my answer to *Question 1*) and ensuring the CFTC’s advisory committee work conforms to best practices and remains sustainable.

Response from Edward F. Prosser, Senior Vice President, Special Projects, Scoular Company; Member, Board of Directors, Commodity Markets Council

Questions Submitted by Hon. Frank D. Lucas, a Representative in Congress from Oklahoma

Question 1. The SEC and CFTC have pending applications for the extension of cross-margining programs on Treasury derivatives to client transactions. Can you speak to the risk-reducing benefits for firms if these applications are approved across Treasury products?

Answer. Scoular does not directly use Treasuries, so we do not use this cross-margining. In general, though, we support any action a regulator takes to reduce strains on liquidity and allow market participants to efficiently hedge their exposures.

Question 2. What happens to the broader U.S. food and agriculture system if derivatives markets don’t function well—if end-users can’t manage price and supply-chain risk through futures and options?

Answer. The U.S.-regulated derivative markets are where agriculture and energy merchandisers go for price discovery and risk transfer, not only here, but around the world. If the efficiency or accuracy of that process is effected by thin liquidity, high costs of market access, or a lack of confidence in the market, then the market would naturally widen the bid/ask spread for transactions to account for the increased risk each participant is taking, which will eventually bleed back into the physical supply chain. In the agriculture business, this means financing becomes more expensive, and it is harder for producers and merchants both to make long-term contracts. Ultimately, this means that I can pay the farmer less for their commodity and the end consumer at the grocery store will pay more.

*The report referred to is located on p. 138; and is available at https://www.cftc.gov/media/12436/EEMAC_CriticalMineralsMarkets0625/download.

Question Submitted by Hon. Eric A. “Rick” Crawford, a Representative in Congress from Arkansas

Question. What is the tax treatment on premiums for puts and calls for *bona fide* hedgers?

Answer. I am not an accountant therefore I cannot give tax advice. Speaking from my experience on my farm, these financial instruments are hedges against real-world market risk, not speculative investments. The Tax Code treats these *bona fide* hedges as income or expenses, not as capital gains, which avoids me being punished for protecting against risk.

Questions Submitted by Hon. Alma S. Adams, a Representative in Congress from North Carolina

Question 1. In her testimony, Ms. Fischer notes that the CFTC recently requested comments on issues on perpetual futures and 24/7 trading but then let exchanges implement these changes before the comment period closed.

Does this inspire confidence that the agency will act in a deliberative manner and thoughtfully consider industry perspectives if it is greenlighting projects supposedly still under review by the agency?

Answer. I don’t know the particulars of the incident you have described or the Commission’s internal decision-making process. Markets and government regulation run at different speeds, and sometimes the regulator is put in a position where it must grapple with where markets are naturally moving. In the case of 24/7 trading, I also think that different markets have different structures and different needs. I would hope that, while the Commission may have deemed 24/7 appropriate for certain markets, they would be very cautious in considering this market structure for the traditional markets I trade. This is not an indictment of the Commission’s commitment to open, inclusive fact finding before making regulatory decisions, but it is important that new innovations for novel assets do not impede on traditional markets that have functioned successfully for a long time.

Question 2. How does this meet the commitment of transparency, public participation, and open debate in regulatory decision making you are looking for, according to your testimony?

Answer. I look to my experience as a member of the Agricultural Advisory Committee to the Chair of the CFTC. It has been my experience that the Commission is deliberate about bringing all to the table to have a say when weighing decisions. I fully expect consideration of these novel structures will go through this same deliberative process.

Questions Submitted by Hon. Jonathan L. Jackson, a Representative in Congress from Illinois

Question 1. Securing U.S. critical mineral supply chains remains a bipartisan priority for Congress and a key focus of the Trump Administration. In May of this year the Energy and Environmental Markets Advisory Committee of the CFTC released a report titled “Considerations on the Evolution and Development of Critical Minerals Markets”^{*} in which the authors recommend the CFTC continue to acquire more knowledge of the critical minerals industry.

What steps should this Committee take to ensure CFTC staff have the knowledge and experience necessary to oversee, police, and regulate the growing but small critical minerals markets, as called for in the report?

Answer. While my knowledge of this specific commodity and Advisory Committee is limited, I will say that fully funding and staffing the CFTC will allow it the resources to hire the critical staff it needs to evaluate questions such as this. Historically, each Commissioner at the CFTC has sponsored an advisory committee, which is something Congress should consider.

Question 2. Are any of you aware of what steps, if any, the President’s Acting CFTC Chair has taken to respond to this report.

Answer. I have no knowledge of this matter.

Question 3. How can this Committee use the CFTC reauthorization process to foster the development of critical minerals derivatives markets that can enable critical minerals trading and risk management, which could promote growth in this industry?

Answer. The answer to how to promote a robust derivatives market and growth is the same whether a new commodity or one that has been around for a long time. We need to give the CFTC the authority and resources it requires to foster an open,

^{*}The report referred to is located on p. 138; and is available at https://www.cftc.gov/media/12436/EEMAC_CriticalMineralsMarkets0625/download.

fair, equally-accessed market. This is vital to cultivate an environment where all market participants, both buyer and seller, can come together to discover a fair and open price. If we cultivate that kind of CFTC, new products will enjoy all the benefits that the USA derivatives markets have enjoyed for years.

Response from Alicia Crighton, Global Co-Head of Futures, Head of OTC and Prime Clearing, Goldman Sachs & Co. LLC; Chair, Board of Directors, Futures Industry Association

Question Submitted by Hon. Frank D. Lucas, a Representative in Congress from Oklahoma

Question. The SEC and CFTC have pending applications for the extension of cross-margining programs on Treasury derivatives to client transactions. Can you speak to the risk-reducing benefits for firms if these applications are approved across Treasury products?

Answer. Institutional investors and end-users have access to an array of financial products they can use to deliver an investment strategy and hedge the risks of those investments. In the Treasury markets, an end-user may want to hold a Treasury cash position and hedge that risk in the futures market. Although these risks are offsetting, investors and end-users cannot recognize those offsetting risks without approved rules to do so because the cash and futures products are regulated by two different agencies. FIA believes expanding the scope of Treasury cross margining arrangements to include customer transactions will incentivize prudent risk management and hedging activity. Additionally, by providing the appropriate level of risk offset, cross margining will enhance market liquidity both in times of normal trading and in times of market stress. The CFTC and the SEC have the authority to and should establish a coordinated process to approve portfolio margining arrangements now, without waiting for additional legislation to require them to do so. As discussed at the recent CFTC-SEC joint roundtable and in other venues, portfolio margining is one of the most critical harmonization initiatives before the agencies. It is necessary to reduce barriers to risk management and to rationalize a system that today too often fails to recognize the offsetting risks of transactions in economically similar products, solely because the products are under the jurisdiction of two different regulators. As the SEC's Treasury clearing mandate approaches, which will broadly impact the financial system, there is an ever-growing demand and need for client portfolio margining of Treasury and repo transactions with related futures transactions, to facilitate effective risk management and improve market liquidity.

Question Submitted by Hon. Eric A. "Rick" Crawford, a Representative in Congress from Arkansas

Question. What is the tax treatment on premiums for puts and calls for *bona fide* hedgers?

Answer. As FIA Board Chair, I am not best positioned to answer this question.

Questions Submitted by Hon. Alma S. Adams, a Representative in Congress from North Carolina

Question 1. There is a growing debate over the evolution of the industry's market's structure. Issues like vertical integration of previously separate market infrastructure, disintermediation, and direct clearing, are raising new questions about the director of these markets.

Does Congress need to address any of these issues in a reauthorization bill?

Answer. FIA recognizes the growing market structure trend to combine regulatory categories of registrants. Vertical integration cannot, however, come at the cost of customer protection. Any exploration of more vertically integrated business models should be conditioned on robust, enforceable safeguards for market participants. Vertically integrated firms should be required to, amongst other things: (i) segregate customer and affiliate assets; (ii) implement robust, principles-based governance and conflicts of interest controls, including appropriate information barriers; (iii) meet prudential and financial resource requirements that ensure a vested interest such as having skin in the game and holding more capital and (iv) maintain appropriate reporting, transparency, and auditability.

In particular, to ensure the integrity of the Commodity Exchange Act's (CEA) system of self-regulation and promote confidence in market integrity, Congress must preclude a scenario in which a registered entity is the designated self-regulatory organization ("DSRO") for itself or an affiliate, or is permitted to grant an affiliated market maker preferential exchange access or access to other market participants' position or other data. Moreover, a registered entity with an affiliate should not be the DSRO or SRO for competitors of that affiliate. FIA urges Congress to establish

a robust framework for addressing the potential conflicts associated with vertically integrated structures.

Similarly, disintermediated clearing models—allowing for retail participants to directly access exchanges and clearinghouses—raise market integrity and customer protection concerns. Where direct retail clearing activity is conducted, CFTC-regulated intermediaries (futures commission merchants) are not present to perform critical functions of guaranteeing customer performance to the clearinghouse, monitoring for money laundering and other risks to market integrity, and safeguarding customer assets, among other functions. FIA recommends Congress encourage the CFTC to consider how to update its regulatory framework to take into account the risk profiles and loss events unique to disintermediated clearing services.

Question 2. In your testimony, you mention that the Futures Industry Association recommends that Congress consider authorizing the CFTC to issue a rule to require financial resources that would be used to manage a default for leveraged retail transactions be segregated or separated from other default resources at clearinghouse.

Can the CFTC do this today or does it need new authority to achieve this?

Answer. FIA believes the CFTC has existing authority to achieve this.

Question 3. If they can do this now, should the Congress require the agency to segregate these funds?

Answer. A unique aspect of the derivatives ecosystem is that in the event a clearing member defaults, losses are mutually shared by the remaining clearing members in what is known as default fund loss mutualization. With the increase in leveraged retail transactions, clearing members representing institutional end-users will now participate in the same default fund as retail investors.

FIA recommends that Congress support the CFTC in using its authority to issue rules or guidance to require that financial resources that would be used to manage the default involving leveraged retail transactions be segregated from other default resources in the clearinghouse. Such separation could mitigate systemic risk concerns and prevent contagion from spreading between retail investors trading novel products and end-users and other traditional market participants accessing the markets for hedging purposes.

Questions Submitted by Hon. Jonathan L. Jackson, a Representative in Congress from Illinois

Question 1. Securing U.S. critical mineral supply chains remains a bipartisan priority for Congress and a key focus of the Trump Administration. In May of this year the Energy and Environmental Markets Advisory Committee of the CFTC released a report titled “Considerations on the Evolution and Development of Critical Minerals Markets”^{*} in which the authors recommend the CFTC continue to acquire more knowledge of the critical minerals industry.

What steps should this Committee take to ensure CFTC staff have the knowledge and experience necessary to oversee, police, and regulate the growing but small critical minerals markets, as called for in the report?

Answer. FIA would defer to the Committee on how it can exercise its oversight authority to encourage CFTC staff to fulfill the recommendations of the report published by the CFTC’s Energy and Environmental Markets Advisory Committee.

Question 2. Are any of you aware of what steps, if any, the President’s Acting CFTC Chair has taken to respond to this report.

Answer. I am not aware of the former Acting CFTC Chairman’s actions in regard to this report.

Question 3. How can this Committee use the CFTC reauthorization process to foster the development of critical minerals derivatives markets that can enable critical minerals trading and risk management, which could promote growth in this industry?

Answer. FIA supports market demand determining which derivative contracts are offered to be bought and sold on regulated Designated Contract Markets (DCMs).

^{*}The report referred to is located on p. 138; and is available at https://www.cftc.gov/media/12436/EEMAC_CriticalMineralsMarkets0625/download.

Response from Robert A. Schwartz, J.D., Partner, Morgan, Lewis & Bockius; former General Counsel, Commodity Futures Trading Commission

Question Submitted by Hon. Eric A. “Rick” Crawford, a Representative in Congress from Arkansas

Question. What is the tax treatment on premiums for puts and calls for *bona fide* hedgers?

Answer. Unfortunately, I lack the expertise in tax law to answer this question.

Questions Submitted by Hon. Sharice Davids, a Representative in Congress from Kansas

Question 1. Should Congress, in this reauthorization, clarify the boundary between permissible event contracts and impermissible wagers to reduce litigation risk and avoid placing the CFTC in the middle of the national sports betting debate?

Answer. I believe Congress is better positioned than the courts to decide the extent of the CFTC’s jurisdiction in this respect.

Question 2. Should Congress include explicit language in CFTC reauthorization stating that the CFTC lacks authority to approve event contracts that violate IGRA, Tribal state compacts, or state gaming law, even if those contracts might otherwise qualify as derivatives?

Answer. Your question reflects important policy issues, and I hope Congress gives serious consideration to the perspectives of all stakeholders.

Question 3. Should Congress play a more forceful role in prohibiting products that function as illegal or unlicensed sports betting when measured against existing Tribal State compacts that tightly regulate where, how, and by whom sports betting can occur?

Answer. I believe that Congress is indeed best positioned to resolve the conflict over the issues you raise.

Questions Submitted by Hon. Jonathan L. Jackson, a Representative in Congress from Illinois

Question 1. Securing U.S. critical mineral supply chains remains a bipartisan priority for Congress and a key focus of the Trump Administration. In May of this year the Energy and Environmental Markets Advisory Committee of the CFTC released a report titled “Considerations on the Evolution and Development of Critical Minerals Markets”* in which the authors recommend the CFTC continue to acquire more knowledge of the critical minerals industry.

What steps should this Committee take to ensure CFTC staff have the knowledge and experience necessary to oversee, police, and regulate the growing but small critical minerals markets, as called for in the report?

Answer. The CFTC is badly understaffed. It has reduced enforcement staff to a level well below what I believe is required, and either lost or forced out some of the most experienced and knowledgeable people at the agency, including in the Division of Market Oversight and Office of the General Counsel. It has also eliminated the Office of the Chief Economist. All of these leave the CFTC in a very difficult position when it comes to addressing new and emerging products within its jurisdiction. The Committee should advocate forcefully for adequate funds and the hiring of experts to address the challenges such as you have raised.

Question 2. Are any of you aware of what steps, if any, the President’s Acting CFTC Chair has taken to respond to this report.

Answer. I am unaware of what steps the agency may have taken in response to the report.

Question 3. How can this Committee use the CFTC reauthorization process to foster the development of critical minerals derivatives markets that can enable critical minerals trading and risk management, which could promote growth in this industry?

Answer. The Committee should consider restoring the Office of the Chief Economist and advocate for sufficient staffing across the board.

*The report referred to is located on p. 138; and is available at https://www.cftc.gov/media/12436/EEMAC_CriticalMineralsMarkets0625/download.

Response from Benjamin L. Schiffrin, J.D., Director of Securities Policy, Better Markets, Inc.

Question Submitted by Hon. Eric A. “Rick” Crawford, a Representative in Congress from Arkansas

Question. What is the tax treatment on premiums for puts and calls for *bona fide* hedgers?

Answer. I am not a tax expert and therefore respectfully decline to answer this question.

Questions Submitted by Hon. Alma S. Adams, a Representative in Congress from North Carolina

Question 1. In 2010, the CFTC briefly approved movie box-office futures before Congress banned them in Dodd-Frank over concerns about insider trading, manipulation, and the view that such receipts weren’t true commodities.

Now, after dropping its appeal in the *Kalshi* case, the agency is allowing political-event contracts—markets that let traders bet on outcomes like the 2028 presidential nominees and key state races. Kalshi has even added Donald Trump, Jr., the President’s son, as a strategic advisor, raising conflict-of-interest concerns.

Given this landscape, what tools does the agency have to police and prevent insider trading and manipulation in event contracts?

Answer. CFTC Rule 180.1 prohibits fraud and manipulation, including insider trading, in connection with transactions under its jurisdiction,¹ but the provision hasn’t yet been applied to event contracts.^{2*} However, given event contracts like those referred to are under the CFTC jurisdiction, this rule would appear to clearly apply, and the CFTC should enforce it. While we do not think it’s necessary in light of this rule, the CFTC could also write a rule that directly addresses insider trading in event contracts. The larger problem relates to policing and enforcing Rule 180.1 to event contracts. The CFTC simply does not have the budget, personnel, technology, experience, or expertise to supervise, regulate and enforce the law regarding political event contracts. Moreover, the CFTC appears to have no desire to apply the law to event contracts as indicated by its baseless capitulation in the *Kalshi* litigation and continuing refusal to regulate event contracts.

Question 2. Is the CFTC supposed to monitor sporting events and elections now and watch for people trying to manipulate event contracts related to these things?

Answer. Yes, given that event contracts on elections and sporting events, among a wide range of other things, fall under the CFTC’s jurisdiction, it is mandated to monitor for fraud and manipulation in those contracts just as it is as to other contracts under its jurisdiction. Former CFTC Chair Rostin Behnam, when proposing rules that would have clarified that event contracts on the outcome of a political contest such as an election could not be listed or traded on a CFTC-registered exchange, expressed concern that allowing such contracts would “place the CFTC in the position of monitoring such markets for fraud and manipulation in elections themselves.”³ Chair Behnam had said previously that allowing these contracts “would require the CFTC to exercise its oversight and enforcement authorities in the manner of an election cop.”⁴ As stated above, the CFTC simply does not have the budget, personnel, technology, experience, or expertise to supervise, regulate and enforce the law regarding these types of event contracts.

Question 3. As financial markets evolve—especially with the rise of new derivatives like those tied to crypto assets—the challenge for regulators is balancing innovation with the core mission of safeguarding market participants, their ability to hedge risk and the real economy, like agriculture and energy production.

What steps can ensure that innovation in derivatives, including crypto-based products, doesn’t come at the expense of consumer protection?

Answer. First, Congress should ensure that any crypto related legislation has clear and express consumer protection requirements covering investors, traders, and

¹<https://ecfr.io/Title-17/Section-180.1..>

Editor’s note: the hyperlink is to a pdf creator website. The eCFR site is at: <https://www.ecfr.gov/current/title-17/chapter-1/part-180>.

²Ian McGinley, Andrew Sioson, and Nathan Howell, *Prediction Markets Must Go All In On Training, Compliance*, † BLOOMBERG LAW (Oct. 16, 2025), <https://news.bloomberglaw.com/legal-exchange-insights-and-commentary/prediction-markets-must-go-all-in-on-training-compliance>.

* **Editor’s note:** references annotated with † are retained in Committee file.

³*Statement of Chairman Rostin Behnam Regarding Proposed Event Contracts Rulemaking*, † (May 10, 2024), <https://www.cftc.gov/PressRoom/SpeechesTestimony/behnamstatement051024>.

⁴*Statement of Chairman Rostin Behnam Regarding CFTC Order to Prohibit Kalshi Political Control Derivatives Contracts*, † (Sept. 22, 2023), <https://www.cftc.gov/PressRoom/SpeechesTestimony/behnamstatement092223>.

customers involved in any crypto related activity. Second, it should amend the Commodity Exchange Act to provide the CFTC with an express and clear investor protection mandate with a particular focus on retail investors. New Chair Mike Selig noted, in the press release announcing his swearing-in, that “retail participation in the commodity markets is at an all-time high.”⁵ Yet the CFTC lacks the express investor protection mandate that exists for the SEC in the securities markets.⁶ This is because the derivatives and commodities markets regulated by the CFTC have traditionally been dominated by large institutions. As retail participation in those markets increases, Congress should ensure that retail investors are protected by including in the CFTC’s mandate an express responsibility for investor protection that is similar to the one the SEC has for investors in securities markets. Third, the CFTC has been chronically underfunded for years and doesn’t even have the budget necessary to fulfill the many duties Congress has already mandated. Adding more mandates and duties in the crypto space (as well as the prediction markets space) without significant more funding will be a fraud on the public, making the public think the CFTC is a cop on the crypto beat when it will not be. The CFTC needs a budget that will enable it to have the personnel, technology, experience, and expertise necessary to properly supervise and regulate crypto so that innovation can flourish while consumers, investors, and customers are protected.

Question 4. And how can we continue to protect traditional markets and market participants, like farmers and ranchers, as derivatives markets expand and new products emerge?

Answer. As stated above, the most important thing Congress can do is ensure that the CFTC is properly funded, which will enable it to be properly staffed and have the right technology to fulfill its mandates. The agency is already underfunded and understaffed. And it appears that it will now be asked to oversee crypto markets and prediction markets. The only way it will be able to fulfill those new responsibilities, while still protecting traditional markets and market participants like farmers and ranchers, is if Congress significantly increases its budget and if the agency hires significantly more staff to enable it to oversee all of the markets under its purview.

Question 5. I’m sure you know, section 342 of Dodd-Frank authorizes Offices of Minority and Women Inclusion (OMWI) at all other Federal financial regulators, including the SEC where you previously worked. The only Federal financial regulator without a statutorily authorized OMWI is the CFTC.

Do you think it would make sense for Congress to statutorily authorize a CFTC OMWI program as part of any CFTC reauthorization bill to ensure that OMWI’s good work can continue?

Answer. Yes. Statutory authorization for the CFTC’s OMWI would mean that CFTC leadership could not unilaterally determine to disband the CFTC’s OMWI. A statutorily authorized OMWI similar to that at the other Federal financial regulators would also be required to provide an annual report to Congress, which would increase accountability and transparency in the agency’s diversity efforts.

Questions Submitted by Hon. Jonathan L. Jackson, a Representative in Congress from Illinois

Question 1. Securing U.S. critical mineral supply chains remains a bipartisan priority for Congress and a key focus of the Trump Administration. In May of this year the Energy and Environmental Markets Advisory Committee of the CFTC released a report titled “Considerations on the Evolution and Development of Critical Minerals Markets”^{*} in which the authors recommend the CFTC continue to acquire more knowledge of the critical minerals industry.

What steps should this Committee take to ensure CFTC staff have the knowledge and experience necessary to oversee, police, and regulate the growing but small critical minerals markets, as called for in the report?

Answer. Congress simply must significantly increase the CFTC’s budget so that the CFTC can hire the staff that it needs to oversee the markets that it regulates—

⁵ Mike Selig Sworn In as 16th CFTC Chairman, † (Dec. 22, 2025), <https://www.cftc.gov/PressRoom/PressReleases/9164-25>.

⁶ Seven Questions on the Pro-Crypto, Anti-SEC Financial Innovation and Technology for the 21st Century Act (FIT 21), † Better Markets (June 11, 2024), <https://bettermarkets.org/wp-content/uploads/2024/06/Better-Markets-Crypto-FIT-21-Fact-Sheet-6.11.24.pdf>; Benjamin Schiffrin and Cantrell Dumas, An SEC-CFTC Merger Would Not Save Money and Would Endanger Main Street Families, † Better Markets (Mar. 11, 2025), <https://bettermarkets.org/wp-content/uploads/2025/03/Better-Markets-Fact-Sheet-SEC-CFTC-Merger-3.11.25.pdf>.

^{*} The report referred to is located on p. 138; and is available at https://www.cftc.gov/media/12436/EEMAC_CriticalMineralsMarkets0625/download.

large new markets such as crypto and prediction markets, large traditional markets such as derivatives and commodities futures, and small but growing markets such as mineral markets. The CFTC report says that it is “critical for the CFTC to be staffed with employees who have a strong economics and financial training related to minerals,” both to conduct responsible market oversight and to be well versed “in the necessary dialogue with market participants in a growing and complex industry.”⁷ That will be impossible unless and until Congress significantly increases the CFTC’s budget.

Question 2. Are any of you aware of what steps, if any, the President’s Acting CFTC Chair has taken to respond to this report.

Answer. The public record does not indicate that the former Acting Chair took any steps to respond to this report and I am not aware of any steps she took to respond to the report.

Question 3. How can this Committee use the CFTC reauthorization process to foster the development of critical minerals derivatives markets that can enable critical minerals trading and risk management, which could promote growth in this industry?

Answer. Congress should require that the CFTC study the rapidly growing critical minerals market to understand which factors are driving volatility and pricing in these commodities and to guard against manipulation or excessive speculation. Congress should also require the CFTC to work with exchanges on listing standards related to sourcing and location of production.⁸ The CFTC should work to increase price transparency and should work with exchanges to address the physical challenges of trading these minerals, which could enhance market depth and liquidity.⁹ As discussed above, that will require the CFTC to have a budget that will enable it to hire and retain personnel with the experience and expertise necessary to fulfill these functions as well as the technology to back them up and identify manipulation and excessive speculation.

ATTACHMENT

Considerations on the Evolution and Development of Critical Minerals Markets

May 2025

Prepared by: Members of the Role of Metals in Transitional Energy Subcommittee of the CFTC Energy and Environmental Markets Advisory Committee

⁷ Considerations on the Evolution & Development of Critical Minerals Markets, CFC Energy and Environmental Markets Advisory Committee (May 2025), https://www.cftc.gov/media/12436/EEMAC_CriticalMineralsMarkets0625/download, at 1.

⁸ See *Statement of Commissioner Christy Goldsmith Romero: The Role of Copper and Other Metals in the Electrification of America*, † (June 27, 2023), <https://www.cftc.gov/PressRoom/SpeechesTestimony/romerostatement062723>.

⁹ Reese Epper, Brad Handler, and Morgan Bazilian, *Revitalizing the future economy: Critical mineral derivatives could bring stability*, † World Economic Forum (Apr. 29, 2024), <https://www.weforum.org/stories/2024/04/revitalizing-the-future-economy-a-critical-mineral-derivative-market-could-bring-stability/>.



This report has been approved by the Role of Metals in Transitional Energy Subcommittee within the CFTC Energy and Environmental Markets Advisory Committee (EEMAC). The views, analyses, and conclusions expressed herein reflect the work of the Subcommittee, and do not necessarily reflect the views of the EEMAC, the Commodity Futures Trading Commission or its staff, or the U.S. Government. Reference to any products, services, websites, organization, trade, firm, or corporation name is for informational purposes only and does not constitute endorsement, recommendation, or favoring by the U.S. Government.

Commissioner Summer K. Mersinger, Sponsor
 Christopher Lucas, Chief of Staff, Office of Commissioner Summer K. Mersinger, CFTC

Dr. Ian Lange, Chairman of the Subcommittee on the Role of Metals in Transitional Energy

Lauren Fulks, Secretary of the Committee, Office of Commissioner Summer K. Mersinger, CFTC

JonMarc P. Buffa, Alternate Secretary of the Committee, CFTC

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I. Executive Summary

Mineral markets have seen an increasing role in industrial policy over the last 5 years. This is largely due to supply chain, national security, and energy policy concerns. In addition, domestic mineral sourcing eases the onshoring of the industrial base, to bring jobs and economic activity to areas that have fallen behind.

In a market economy, price discovery and methods of risk management are crucial to foster large scale investment. Because of the critical role of derivatives in price discovery and risk management, this report seeks to inform the Commission of key

features of minerals markets and related derivatives, as well as provide recommendations for the Commission's consideration.

To assist the Commission, this report reviews the mineral industry, as well as the evolution of critical mineral production. Because derivatives are best understood when viewed in light of the underlying assets to which they relate, this report also describes the mining and refining process, supply chain management, mineral investments, as well as the stages of development that lead a deposit of minerals to an operating mine. The report also shares lessons learned from energy markets, including linkages between physical and financial sectors and the role of traded markets. Finally, the report discusses the current U.S. policy framework impacting critical mineral markets.

The main recommendation this sub-committee provides is that the CFTC is poised to do the most good by doing no harm. Making policy just to be able to say that something was done is not suggested. Picking winners and losers by expanding the authority given by Congress to the CFTC will ultimately hurt consumers and industrial firms. That said, these growing but still small mineral markets can be prone to manipulation. Given the power of a small group of market participants, it is crucial that the CFTC vigorously enforce rules against fraud and market manipulation. Moreover, it is critical for the CFTC to be staffed with employees who have a strong economics and finance training related to minerals, both to conduct responsible market oversight and to be astute in the necessary dialogue with market participants in a growing and complex industry.

II. Mineral Markets Overview

A. Trends and Implications

Over the past 5 years, industrial policy has increasingly centered on minerals markets. This shift is driven by factors such as their concentration of production, supply chain concerns, and the anticipated rise in clean energy technology installations. As a result, many countries have developed critical mineral lists and strategies to safeguard their economies and national security.

Minerals that are now classified as "critical" have been used for decades or even centuries as inputs to products society has demanded. The economic importance of a given mineral changes as technology and markets evolve. For example, if critical mineral lists existed 150 years ago, they would have included iron ore, metallurgical coal, and lead—minerals now considered base minerals. The current focus on critical minerals reflects changes in economic activities and geopolitical priorities rather than the intrinsic importance of these minerals.

The mining process involves separating the suite of minerals in the [E]arth from the overburden and from each other to produce a usable product. The main product of a mine is typically the mineral with the highest profitability or abundance. The main product of most mines is a precious or base metal like gold or iron ore. A mine will classify specific minerals as a byproduct based on the economic value and tax treatment of its production. Critical mineral lists globally feature several common minerals, including antimony, cobalt, and gallium, that are often classified as by-products of base metal mining.

The mineral industry is divided into three sectors:

1. **Upstream:** This sector involves locating mineral deposits, mapping their properties, designing mines, and conducting preliminary ore separation. It is often what people envision when they think of mining—large-scale excavation or underground mining.
2. **Midstream:** In this sector, ores and dirt are separated and processed into relatively pure products. This may include further refinement into the form needed for consumer products. Midstream operations resemble manufacturing sites, where heat and chemicals are used to process ore-rich dirt.
3. **Downstream:** The downstream sector uses refined ores or concentrates to manufacture goods. Major companies in this sector include household names like General Motors, Panasonic, and Lockheed Martin.

Although mineral markets are becoming increasingly significant, they remain relatively small compared to other commodity markets. The largest mineral markets, such as those for base metals like iron ore, copper, and bauxite (aluminum), are still an order of magnitude smaller than the oil and gas markets, with oil and gas market size in trillions of dollars compared to tens of billions for most critical minerals.

Battery minerals that are expected to see substantial growth include lithium, cobalt, nickel, manganese, and graphite. Other minerals anticipated to rise in demand due to their role in specific technologies include neodymium (used in rare earth magnets), gallium (for semiconductors), and iridium (for electrolyzers). While these

minerals are projected to experience significant growth, their current market sizes are very small compared to other commodities.

As mineral markets gain importance, understanding the dynamics of these sectors and their growth potential is crucial. For example, wind and solar technologies use critical metals like tellurium for electrical converters and neodymium for electric motor magnets. The ongoing development of clean energy technologies and evolving industrial policies will continue to shape the demand for various minerals. Despite expected growth, the overall market size for minerals will remain modest compared to larger commodity markets.

B. Evolution of Critical Mineral Production

After World War II, the United States was a leading producer of what are now classified as critical minerals. This success was driven by efforts from the United States Geological Survey (USGS) and the private property rights system, which encouraged investment in domestic mineral resources. However, starting in the 1990s and continuing into the 2000s, U.S. mining and refining capacities for minor metals, such as rare earth elements, gallium and antimony, declined. This reduction in minor metal production was due to the closure of low-value-added production processes.

During the same period, China invested heavily in the midstream sector—specifically in the refining and processing of minerals. This investment was part of a broader strategy to support the rapidly expanding manufacturing base that would propel its economy forward. By the mid-2010s, China had concentrated much of the global mineral production and processing within its borders. Though deposits of minerals are well spread throughout the world, the midstream (refining and processing) sector is not. China not only has mineral deposits within its borders but also has used development mechanisms, such as the Belt and Road Initiative (BRI), to increase its firms' decision-making authority over upstream production. Currently, most minerals that the U.S. and other Western countries define as critical are overwhelmingly mined by Chinese firms and processed in China before being sold to downstream firms either in China or elsewhere.

The critical shift in governments' thinking on mineral markets emerged following China's rare earth export restrictions to Japan in 2011. This event caused prices for a subset of those minerals to surge by over 1,000%. Given their use in motors from wind turbines to car window mechanisms, downstream manufacturers in the Western world sounded the alarm about the concentration of mineral production.

In response to these market dynamics, there has been a renewed focus on the mineral industry in the past decade. Most Organization of Economic Cooperation and Development (OECD) countries have initiated critical mineral lists to identify minerals that need more investment and strategic focus. The U.S. has many such lists: the USGS, Department of Energy (DOE), and the Department of Defense (DOD). Additionally, Canada, the UK, the EU, Australia, and Japan have developed their own critical mineral lists and strategies. International efforts, such as the Department of State's Mineral Security Partnership, are also underway to promote mineral production across OECD countries and other allied nations.

C. Mining, Permitting, and Processing Investment Process

The stages of development that lead a deposit of minerals to an operating mine are many, including considerable effort in government permitting. The current process often starts with an exploration company using information from state or national geological surveys, such as the USGS to determine where high quality deposits are found. They raise capital to fund operations that sample the deposit to understand the shape of the deposit and expected mineral content within, sometimes including information on byproducts that are currently critical minerals. Depending on land ownership, permits may be needed to explore the deposit.

Once a good amount of information is available, the company exploring the site can sell the deposit to a larger mining firm or try to move the deposit forward to becoming a mine. At this stage most companies undertake a preliminary economic assessment (PEA) to begin the financial process of developing a mine. PEAs have basic information on expected capital cost, production, and net present value of a mine operation. The goal of the information gathered is to develop a mine plan, which would layout the excavation and operation of the mine.

Next, a feasibility study is undertaken with further delineation of the size and scope of the mine. It is at this point that the permitting process becomes a larger issue for the company to consider. Most mining projects in the United States have a Federal nexus, either through the deposit being on Federal land or the need for a Federal water quality permit. This starts the National Environmental Policy Act (NEPA) permitting process to ensure that the proposed mine minimizes its negative

impact on the environment and local communities. A mine will also have to obtain permits from any relevant state and local jurisdiction.

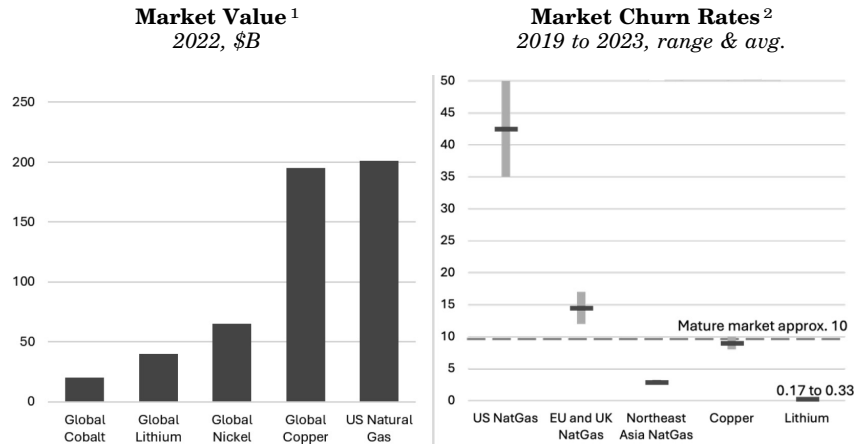
While the PEAs and feasibility studies are being undertaken, public companies are required to share this information with investors as part of Securities and Exchange Commission requirements. This requirement was updated in 2018, known as S-K 1300, to require more complete information be provided on mineral estimates within a deposit.

The mining company uses the information contained in their feasibility studies to acquire funding from investors through a number of possible mechanisms. There is traditional bank financing where a bank provides a loan to the mining company for capital expenses that will be paid back with interest from the sale of mineral concentrate. Streaming is a financing mechanism where money is provided up front for a percentage of the value of the concentrate that is produced at the mine. A number of private equity firms will invest in a mine for a share of the equity in the mining company.

How one values the mines production is more difficult than in many of the energy markets. A large percentage of critical minerals do not have a standard product traded on an exchange that helps market participants learn of future prices. In fact, many critical mineral markets have no exchange they are traded on and thus market participants require specialized consulting services to provide estimates of prices that are occurring in bilateral contracts. The rest of this report will detail what we can learn from the experience in energy markets, the role that futures markets play, and the current policy framework for the mineral industry. The report concludes with some recommendations.

III. Lessons and Linkages from Energy Markets to Consider

Negative impacts on our energy industry’s financial health can significantly impact our wider economy. As our energy industry continues to transition away from hydrocarbon reliance and increases emphasis on renewables and alternative energy sources, risk management of exposures to critical minerals becomes increasingly important. As a result, access to healthy markets for critical minerals is becoming increasingly vital to the energy industry and our economy overall. It’s true that compared to critical minerals markets today, energy markets are much larger in terms of physical market value,¹ and much more liquid in terms of traded market churn rate.²



A. Capitalizing on Lessons Learned from the Energy Industry

Notwithstanding these challenges at hand, looking forward at the widely forecasted growth in markets for critical minerals, there are several noteworthy par-

¹ Sources: IEA Gas Market Report, Q12024; EIA.gov Natural Gas Statistics; Abbax & CCRO Analysis.

² Churn Rate is ratio between the derivatives volumes and physical market size. Sources: <https://www.fastmarkets.com/insights/the-rise-of-the-lithium-futures-market/>; IEA Gas Markets Report, Q1 2024; <https://www.cmegroup.com/education/articles-and-reports/the-global-rise-of-henry-hub-liquidity.html>.

allels with energy markets to consider. These parallels highlight opportunities for critical minerals markets to benefit greatly from lessons learned in the energy industry over the last 2 decades. These lessons learned could be important to the CFTC because they address both advancing the industry's opportunities for risk management and assuring the integrity of markets.

B. Encouraging the Natural Expansion of Market Types

As the energy industry continues to develop new ways to deliver the types of energy sources in demand, new products and markets have emerged. For each market, we see that a natural expansion of market types is needed to support industry progress. In the energy world, we have seen that market types will expand from physical only to physical and financial across these broad groups:

1. "Bilateral" markets—*where counterparties transact directly with each other. Terms are bespoke.*
2. "Third-Party Facilitated" markets—*brokers and electronic transaction platforms facilitate counterparty discovery and more frequent transactions. Some standardizations with retention of some of the bilateral transaction flexibilities.*
3. "Exchange" markets—*highly liquid, highly standardized products, with financial clearing. Provides greatest transparency into forward prices, within the carefully defined products, commodities, and geography.*

It is important to note that in gas and power, the CFTC has played an important role in encouraging the developments needed to support the growth in bilateral markets and exchange markets. The encouragements have ranged from supporting comments directed at constructive industry initiatives, to regulatory mandates that make a market development step inevitable. The CFTC could consider encouraging companies that are minerals market participants to increase their activity in bilateral, third-party facilitated, and exchange markets, even as market innovators first present them to the industry.

IV. Recognizing that Physical and Financial Commodity Markets are Connected

In the last 2 decades, experience with dramatic missteps in trader behaviors at some energy companies has helped clarify that a linkage exists between physical and financial energy markets. Armed with this understanding, the CFTC was able to establish jurisdiction and drive, via the physical market regulator (the Federal Energy Regulatory Commission), new requirements designed to reduce the threat of cascading credit risks and the potential for market manipulation. For example, consider new requirements for the risk management capabilities of market participants in power markets. Similar compliance standards might be appropriate given a similar linkage between physical and financial markets for critical minerals.

ISO's have generally converged on a similar set of eight risk mgt. principles for market participants, paraphrased:

1. . . . The risk mgt. framework is documented in a risk policy . . .
2. . . . organization . . . clearly . . . segregates trading and risk mgt. functions
3. . . . authority over the types of transactions (to be traded) . . .
4. . . . traders have adequate training relative to their authority . . .
5. . . . risk limits are in place to control risk exposures
6. . . . Reporting . . . ensures [risks] and exceptions are communicated . . .
7. . . . qualified independent review of trading activities
8. . . . periodic valuation or mark-to-market of risk positions

By reducing the risks of cascading credit risks and the potential for market manipulation, confidence in markets can increase, which in-turn encourages new market entrants, and strengthens market liquidity.

V. Functional Links between the Energy and the Critical Minerals Industries

A. Link 1: Shift in asset portfolios creates a new reliance on critical minerals

As energy company asset portfolios become increasingly characterized by renewable generation and associated segments of our industry, the industry's reliance on critical minerals markets is growing. Recent discussions with Committee of Chief Risk Officers (*CCRO.org*) members have found a growing interest among energy companies in monitoring and engaging in critical minerals markets for risk modeling and management purposes.

B. Link 2: Energy industry growth segment is reliant on critical minerals

Power market independent system operators have shared that they are seeing a significant increase in new market participants coming from the rapid-growth renewables industry. Many of these are innovative but higher-risk companies that are funded and structured in ways that challenge traditional methods for assessment of creditworthiness. In addition, their risk management capabilities are often limited. All this, given that the nature of their business demands protection from potential volatility of critical minerals pricing and power market prices is creating a risk concentration challenge for power markets to address.

VI. The Role of Traded Markets

A. The Importance of Benchmarks in Commodity Markets

In order for any commodity to form the basis of contracts that are traded in a liquid and transparent market, it must have a reliable benchmark price to serve as a standard reference point reflecting the commodity's current value.³ Specifically, "benchmarks are crucial in determining the spot value of crude oil, setting prices for term contracts, supporting hedging and risk management, and attracting managed money to oil markets."⁴

Highly traded commodities often have well-established benchmarks. Market participants may use these benchmarks for trading contracts on other commodities that share a similar quality and location to that of the commodity that is the subject of the benchmark.⁵ For example, natural gas contracts in the U.S. typically rely on the Henry Hub as the relevant U.S. benchmark indicating natural gas supply and demand, because of its strategic location and significant interconnections with other U.S. markets.⁶

A market can benefit significantly when transactions reference a single transparent price published by a regulated benchmark administrator. For example, in the precious metals markets, the industry can look to the LBMA Gold and Silver Prices as homogeneous products governed by LBMA definitions.⁷

In the metals markets, established benchmarks include the London Metal Exchange (LME) for non-ferrous metals like aluminum, copper, zinc, nickel, lead, and tin, and the Chicago Mercantile Exchange (CME) for base metals. The LME and CME publish settlement and futures prices for these metals, providing reliable references for pricing and trading.

However, for larger critical metals such as cobalt and molybdenum, there is currently no internationally recognized benchmark that firms can rely on. While there are published price sources for these critical metals, none have yet achieved the status of a global benchmark.

B. Lack of Commonality: Fragmentation

Unlike prices for commodities that trade in global, highly liquid and transparent markets, such as oil, gold and silver, prices for critical metals can be vulnerable to fragmentation. Some of the factors that may be the cause of such fragmentation include concentrated production, the limited substitutability of both supply and consumption, and the vital role some of these critical metals play in the technologies for the transition to renewable energy. Fragmentation of these markets is heightened as a result of recent geopolitical conflicts. During a panel discussion in October 2023 hosted by the Atlantic Council, IMF economist Martin Stuermer said that "in a fragmented world, the prices of critical minerals like copper, nickel, cobalt and lithium would be 300% higher than in a world with fully integrated markets. And those higher costs, he said, would cause roughly 30% less investment in renewables and electric vehicles in fragmented markets, compared with integrated markets."⁸

Strong and stable correlation between spot and futures commodity prices is a key factor for the efficiency of hedging strategies. The absence of correlation or sudden changes in the level of correlation may have detrimental implications for a market

³ <https://www.argusmedia.com/en/methodology/key-prices/argus-benchmarks>.

⁴ <https://www.ice.com/why-the-world-needs-benchmarks-and-characteristics-of-benchmarks>.

⁵ <http://www.mckinseyenergyinsights.com/resources/refinery-reference-desk/benchmark-price/>.

⁶ <https://www.naturalgasintel.com/why-is-the-henry-hub-important-in-relation-to-natural-gas-prices/>.

⁷ Precious Metals Benchmark Statement, the ICE Benchmark Administration, Date of publication, 14 May 2018, last updated, 23 October 2023, p. 5.

⁸ <https://www.spglobal.com/commodityinsights/en/market-insights/latest-news/oil/100323-fragmented-markets-from-geopolitical-conflict-threaten-to-throw-energy-transition-off-track>.

participant's ability to hedge and conduct effective risk management.⁹ For commodities for which there is not a highly liquid and transparent futures market, the need to understand correlations between the prices of different commodities at different time and place is of greater import.

When an existing correlation breaks down, market participants must face the problem that any risk protection proffered by portfolio diversification is undermined or lost completely.¹⁰ Gold and silver have historically exhibited a positive correlation of close to 0.89. The prices of platinum and copper also exhibit a strong positive correlation with gold and silver.¹¹ Because of the lack of reliable benchmarks for most critical metals, however, it is challenging to identify any strong correlation among the prices of these metals and thus whatever correlation may exist, is vulnerable to breakdown.

C. Price Discovery and Market Integrity

Price discovery varies significantly among metal groups. Precious metals and many base metals traded on established futures exchanges like CME and LME are largely viewed as liquid and transparent. In contrast, contracts for other metals that are primarily traded over-the-counter (OTC) bilaterally or through the broker market are seen as less liquid and less transparent. These OTC markets may be significantly smaller and face challenges in the collection of reliable and comprehensive price information. The price integrity of these niche markets may also be questioned due to the lack of a governing body that oversees the collection and publication of such prices.¹² This lack of reliable price discovery due to the size of the market and the limited open interest of exchange traded contracts may be evidenced in the niche markets of a number of critical metals, including cobalt and lithium.

Even in the case of an LME contract, such as class 1 nickel, there can be concerns regarding the reliability of the contract as a pricing source. During the year following the LME's suspension of trading in nickel following its dramatic price increases, some market participants have shifted to alternative pricing mechanisms for the metal. For example, there are indications that Chinese producers of nickel are increasingly using Chinese renminbi prices linked to nickel sulphate prices for nickel produced in Indonesia for the electric vehicle industry. This change has been attributed to developments where nickel pricing has increasingly been referenced to China's OTC market as opposed to the LME and other conventional exchanges and has also contributed to greater volatility in LME nickel prices. In addition, although nickel and cobalt chemical prices have historically been determined by reference to their respective finished metal prices, there is evidence that market participants are more frequently determining the price of the unfinished chemical metals independently.¹³

The significant increase in nickel contract prices on the LME in March 2022 was reportedly due to a large short position held by a large stainless steel producer with substantial processing operations in Indonesia. One contributing factor to this volatility in nickel was the fact that settlement against LME contracts requires delivery of an approved brand of the LME, which is mostly Class 1 high-purity nickel produced by large western and Russian producers. Much of the nickel from Indonesia, which is the form of nickel pig iron, ferronickel, nickel matte and mixed hydroxide precipitate (MHP), a common form of nickel feedstock used by the battery industry, is not eligible for delivery into the LME. While MHP for the battery industry was historically priced with reference to LME nickel prices, increasingly market participants have priced MHP on the basis of the Chinese nickel sulphate price, minus the cost to convert MHP to sulphate.¹⁴

D. How Exchanges are Responding to the Current Market

The CME has seen growing activity in the minor metals/battery metals space, having launched financially settled contracts on Cobalt Metal (2020), Lithium Hydroxide (2021), Molybdenum Oxide (2023), Cobalt Hydroxide (2023) and Lithium

⁹Nikos Nomikos, Nikos Papapostolou, Panos Pouliaxis, *Analysis of Volatility and Correlation for CME Steel Products*, Report CME Steel Correlations (cmegroup.com)

¹⁰*Correlation-Breakdowns-Spread-Positions-and-CCP-Margin-Models-20210131.pdf* (<https://www.eachccp.eu/wp-content/uploads/2021/02/Correlation-Breakdowns-Spread-Positions-and-CCP-Margin-Models-20210131.pdf>) (eachccp.eu)

¹¹<https://www.tastylive.com/news-insights/metals-dont-overlook-platinum-and-copper>.

¹²*Five Minutes with Marc Dulin* | John Lothian News <https://johnlothiannews.com/marc-dulin-five-minutes/>.

¹³*Are the nickel and cobalt chemical markets shifting away from traditional pricing mechanisms?* | S&P Global Commodity Insights (spglobal.com).

¹⁴*A year after LME nickel chaos, battery supply chain seeks alternative prices* | Benchmark Source (benchmarkminerals.com).

Carbonate (2023) as well as options on Lithium Hydroxide and Cobalt Metal (2023). As of September 25, 2024, these contracts have a combined open interest of over 50,000 metric tons, demonstrating the adoption of these contracts by the physical market as suitable hedging tools.

In July 2023, the Guangzhou Futures Exchange (GFEX) launched a lithium carbonate futures contract. Unlike the CME's lithium hydroxide futures contract, which is financially settled against Fastmarkets reference spot prices for the North Asian market (China/Japan/South Korea), the GFEX's lithium contract is physically settled. However, it has also been the subject of significant volatility prompting the GFEX to exercise a series of measures such as expanding trading bands, capping new positions, raising fees and approving additional warehouses.¹⁵

The LME, owned and managed by HKEX, the Hong Kong Exchange, has launched several contracts relating to battery production over the years. Physically delivered Cobalt and Molybdenum (both launched in 2010), were the first to be listed, followed by financially settled Cobalt (2019), financially settled Molybdenum (2019—replacing the physically settled version) and financially settled Lithium Hydroxide (2021). As of September 25, 2024, these contracts have a combined open interest of 180 metric tons, with the financially settled contracts having yet to trade.

Lithium hydroxide has a limited shelf life, meaning it can only remain in storage for a limited period (12 months or less) before its quality deteriorates. In addition, high purity (battery-grade) lithium hydroxide from a specific supplier needs to be extensively tested before being permissioned to be used in the manufacturing of a particular lithium-ion battery type. Therefore, battery manufacturers are typically not able to switch to an alternative supplier of lithium hydroxide prior to testing the material extensively. These challenges also apply to lithium carbonate, but to a somewhat smaller extent.

Since its launch, the GFEX contract has attracted more volume than the CME and other established exchanges. Although the CME's lithium contract has not attracted as much volume as GFEX the cash settled lithium hydroxide contract has drawn increased activity, with 2024 YTD volumes at over 66,000 tons traded *versus* 20,000 tons the year prior.

It is worth recalling that these two contracts differ in substantial ways: GFEX is a domestic Chinese exchange, while CME is a U.S. regulated exchange. The GFEX contract allows for physical delivery of lithium carbonate (either technical or battery grade) within mainland China, while the CME Group is financially settled against an import price for lithium hydroxide (battery-grade) in the North Asia region (China/Japan/South Korea). For western market participants, taking or making physical delivery in mainland China may create significant legal, operational, and compliance challenges. Finally, it is also worth considering the user base of each contract: Chinese futures markets typically attract a high level of retail trader participation while trading in the CME lithium hydroxide contract is dominated by institutional traders, which includes bank commodity desks, merchant traders active in the physical underlying, and institutional funds.

In the cobalt space, CME's contract, which is indexed to Fastmarket's assessment for cobalt metal in-warehouse Rotterdam, has seen strong acceptance by the industry, with open interest extending out to 2028. CME's lithium hydroxide contract has open interest out to 2026. Open interest in deferred months is typically a sign of a healthy futures market, in which future sales or purchases of the underlying physical material can be hedged against adverse price movements over a long-time horizon.

As interest in battery and other critical minerals increases, exchanges like the CME continue to engage all components of the supply chain in determining which metals and specifications are best suited to provide the most accurate and relevant hedging tools for the physical marketplace.

VII. Key Issues in Mineral Investments and Supply Chain Management

A. Geopolitics and Mineral Markets

Renewable energy goals are expected to increase the demand for critical minerals such as copper, lithium, and rare earth elements. Because these minerals are essential for technologies driving energy transition goals as well as continued technological advancements, they have also become tools of geopolitical leverage.

China's control over the supply of critical minerals and its efforts to dominate the market through initiatives like the BRI and new futures contracts (*e.g.*, lithium carbonate on the GFEX and nickel sulfate on the Shanghai Futures Exchange (SHFE))

¹⁵ <https://www.bloomberg.com/news/newsletters/2023-12-18/china-s-lithium-trading-success-has-been-a-wild-ride>.

are raising concerns about supply chain vulnerabilities and political manipulation. The introduction of new metals contracts on Chinese futures exchanges aligns with China's strategy to assert pricing power and control over global metal markets. This expansion reflects China's broader agenda of establishing dominance in the critical minerals space. Concerns exist over access for foreign players and the impact of China's interventionist market policies. China's substantial domestic market and ability to influence global prices pose significant challenges for international market stability. The LME is planning to launch new metals contracts based on prices from the SHFE. This move reflects an effort to integrate more closely with China's market but also raises concerns about the extent of Chinese regulatory influence over global prices.

*B. Friendshoring and Onshoring Responses*¹⁶

The interplay between onshoring, friendshoring, and geopolitical strategies shapes the current landscape of mineral investments and supply chains. While these strategies aim to enhance security and reduce dependencies, they also introduce complexities related to cost, efficiency, and geopolitical risks. As the global market for critical minerals evolves, stakeholders must navigate these challenges while adapting to shifting dynamics and maintaining supply chain resilience.

As described below, the U.S. approach to counter China's hold on the supply chain combines both friendshoring and onshoring. Friendshoring involves relocating parts of the supply chain or manufacturing process to countries that are political or economic allies. This strategy aims to reduce dependency on adversarial nations and bolster regional economic ties. Onshoring refers to moving business operations back to the country from which they were previously relocated overseas. This approach aims to revitalize domestic industries and reduce reliance on foreign supply chains.

There are a number of considerations relating to a friendshoring strategy, including:

1. **Efficiency vs. Geopolitics:** Friendshoring might lead to less efficient production due to geopolitical considerations overriding economic efficiency. Balancing geopolitical security with cost efficiency is a key challenge.
2. **Economic Costs:** Studies suggest that friendshoring could negatively impact real GDP in America and Europe by 0.1–1% and have even more severe effects on countries caught between opposing economic blocks. The IMF and ECB have highlighted significant potential economic costs associated with friendshoring.

Similarly, an onshoring strategy comes with its own considerations to weigh:

1. **Environmental Protections:** The U.S. enforces stringent environmental regulations that might not be present in other countries, potentially impacting the comparative advantage of offshore production.
2. **Transportation Costs and Carbon Footprint:** Moving operations back to the U.S. involves considering transportation costs and associated carbon emissions, which can affect the overall cost-benefit analysis.
3. **Energy Use:** The energy used in extraction and processing might not be as clean in other countries, which could offset the environmental benefits of onshoring.
4. **Cost Factors:** The economic incentive of lower costs in offshore locations often outweighs the appeal of "clean" or "green" energy unless there is a significant price differential.
5. **Political Stability:** The reliability of political alliances can be unpredictable. Onshoring can reduce dependencies on countries with questionable environmental or human rights practices and enhance geopolitical leverage.

VIII. Current U.S. Policy Framework Impacting Critical Mineral Markets

A. Permitting Reform

As noted above, the permitting process is a major component of the mining process. Given the challenges of the permitting process, Executive Order 14241: Immediate Measures to Increase American Mineral Production attempts to expedite this

¹⁶ See *The Economist on Friendshoring* (<https://www.economist.com/the-economist-explains/2023/08/30/what-is-friendshoring>); *McKinsey on Benchmarking Prices* (<http://www.mckinseyenergyinsights.com/resources/refinery-reference-desk/benchmark-price/>); *S&P Global on Market Dynamics* (<https://www.spglobal.com/commodityinsights/en/market-insights/latest-news/oil/100323-fragmented-markets-from-geopolitical-conflict-threaten-to-throw-energy-transition-off-track>).

process. At the time of writing, 15 mineral projects have been added to the Federal Permitting Improvement Steering Council's FAST-41 process.¹⁷ FAST-41 coverage for projects provides transparent timetables and ensures collaborative management of the Federal permitting process. Prior to 2025, one mining project had been given FAST-41 coverage.

B. Impacts of Tariffs on Critical Minerals

As discussed previously, there are geopolitical concerns in critical minerals markets. In an attempt to address Chinese market power in minerals markets, the Department of Commerce has launched two Section 232 investigations related to critical minerals in 2025.¹⁸ Section 232 investigations allow the executive branch to restrict trade with countries that abuse their market power. The first, in February 2025, is for copper and the second, in April 2025, for rare earths and critical minerals derivative products. Increasing the price of imported minerals and derivative products would make it easier for domestic producers to find investors and implement their projects.

C. Tax Credits and Incentives

In addition to permitting reform and tariffs, governments across the globe have placed their thumbs on the scale of mineral markets to steer investments in line with current energy transition policy goals. In general, subsidies, credits, and tax incentives create scaffolding for markets that policy makers wish to see flourish notwithstanding a prevailing imbalance between supply and demand. In the U.S., such actions have ranged from local and state to Federal legislative efforts. While state level actions are significant, this report focuses on Federal efforts because of their high relevance to the CFTC's role in derivatives market oversight. Within that context, we focus on policies creating incentives related to the electrification of buildings, vehicles and homes, along with the sourcing and production of component minerals.

The most prominent pieces of recent legislation promoting electrification, including the related infrastructure and sourcing of battery components, are the Inflation Reduction Act (IRA)¹⁹ and the Infrastructure Investment and Jobs Act (Jobs Act).²⁰ With respect to vehicles, the IRA provides tax credits to families for new and used electric vehicles (EVs), subject to certain criteria, such as manufacture of the vehicle and manufacture and assembly of battery components in North America. A key component of the IRA is the Advanced Manufacturing Production Credit, which supports domestic production of solar and wind energy components, inverters, battery components, and critical minerals.

The tools used to promote the market for EVs began with a program of tax credits for light-duty EVs under the Energy Improvement and Extension Act.²¹ After some changes in the years since that program was initiated, the IRA maintained the tax credits for new vehicles but established U.S. sourcing requirements through the advanced manufacturing investment tax credit, which supports domestic production of solar and wind energy components, inverters, battery components, and critical minerals.

By subsidizing EVs containing a threshold percentage of critical minerals extracted or processed in the U.S. or in a country with which the U.S. has a free trade agreement, the IRA utilizes both onshoring and friendshoring strategies to cultivate domestic and allied supply chains and reduce reliance on countries such as China.

¹⁷The 2015 Fixing America's Surface Transportation Act created Title 41 (FAST-41) which established new coordination and oversight procedures for infrastructure projects being reviewed by Federal agencies. It has three goals: (1) improve early consultation and coordination among government agencies; (2) increase transparency through the publication of project-specific timetables with completion dates for all Federal authorizations and environmental reviews; and (3) increase accountability through consultation and reporting on projects. See for more details: <https://www.energy.gov/oe/fast-41>.

¹⁸Section 232 of the Trade Expansion Act of 1962 provides the President with authority to impose trade restrictions, such as tariffs or quotas, following an affirmative determination by the Secretary of Commerce that certain imports threaten to impair U.S. national security. See for more details: bis.gov/press-release/commerce-launches-section-232-investigation-imports-processed-critical-minerals-derivative-products.

¹⁹<https://www.congress.gov/117/plaws/publ169/PLAW-117publ169.pdf>; see also *IRA Guidebook* (<https://www.whitehouse.gov/cleanenergy/inflation-reduction-act-guidebook/>).

²⁰H.R. 3684—117th Congress (2021–2022): *Infrastructure Investment and Jobs Act* | Congress.gov | Library of Congress (<https://www.congress.gov/bill/117th-congress/house-bill/3684>).

²¹H.R. 6049—110th Congress (2007–2008): *Energy Improvement and Extension Act of 2008* | Congress.gov | Library of Congress (<https://www.congress.gov/bill/110th-congress/house-bill/6049>).

While the credit for critical minerals has become permanent, other aspects will phase out between 2030 and 2032.

The most important tools for promoting the production of EVs in the U.S. are the Corporate Average Fuel Economy (CAFE) standards and the greenhouse gas (GHG) emissions standards for vehicles. Automakers have been increasingly incentivized to manufacture EVs by rising CAFE standards and a credit system that rewards EVs with 6.67 times as many CAFE credits as their rated fuel economy would normally dictate.²² The combination of CAFE and GHG emissions credits are likely worth tens thousands of dollars per EV sold.²³

Given the evolving policy environment, Federal subsidies for EVs face an uncertain future. If they are reduced or eliminated, this would reduce the incentive for automakers to produce and sell EVs in the United States. If this occurs, automakers may respond by raising the purchase prices for EVs and so U.S. demand will grow more slowly. With production of and demand for EVs being more robust in China and Europe, U.S. demand could be a relatively small contributor to global demand for critical battery materials over the next several years.

D. Critical Mineral Lists

Multiple departments within the Federal Government publish critical mineral lists with different frequency of updating and definitions of critical. Two common ones are the Department of Energy (DOE) and the Department of [the] Interior, undertaken by the United States Geological Survey (USGS). These two lists are meant to help guide research priorities across the government and define eligibility for certain tax credits in the IRA. The lists can differ in the minerals deemed critical as they have different time frames, scopes, and definitions. For example, the USGS lists look at the current U.S. economy while the DOE list is for clean energy technologies likely to be utilized in the next 10 years.

Important to this report, it is enlightening to see changes in the lists over time to understand how mineral market behavior may change. Something that is deemed important today, and thus might benefit from the initiation of a new traded product, can quickly become less important as technology evolves. A prime example is that of europium, used in compact florescent lighting (CFL). The 2011 DOE Critical Materials Strategy listed europium as “Critical” for both the 2011–2015 and 2015–2025 time frame due to the expected increase in CFL technology in lighting.²⁴ The 2023 DOE Critical Materials Assessment does not consider europium as CFL technology has largely been overtaken by light emitting diode (LED) technology.²⁵

E. Key Takeaways

The costs and risk from future technologies do not disappear depending on the type of market—they only move from one party to another. Derivatives serve a valuable purpose in allowing risk to be reallocated according to risk appetite, thereby lowering costs across the board. The government curated drivers of critical mineral markets may rewire the risk transfer and cost smoothing attributes of the related derivatives.

The purpose of hedging for critical mineral markets is to protect against a movement in value against one’s expected risk profile for those minerals. In a situation where the fundamentals of a product will include the social implications of a curated path for what vehicles should be produced, as well as the ultimate environmental outcome of that path, hedging could be inordinately expensive until those factors can be reliably modeled.

This leads to a few potential outcomes (not necessarily negative but nonetheless foreseeable):

1. Because derivatives naturally serve as price discovery mechanisms, they are a valuable window into the vibrancy (or paucity) of an underlying physical market. If the underlying market is weak, the derivatives market will confirm it.
2. Since the underlying market for minerals is so technology dependent, the derivatives market could suffer from shocks and unusual volatility when changes occur that are not expected.

²² <https://www.federalregister.gov/documents/2024/03/29/2024-06101/petroleum-equivalent-fuel-economy-calculation>

²³ <https://www.texaspolicy.com/wp-content/uploads/2023/10/2023-10-TrueCostofEVs-BennettIsaac.pdf>

²⁴ DOE, Critical Materials Strategy, 2011, https://www.energy.gov/sites/prod/files/DOE_CMS2011_FINAL_Full.pdf.

²⁵ DOE, Critical Materials Assessment, 2023, https://www.energy.gov/sites/default/files/2023-07/doe-critical-material-assessmen_07312023.pdf.

3. To be useful for hedging, the derivatives market for critical minerals may need to be quite bespoke, requiring OTC derivative structures rather than exchange traded products.

IX. Recommendations and Issues to Consider

A. Recommendations for Regulatory Considerations

Legislation that chooses market winners and losers can have unfortunate consequences. But at least the U.S. Congress is an elected body authorized to make law, whether well or ill advised. In contrast, the CFTC, as an independent agency within the Executive Branch, lacks the authority to make law by favoring one market over another. Rather, its role is to foster fair and efficient derivatives markets, supporting innovation and market integrity. Moreover, although the CFTC retains anti-fraud and anti-manipulation enforcement authority over the physical commodity markets, the CFTC does not have the authority to regulate the underlying physical markets; therefore, it has no more right to fix the evolution of critical mineral markets than it has to fix the evolution of established markets such as corn, oil, or securities.

It is also not always the case that “doing something” is a constructive course. Instead, the CFTC is poised to do the most good by doing no harm—that is, not pressing the scales in favor of any one market. Derivatives trading on critical minerals, whether nascent or mature, fits within existing regulatory oversight mechanisms. Moreover, given the role that derivatives play in price discovery and liquidity enhancement for underlying commodity assets, it is critical that the CFTC not choose commodity winners or losers by either lowering or raising the bar in related derivatives markets. Importantly, the CFTC does not possess discretionary authority to lend Congress an extra hand in curating manufacturing incentives and consumer needs.

The CFTC should recognize the importance of allowing the markets it oversees to develop and function properly. As described earlier in this report, critical mineral markets are small, lack established benchmarks and suffer from fragmentation. This is far from ideal for a mature market; however, it is a reasonable start for a market whose importance appears likely to grow. Although some would argue that such a set of factors must be altered in order to support the aspirations of the incentives and standards discussed above, the price discovery function of derivatives in mineral markets could be significantly impaired if the CFTC took any action toward critical mineral derivatives that was different from its oversight relating to other underlying commodities.

What the CFTC should do in light of current energy policy affecting mineral markets is continue to stop fraud and manipulation of the derivatives markets it oversees, including as those markets evolve and, even if they become the tool of geopolitics. The temptation is strong to push the boundaries of what one controls, but the CFTC can do the most good by continuing to do what it does well within its authority.

One recommendation is that the CFTC continue to acquire more knowledge about the state of mineral markets and the underlying technologies that drive demand for these minerals. As exchanges increase their offerings related to minerals, it is important for CFTC staff to have a strong economics and finance training related to minerals. This will ensure proper functioning of these derivative markets through informed regulatory and enforcement actions.

B. Recommendations for Market Participant Considerations

As metals continue to be mined, refined, and recycled in response to supply and demand, exchanges must continue to adapt as well. This ever-changing landscape offers opportunities to introduce new contracts for risk management and also requires a continuous assessment of the current trading and regulatory environment as well as the specifications underlying these exchange traded derivatives. For example, the LME nickel event in 2022 demonstrates the importance of running an orderly market and aligning exchange deliverable product specifications to physical market realities.

In the last 2 decades, the energy industry experienced dramatic financial losses from past missteps, which motivated regulators to force today’s new requirements. However, before such undesirable experiences in minerals markets force the regulator’s hand, the CFTC may be able to encourage similar requirements for critical minerals markets on an industry-developed basis. Today, energy industry groups like the Committee of Chief Risk Officers (*CCRO.org*), International Energy Credit Association (*IECA.net*), National Petroleum Energy Credit Association (*NPECA.org*), and others support the development and adoption of new industry standards, and support compliance with regulatory requirements. The CFTC might also encourage

development of critical minerals industry groups that could fill such a standard-developer role for critical minerals trading and risk management.

Technological advances and consumer preferences continually alter the needs of the firms to ensure a reliable flow of goods and services to the market. Understanding when society is better served with a formal trading contract is difficult but the task is best served in the hands of private exchanges. The current situation around cobalt is a prime example. The battery market at this stage is dominated by two main chemistries: Nickel Manganese Cobalt (NMC) and Lithium Iron Phosphate (LFP). As their names suggests, LFP batteries do not contain cobalt while NMC batteries do contain cobalt. The Cobalt Institute's 2023 Cobalt Report has EVs accounting for 45% of total demand of cobalt and batteries of all kind accounting for 93% of the growth in cobalt demand for 2023.²⁶ Should LFP batteries become the dominant chemistry for batteries in the near future, the demand for cobalt would likely subside along with the open interest in a futures contract.



²⁶ Cobalt Institute, Cobalt Market Report 2023. https://www.cobaltinstitute.org/wp-content/uploads/2024/05/Cobalt-Market-Report-2023_FINAL.pdf.