INDIAN GAMING ASSOCIATION
Rebuilding Communities Through Indian Self-Reliance

July 21, 2026
House Committee on Agriculture – Subcommittee on Commodity Markets
"Examining Customer Protections and Market Integrity in Sports Event Prediction Markets"
Testimony of David Bean, Chairman, Indian Gaming Association

Chairman Johnson, Ranking Member Davis, and Members of the Subcommittee, thank you for holding this hearing to examine the lack of consumer protections in prediction markets. My name is David Bean, and I serve as the Chairman of the Indian Gaming Association ("IGA").

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 opportunity to discuss the Commodity Futures Trading Commission's ("CFTC") efforts to foster nationwide online sports gambling through prediction markets. These efforts are exploiting perceived loopholes and abusing customers and young people in the process.

In 2025, CFTC inaction led to the explosion of prediction market platforms offering event contracts relating to sports gambling. Since the seating of Chairman Michael Selig in December, the CFTC has become an active proponent of sports betting through prediction markets, filing lawsuits against nine state governments, and issuing a proposed rule that would eliminate the agency's existing regulations that prohibit gambling on the outcomes of sports events and replacing it with a regulation that would foster nationwide online sports gambling and expand the reach of prediction markets into casino-style gambling.

Just last week, the Chairman Selig took its campaign to usurp state authority over sports gambling to a new level when he ordered a licensed designated contract market ("DCM") to defy a state court order to cease activity within state's borders while citing no legal authority.[1]

Prediction markets' target audience is retail customers under the age of 21 and those located in tribal and state jurisdictions where online sports betting is illegal.[2] The reported annual volume of prediction markets is approximately $60 billion in 2025. Because of CFTC inaction and failure to enforce its own regulations, that volume is estimated to easily top $325 billion in 2026.

Sports betting through prediction markets tramples on the sovereignty of tribal and state governments. Gambling has always been an issue that tribes and states debate at the local level. Since the Supreme Court's 2018 *Murphy v. NCAA* decision, which struck down the federal prohibition against sports betting, tribes and states continue to debate the potential risks and rewards of whether to legalize and regulate online sports betting or maintain criminal prohibitions on the activity.

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[1] *See* https://www.cftc.gov/PressRoom/PressReleases/9267-26. *See also*, https://bettermarkets.org/newsroom/lawless-cftc-directs-kalshi-to-defy-court-order/
[2] *See* CNBC: College Students and Teens Could be Fueling the Prediction Markets Boom (Jan. 15, 2025) https://www.cnbc.com/2026/01/15/prediction-markets-college-students-teens-could-be-fueling-the-boom.html#:~:text=Analyst%20Barry%20Jonas%20wrote%20this,state%2Dby%2Dstate%20exceptions.

However, the current one-person CFTC has removed local governments from the online gambling debate, proclaiming that online sports betting is now legal on every Indian reservation and in every state. No one voted for this, and Congress did not pass a law to authorize online sports gambling.

To return the debate over online sports gambling to tribal and state governments, we respectfully urge this Committee to advance H.R. 7840, the Event Contract Enforcement Act, sponsored by Rep. Moore (R-UT) and co-sponsored by Reps. Carbajal (D-CA), Arrington (R-TX), and Vasquez (D-NM). This bill would simply codify the CFTC's existing regulations and reaffirm tribal and state government authority over online sports betting.

The Importance of Indian Gaming to Tribal Government Economies

When the United States formed, it acknowledged the governmental status of Indian tribes, engaging in more than 300 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."[3]

In the 1970s, much of Indian Country lacked resources for healthcare, education, public safety, water and sewage, roads, bridges, and other basic infrastructure and services. Tired of waiting on the United States to fulfill its solemn treaty and trust obligations, a handful of Indian tribes took measures to address shortfalls and rebuild their communities by opening the first modern Indian gaming operations. Tribes use the revenue generated from Indian gaming to fund the essential programs and services for reservation residents listed above.

These acts of self-determination were met with legislative and legal challenges that culminated in the passage of the Indian Gaming Regulatory Act ("IGRA") in October of 1988. IGRA was a compromise that acknowledged tribal government authority over Class II gaming (primarily bingo and similar games), assigning regulatory oversight to tribal governments and the newly established National Indian Gaming Commission ("NIGC"). 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. Class III gaming is regulated pursuant to these tribal-state government agreements with federal oversight by the NIGC. Sports betting is a form of Class III gaming.

IGRA's stated goals are to promote tribal economic development, self-sufficiency, and strong tribal governments; provide a statutory basis for the regulation of Indian gaming to shield it from organized crime and to ensure that tribal governments are the primary beneficiaries of gaming revenue; and establish an independent regulatory framework for gaming on Indian lands.

As intended, tribal government gaming has worked to strengthen Tribes and improve the quality of life in Indian Country. It does not enrich individuals but instead serves entire communities. Indian gaming is the economic bloodline for many tribal governments, which have used gaming revenue to rebuild their communities.

For many tribes, Indian gaming is first and foremost about jobs. In 2025, our industry generated more than 682,000 jobs for rural American families. In the mostly rural areas where

[3] 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.

tribal casinos operate, they are among the largest employers in their geographic area, providing family-sustaining jobs with full benefits including health insurance retirement accounts. Our workers do not just work on the casino floor. They also work in our restaurants and in our hotels. These operations provide stable employment for tribal and non-tribal employees alike, and a path to the middle class in rural areas that traditional industries have abandoned or never existed.

In addition to the direct benefits provided to their employees, these operations are the lifeblood of countless local small business who provide services such as laundry and uniforms and supplies, including everything from food to cleaning supplies.

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 on regulation of our operations, employing more than 6,000 regulators to oversee Indian gaming.[4] While Tribes take on the primary day-to-day regulatory role, IGRA requires coordination and cooperation with federal and state governments. Our comprehensive regulatory system ensures consumer protections, fraud prevention, and local decision-making to address social implications like problem and underage gaming. This comprehensive multi-layered system of regulation is costly and time consuming, but it has proven its worth by protecting our customers and the integrity of our operations.

Prediction Markets Exploit Consumers Targeting Youth and Tribal/State Prohibitions

Prediction markets and the CFTC claim that they are disrupters and innovators working to unrig the system by using new technology, but they have invented nothing. Prediction markets offer gambling on the outcomes of sporting events. Pull up your prediction market app and you see the same bets that are offered in every other legal sportsbook authorized by tribal and state governments: moneylines, totals, parlays, and prop bets.

The only key difference is that prediction markets avoid the regulatory systems that tribes and states have established to protect consumers and the integrity of American sports. Those tribal and state government jurisdictions that have legalized sports betting set parameters that include age restrictions – with the great majority restricting sports betting to persons 21 years of age and older. They establish problem gambling programs, prohibitions against betting on local sports teams, prohibitions against betting on high school and college sports, prohibitions against player proposition bets, and some states and tribes 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, working with the sports leagues to protect the integrity of American sports and maintain strict consumer safeguards and responsible gaming practices. States and tribes have developed a proven framework that protects players and the public while delivering resources to benefit local community.

Prediction markets are using the CFTC to avoid these strict regulatory requirements and associated costs and fees that tribes and state use to offset adverse impacts, stand up problem gambling programs, and to steer funding to state and tribal government programs and services. Prediction markets give nothing back to the local community and they generate few if any American jobs.

Tribal and state regulated sports gambling operations advertise themselves as a form of entertainment subject to costly regulation. They generally only serve customers over 21 years old.

[4] NIGC Budget Justifications and Performance Indication FY2025 at NIGC-1; https://www.doi.gov/sites/default/files/documents/2024-03/fy2025-508-nigc-greenbook.pdf.

Commercial gaming operations "must be licensed in each state they operate in and pay a percentage of their profits to the states which license them. In contrast, anyone over 18 years old can buy and sell event contracts on Kalshi … and [Kalshi] doesn't have to give any of its income to state governments." *See* Focus on the Family's Daily Citizen, *Kalshi, Prediction Markets Make it Easy for Kids to Gamble Online,* https://dailycitizen.focusonthefamily.com/kalshi-prediction-markets-kids-gamble-online/ (Feb. 10, 2026).

Prediction markets make their gains by targeting young people and those in tribal and state jurisdictions that prohibit online sports gambling. They advertise on platforms like Instagram, TikTok, and X, in addition to hiring entertainers and social media influencers. We are only starting to see the devastating impact on our kids' mental health and their finances.

An April 10, 2026 report from Fortune highlighted a young man who downloaded the Kalshi app two days after his 18th birthday. A resident of Indiana, where the minimum age for gambling is 21, he was able to place bets on sports on Kalshi. While he started betting on the Rotten Tomatoes score of a movie, he branched out to sports gambling, stating, "Kalshi was my entrance to gambling. Every single dime I had, I lost on [the app]."[5]

Regarding problem gambling, a Kalshi representative made clear that consumer protection is not his client's problem. In July of 2025, speaking at the National Conference of Legislators from Gaming States' summer meeting in Lexington, Kentucky, Josh Sterling, Kalshi's attorney in several of it federal cases, argued that consumer protection is not his client's problem. "People are adults, and they're allowed to spend their money however they want it, and if they lose their shirt, that's on them."[6]

We are concerned that our tribal youth are being targeted and impacted by prediction market apps that mirror online sports betting apps. The great majority of the 575 federally recognized tribal governments and at least 20 state governments prohibit online gambling in their jurisdictions. This ongoing debate must take place at the local level. The government and its agencies must respect local decision-making authority to determine the best interests of our young people. Any federal effort to take over these decisions is a direct violation of tribal and state government sovereignty.

Prediction Markets on Sports are Gambling – Not Peer-to-Peer

Kalshi and other prediction markets falsely claim that what they offer is not gambling, because there is no "house" - this is their claim to "innovation".

However, Kalshi employs institutional market makers like the hedge fund Susquehanna International Group, Jump Trading (a proprietary trading firm that uses high frequency trading and algorithms), and Kalshi Trading (owned and operated by Kalshi) to juice liquidity for its own contracts. These entities do not participate to promote fairness. As reported in Focus on the Family's Daily Citizen, "Kalshi does not disclose what contracts its trading arm buys and sells, or how much money it makes from it."[7] They have an edge and an advantage in trading, which they use against retail sports gamblers.

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[5] Fortune, *Prediction markets have made betting easier than ever – and young men are paying the price* (April 10, 2026) https://fortune.com/2026/04/10/prediction-markets-gambling-addiction/

[6] https://sbcamericas.com/2025/07/11/kalshi-nclgs-sports-contract-debate/

[7] Daily Citizen, Kalshi, *Prediction Markets Make it Easy for Kids to Gamble Online* (Feb. 10, 2026) https://dailycitizen.focusonthefamily.com/kalshi-prediction-markets-kids-gamble-online/

As one other researcher put it very succinctly: "The problem is that the product bears little resemblance to the pitch. Kalshi does not operate a peer-to-peer market in which a crowd freely discovers prices. It operates a quote-driven market in which prices are set almost entirely by professional market makers, including an army of in-house traders under the banner of Kalshi Trading. The company simultaneously owns the exchange, the clearing house, and one of the primary market makers operating on it.” *See* Andrew Tottenham, Tottenham and Co., *The Wisdom of Crowds And Other Expensive Misconceptions* (May 2026).

This is not innovation - what Kalshi offers is a mirror to traditional sports gambling authorized by state and tribal governments, but without the guardrails, regulations, or oversight.

Tribal Government Focus on the Existential Threat Posed by Prediction Markets

As noted above, more than 240 tribal governments rely on revenue from gaming to fund essential programs and services for reservation residents. Our operations also generate more than 682,000 American jobs in mostly rural communities. This progress is put at significant risk by the online gambling operations run by prediction markets.

Prediction markets are actively stealing vital revenue from tribal and state governments. The American Gaming Association (“AGA”) reports that prediction markets have taken more than $1.2 billion from state governments over the past 18 months. Tribal governments are reporting similar 5-10% losses in revenue, which would exceed the losses that states are reporting. To put that into perspective, this has roughly the same impact as eliminating the annual budget of the Bureau of Indian Affairs (“BIA”) and attempt to meet the federal governments’ treaty and trust obligations to Indian tribes for the entire fiscal year.

Because of the existential threat to our children, our economies, and our sovereignty, tribal governments, the Indian Gaming Association, and other tribal organizations, have consistently advocated to stop sports and casino-style gambling through the CFTC for nearly 18 months now. In March of 2025, IGA passed a resolution urging Congress to act to stop illegal sports gambling through the CFTC. Shortly thereafter, the National Congress of American Indians (“NCAI”) passed a similar resolution in June of 2025. IGA and our Member Tribe partners held several congressional briefings in Washington, D.C. in June and December of 2025, as well as briefings in February and May of this year. IGA submitted testimony to this Committee in December of 2025 about our ongoing concerns with prediction markets for your hearing on CFTC Reauthorization. We have signed onto amicus briefs, urging various federal courts to uphold Congress’ intent that tribal governments have the exclusive authority to regulate gaming on Indian lands.

CFTC Proposal: Arbitrary and Capricious Attempt to Expand Nationwide Online Gambling

In 2026, the CFTC has become an active proponent of sports betting through prediction markets, filing lawsuits against nine state governments in attempts to stifle the enforcement of tribal and state gambling laws, and issuing a proposed rule that would eliminate the agency’s existing regulations that prohibit registered entities from listing swaps that are related to “terrorism, assassination, war, gaming, or an activity that is unlawful under any State or Federal law.”

As noted below, the current regulation, adopted on July 27, 2011, unanimously by a five-member CFTC, has stood for 15 years and has not been challenged by a DCM or any other entity doing business with the CFTC.

Chairman Selig’s proposed rule attempts to convert federally regulated derivatives exchanges into nationwide online gambling platforms and establish his agency as the nation's sole regulator of gambling. This will cause an unprecedented massive online gambling expansion to every state and on every Indian reservation and it is being done without any statutory mandate. The CEA's legislative history clearly indicates that Congress never intended the CFTC to regulate or legalize online gambling—a domain federal law historically reserved to sovereign tribal and state governments. Chairman Selig’s agency also lacks jurisdiction over gambling via "event contracts" because the outcomes of sports events do not constitute "swaps" under the CEA. The major questions doctrine also precludes the CFTC from displacing states' historic police powers or tribal government’s exclusive authority to regulate gambling under IGRA without clear congressional authorization.

Further, the Selig’s proposed rule is arbitrary, capricious, and otherwise contrary to the public interest. It discards the existing categorical prohibition against event contracts involving gaming, narrowing the definition of "gaming" without regard to existing federal definitions or the Special Rule's obvious purpose. Chairman Selig’s proposed rule will further harm consumers who will be lured under the false pretext of "investing" without providing any responsible gaming safeguards. The proposal would continue to permit prediction markets to target children under the age of 21 while failing to require strict age verification mechanisms. Finally, Chairman Selig has refused to engage in any meaningful government-to-government consultation with tribal governments as required by Executive Order 13175.

The CFTC should withdraw the Proposal and refrain from advancing any proposed rule that would impact the regulated gaming industry. At a minimum, the CFTC should uphold its existing categorical prohibition against event contracts involving gaming and affirm that sports betting and other forms of gambling on federal exchanges are contrary to the public interest.

Chairman Selig’s proposed rule constitutes the height of regulatory capture. We urge the Committee and Congress to reclaim your constitutional authority and put a stop to this proposed rule before further harm is inflicted on consumers and the integrity of sports.

Gambling through the CFTC Violates Tribal, State, and Federal Laws

Sports betting that is being conducted through prediction markets – or DCMs 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 choose to legalize the activity, states and tribes establish gaming commissions and control boards to oversee gambling operations and enforce local laws and regulations, charging fees and raising revenue for their communities.

Gambling on the outcomes of sporting events has a more 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.

On May 14, 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 policymakers. In the eight years since the *Murphy* decision, sports betting has grown slowly on a tribe-by-tribe and state-by-state basis.

Alternatively, several 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, while others prohibit online sports gambling.

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. IGRA requires that tribal governments use all revenue generated from gaming, including sports betting, to tribal government 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 2025, state governments generated approximately $3 billion from taxes and fees on sports wagering. States and tribes 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.

CFTC-sponsored sports betting through prediction markets sidesteps these debates and ignores the consequences by forcing sports gambling into the homes of every American family. Sports betting conducted pursuant to prediction markets offers no local benefits and requires none of the consumer protections or detailed gambling regulations required by tribal and state governments.

The proponents of sports wagering through the CFTC contend that the activity is innovative financing that uses new technology, 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's Existing Regulations Prohibit Gambling

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.

The Commodities 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 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 the CFTC, to use public interest standards, effectively bringing back aspects of the economic purpose test for new derivatives, particularly 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") to include a special rule for CFTC review and approval of event contracts and swaps. The special rule provides that the CFTC may determine that "agreements, contracts, or transactions are *contrary to the public interest* if [they] 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 implemented this provision through a rulemaking process, which found that swaps relating to "gaming" or "activity that are unlawful under any State or Federal law" *are contrary to the public interest*. Those regulations, set forth at 17 C.F.R. Parts 40.1-40.12, provide the following:

"(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*; **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 section 40.11(a)(1), and that the Commission determines, by rule or regulation, to be contrary to the public interest."

See 17 C.F.R. § 40.11(a) (emphasis added); 76 Federal Register 44786 (July 27, 2011) (noting that the new rule's prohibition of "gaming" contracts "is consistent with Congress's intent to 'prevent gambling through the futures markets'").

Despite this clear and longstanding prohibition, the CFTC has refused to enforce its own regulations, permitting registered entities to offer an ever-growing range of gambling contracts on the outcomes of sporting events. Beyond ignoring these longstanding regulations, the current one-person CFTC is acting to eliminate his agency's own public interest determination to accommodate DCMs acting as online casinos.

Prediction Markets Repeatedly Admitted in Court that Sports Contracts are Gambling

While the law and regulation are clear, prediction markets continue to profit by intentionally misleading consumers and violating tribal and state gambling laws.

The most prolific DCM currently licensed by the CFTC that offers gambling on the outcome of sporting events is KalshiEX LLC (“Kalshi”).

In 2024, in defense of its event contracts relating to the outcomes of the 2024 federal elections, Kalshi admitted that the CEA and CFTC regulations prohibit event contracts on the outcome of sporting events. Below is a list of examples where Kalshi admitted in court proceedings that event contracts relating to the outcome of sports contests 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.

See Daniel Wallach LinkedIn post at https://www.linkedin.com/posts/amanda-fischer-21877210_the-maryland-federal-court-is-right-to-demand-activity-7335376474855661570-uib_

In January of 2025, Kalshi reversed the positions listed above by self-certifying event contracts directly related to the outcomes of sporting events.

Current Legislative Efforts to Address Prediction Markets

The Senate is currently considering legislation which provides an opportunity to address the growing prediction market problem.

The Senate is currently considering H.R. 3633, Digital Asset Market Clarity Act of 2025, or CLARITY Act, which would establish a federal framework for digital assets by defining and dividing the regulatory authority for those assets between the CFTC and the Securities and Exchange Commission (“SEC”). The House-passed version of this bill grants the CFTC primary authority over digital commodities spot markets, establishes registration requirements for digital commodities exchanges, brokers, and dealers, and exempts certain decentralized finance activities from many requirements of the Commodities Exchange Act and federal securities laws. The House-passed bill did not expressly address prediction markets. Unless the bill is amended, the broad treatment of digital commodities and decentralized finance will provide a pathway for some platforms to offer events based “smart contracts” on sports and casino-style gambling, which would enhance the illegal gambling currently conducted by prediction markets.

There are efforts underway in the Senate to amend the CLARITY Act to clarify Congress’ intent that DCMs cannot offer swaps or trades relating to sports or casino-style gambling. A savings clause would preserve the existing system established by state and tribal governments pursuant to IGRA, state gaming laws, and tribal gaming ordinances and compacts. Effective savings language would establish a digital asset market structure while preserving state and tribal sovereignty, respecting the local decision making of both state and tribal governments.

We urge the House of Representatives to ensure that this provision is included in the final package of the CLARITY Act.

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. They recognized regulatory weakness at the CFTC, and they have actively exploited the agency’s lack of capacity and lack of will to enforce its own regulations. Prediction market platforms will continue to push the limits of and blur the lines between event contracts and gambling. Underage nationwide online sports betting is only the beginning.

The CEA and Dodd-Frank were enacted to regulate markets that serve actual hedging and financial functions—managing and assuming price risk and disseminating pricing information through fair and financially secure trading facilities. The outcome of a sporting event is not a commodity, a price index, a commercial input, an interest rate, a currency, or a financial benchmark. Sports event contracts do not manage price risk in the manner of futures, swaps, or other hedging instruments. They are not tied to any commercial exposure, and they do not mitigate any pre-existing risk—*they create risk for its own sake*.

For decades, state and tribal governments have debated the pros of generating revenue for our communities that could come from legalizing online gambling, weighing those potential benefits with the risks of online gambling, including increased gambling among our youth, added risks to problem gambling, mental health, personal financial and other concerns. **Prediction markets sidestep these debates and ignore the consequences.**

We again respectfully urge this Committee and Congress to advance H.R. 7840, the Event Contract Enforcement Act. This bill would reaffirm existing tribal and state government authority to regulate sports betting, limit online gambling, or continue to prohibit all forms of gambling. The bill will quiet the chaos and federal overreach that the CFTC is fostering. Thank you again for the opportunity to testify on this critical matter.