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April 30, 2026

Mr. Christopher J. Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
1155 21st Street NW
Washington DC 20581

Re: RIN 3038-AF65 – Advance Notice of Proposed Rulemaking on Prediction Markets

Dear Mr. Kirkpatrick:

The Futures Industry Association[1] ("**FIA**") welcomes the opportunity to respond to the Commodity Futures Trading Commission's ("**CFTC**" or "**Commission**") Advance Notice of Proposed Rulemaking on Prediction Markets (the "**ANPR**") [2] and share the views of FIA members on issues presented by the Commission's review of the regulatory framework governing prediction markets and event contracts. Our members include designated contract markets ("**DCMs**") and derivatives clearing organizations ("**DCOs**") that list, trade, and clear event contracts, as well as futures commission merchants ("**FCMs**") that intermediate customer access to these markets. This comment letter sets forth FIA's views on many of the important issues raised by the ANPR, in particular with respect to the risk management of event contracts, and is informed by our members' many years of expertise in clearing derivatives.

The substantial recent public interest in event contracts and prediction markets marks a pivotal time for the derivatives industry and highlights the potential economic benefits of these products. We believe the Commodity Exchange Act ("**CEA**") and CFTC regulations provide a strong foundation for the responsible development and effective regulation of prediction markets and event contracts traded on such markets consistent with the public interests the CEA is designed to protect. We commit to work collaboratively with the Commission in its efforts to advance responsible innovation in prediction markets to ensure trading venues, market participants, the

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1 FIA is the leading trade organization for the futures, options, and cleared derivatives markets globally. FIA's membership includes clearing firms, exchanges, clearinghouses, principal traders, asset managers, execution firms, commodity firms, end users, and those legal, technology, and other firms who serve this community. FIA's mission is to support open, transparent, and competitive markets, protect and enhance the integrity of the financial system and promote high standards of professional conduct.

2 *Prediction Markets ANPR*, 91 Fed. Reg. 12,516 (Mar. 16, 2026), available here.

agency, and the public collectively benefit from clear, workable rules governing the trading and clearing of event contracts.

At its core, the CEA recognizes that regulated derivatives markets serve the public interest by giving market participants a means to manage and assume price risks, discover prices, and disseminate pricing information through liquid, fair, and financially secure trading facilities. [3] The CEA accomplishes this through a system of effective self-regulation where DCMs and DCOs bear front-line responsibility for maintaining the integrity of their markets, subject to Commission oversight and supplemented by the National Futures Association's important self-regulatory functions, including as a designated self-regulatory organization. The CEA further directs the Commission to exercise its regulatory authority over these markets to deter and prevent manipulation and other disruptions to market integrity; ensure the financial integrity of cleared transactions and avoid systemic risk; protect participants from fraud, abuse, and the misuse of customer assets; and promote responsible innovation and fair competition.[4]

We offer the following recommendations for the CFTC's consideration in formulating clear, workable rules and enhancing existing practices, where appropriate, to promote responsible innovation and preserve sound risk management, both of which are at the core of the CEA:

- Retain the established tripartite DCM, FCM, and DCO market structure for leveraged derivatives contracts, including event contracts (if and when authorized),[5] while recognizing that contracts that are both fully collateralized and pre-funded present a different risk profile and thus may warrant streamlined regulatory requirements;

- Limit the trading and clearing of leveraged event contracts to those contracts for which the DCM and DCO can fully demonstrate compliance with applicable DCM and DCO core

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[3] Section 3(a) of the CEA provides that "[t]he transactions subject to [the CEA] are entered into regularly in interstate and international commerce and are affected with a national public interest by providing a means for managing and assuming price risks, discovering prices, or disseminating pricing information through trading in liquid, fair and financially secure trading facilities." 7 U.S.C. § 5(a).

[4] Section 3(b) of the CEA provides that it "is the purpose of [the CEA] to serve the public interests described in subsection (a) through a system of effective self-regulation of trading facilities, clearing systems, market participants and market professionals under the oversight of the Commission. To foster these public interests, it is further the purpose of [the CEA] to deter and prevent price manipulation or any other disruptions to market integrity; to ensure the financial integrity of all transactions subject to [the CEA] and the avoidance of systemic risk; to protect all market participants from fraudulent or other abusive sales practices and misuses of customer assets; and to promote responsible innovation and fair competition among boards of trade, other markets and market participants." 7 U.S.C. § 5(b).

[5] The ANPR seeks input on the factors the Commission should consider "in determining whether prediction markets should be permitted to offer trading on margin," which FIA understands as trading with leverage. *ANPR*, 91 Fed. Reg. at 12,519. FIA notes, at the outset, that leverage may not be a necessary or appropriate feature of event contracts. As discussed more fully herein, the binary, event-driven nature of these products raises unique risk management considerations, including margining and liquidity risks, that warrant careful consideration by the Commission before event contracts are permitted to trade and clear on a leveraged basis. In light of the ANPR's comprehensive questions, FIA has focused this letter on offering a principles-based regulatory framework the Commission could consider adopting should it permit certain event contracts to trade on a leveraged basis.

principles for each product submission addressing all of the CFTC's existing, robust risk-management requirements while taking into account the unique risk considerations of event contracts;

- Consider whether a separate default fund (or other ring-fenced default resources) may be warranted for leveraged event contracts based on the specific risk profile of such contracts and the incremental risk they introduce to the clearing ecosystem;

- Revisit the process by which DCMs and DCOs list and clear event contracts, including event contracts offered on a leveraged basis, to ensure the Commission has adequate time and information to assess whether listed contracts comply with the core principles, including, if necessary, through targeted enhancements to Parts 38, 39 and 40; and

- Address insider trading and other market conduct, conflicts of interest, and settlement finality concerns that may arise from the design of event contracts and the operation of prediction markets to protect market integrity and public confidence in regulated derivatives markets.

I. Retain the Tripartite DCM, FCM, and DCO Market Structure for Leveraged Derivatives, including Event Contracts

FIA's comment letter in response to the Commission's Request for Comment on the Direct Clearing of Derivatives by Retail Participants ("**Retail DCO Letter**") sets forth a workable framework for ensuring appropriate safeguards for clearing where leverage is involved.[6] That framework also provides a consistent foundation for the Commission's resolution of certain prediction market issues in the current ANPR. Two fundamental principles from the Retail DCO Letter merit reiteration.

First, where derivatives contracts are listed and cleared on a leveraged basis, such that there is an extension of credit either by the DCO or FCM to the end customer, the Commission should retain the tripartite registrant categories and separate, interlocking functions of the DCM, FCM, and DCO.[7] This established regulatory framework, where an FCM both facilitates the trading and

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[6] CFTC, Press Release No. 9158-25, CFTC Staff Seek Public Comment on Direct Clearing by Retail Participants (Dec. 18, 2025), available here; Letter from Allison Lurton, Gen. Counsel & Chief Legal Officer, FIA, to Christopher J. Kirkpatrick, Sec'y, CFTC (Feb. 24, 2026) (commenting on Request for Comment on the Direct Clearing of Derivatives by Retail Participants, RFC121725), available here.

[7] The classification of event contracts has important practical consequences for FCMs and their customers, as the nature of the product determines the applicable regulatory obligations. For example, if event contracts are classified as futures, FCMs would be required to report under Part 17, whereas if event contracts are classified as swaps, reporting obligations may arise under Parts 43, 45, and 46. Similarly, to the extent FCMs hold or carry customer positions, the applicable customer protection rules differ depending on classification. Part 1 applies if event contracts are futures, while Part 22 applies if they are swaps. And neither would apply with respect to event contracts that may fall outside either legal classification.

clearing of derivatives contracts, ensures appropriate oversight, risk management, and customer protection.

Second, where a DCO clears fully collateralized and pre-funded contracts[8] with retail participants as direct clearing members, such that there is no extension of credit either by the DCO or an FCM, the Commission could create a regulatory scheme commensurate with the lower risk such arrangements pose to individual clearing participants and the broader clearing ecosystem. This risk-based approach recognizes that fully collateralized and pre-funded positions present a different risk profile than leveraged positions, and that the regulatory framework and default fund structure could reflect this distinction.

Building on this risk-based approach, we encourage the Commission to examine the circumstances under which event contracts may be listed and cleared with leverage consistent with the core principles and risk-management obligations applicable to DCMs and DCOs. FIA believes only those contracts that can be reliably risk managed and fit squarely within the CEA's clearing regulatory design should be allowed to trade on a leveraged basis.

II. Limit the Listing and Clearing of Leveraged Event Contracts to Those for Which the DCM and DCO Can Fully Demonstrate Compliance for Each Product Submission with Existing, Robust Risk-Management Requirements Taking into Account the Unique Risk Considerations of Event Contracts

The ability of a DCM and DCO to risk manage a derivatives product is not merely a best practice; it is foundational to the integrity of the clearing system and the broader financial markets. The DCM and DCO core principles support the view that a derivative's price should be tethered to an observable cash market (or other robust pricing sources) and that derivatives should facilitate hedging and price discovery rather than serve as a vehicle for pure speculation.[9] These characteristics are essential for appropriate risk management and form the basis for the proposals that follow.

Event contracts typically have binary payoff structures based on the outcome of an underlying occurrence or event, which raises unique risk considerations that distinguish them from traditional

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[8] Fully collateralized and pre-funded, as used in FIA's Retail DCO Letter and here, means that the direct participant has fully funded the trades with required full collateral value before the position is established. We also refer to this scenario in this letter as lacking an "extension of credit."

[9] It is also worth noting that Appendix C to Part 38, which relates to compliance with the requirement that a contract is not readily susceptible to manipulation, explains that when a DCM self-certifies (or seeks approval for) a new futures contract, it "should conduct market research so that the contract design meets the risk management needs of prospective users and promotes price discovery of the underlying commodity. The designated contract market should consult with market users to obtain their views and opinions during the contract design process to ensure the contract's term and conditions reflect the underlying cash market and that the futures contract will perform the intended risk management and/or price discovery functions." It also notes that "[w]here the contract is settled to a third party cash-settlement series, the [DCM] should consider the nature and sources of the data comprising the cash-settlement calculation, the computational procedures, and the mechanisms in place to ensure the accuracy and reliability of the index value." CFTC Regulation 37.301 provides an analogous requirement for swap execution facilities by specifically pointing back to Appendix C to Part 38.

derivatives products. These unique factors include: (i) short trading windows, with some contracts trading for as little as a single day or hours; (ii) binary payoffs that settle at zero or one, creating discontinuous risk profiles; (iii) the potential absence of continuous price formation or deep, sustained liquidity; (iv) a lack of historical data or a meaningful connection to an underlying cash market from which to derive risk parameters, conduct back testing, or undertake stress testing; and (v) variation margin that may not be based on a readily observable or continuously quoted price.

The Commission's regulatory framework is designed to ensure prudent and effective risk management through a series of complementary core principles governing both listing and clearing. DCM Core Principle 11—codified in CFTC Regulation 38.600—requires DCMs to "ensur[e] the financial integrity of transactions entered into on or through the facilities of the contract market (including the clearance and settlement of the transactions with a [DCO])."[10] On the clearing side, DCO Core Principle C—codified in CFTC Regulation 39.12—requires a DCO to have "appropriate requirements for determining the eligibility of agreements, contracts, or transactions submitted to the [DCO] for clearing, taking into account the [DCO]'s ability to manage the risks associated with such agreements, contracts, or transactions."[11] In determining if a product is eligible for clearing, the DCO may consider several factors, including whether the product has sufficient trading volume, liquidity, reliable prices, accessibility for position management (*e.g.*, liquidating, transferring, and allocating positions), and measurable risk characteristics.[12] Each eligibility factor under DCO Core Principle C in turn functions as a prerequisite for the DCO to satisfy its mandatory risk-management obligations under DCO Core Principle D—codified at CFTC Regulation 39.13.[13] DCO Core Principle D establishes a

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10 17 C.F.R. § 38.600.

11 17 C.F.R. § 39.12(b)(1).

12 *Id*.

13 The below list of illustrative requirements under CFTC Regulation 39.13 provides concrete examples of the DCO's risk-management obligations.

- **17 C.F.R. § 39.13(f):** A DCO "shall limit its exposure to potential losses from defaults by its clearing members through margin requirements and other risk control mechanisms reasonably designed to ensure that: (1) The operations of the [DCO] would not be disrupted; and (2) Non-defaulting clearing members would not be exposed to losses that non-defaulting clearing members cannot anticipate or control."
- **17 C.F.R. § 39.13(g)(1):** "Each model and parameter used in setting initial margin requirements shall be risk-based and reviewed on a regular basis."
- **17 C.F.R. § 39.13(g)(2)(i):** A DCO "shall have initial margin requirements that are commensurate with the risks of each product and portfolio, including any unusual characteristics of, or risks associated with, particular products or portfolios."
- **17 C.F.R. § 39.13(g)(2)(ii):** A DCO "shall use models that generate initial margin requirements sufficient to cover the [DCO]'s potential future exposures to clearing members based on price movements in the interval between the last collection of variation margin and the time within which the [DCO] estimates that it would be able to liquidate a defaulting clearing member's positions (liquidation time)."
- **17 C.F.R. § 39.13(g)(2)(iii):** The coverage of initial margin models "shall meet an established confidence level of at least 99 percent, based on data from an appropriate historic time period."

comprehensive risk-management framework that, by its very structure, contemplates that a product's price is anchored to an observable external reference market (or other robust pricing sources), that market participation is a sustained rather than an episodic activity concentrated around a single reference event, and that hedgers, dealers, and speculators all contribute to a deep order book.[14] These attributes are also critical to the existence of a "relevant market" external to the clearing process itself or other reliable mechanism the DCO can employ for default-management purposes, which is a core element of any DCO's risk-management framework.

Read together, these core principles presuppose that contracts cleared on a leveraged basis possess characteristics that may be absent or underdeveloped in many event contracts. Unlike certain derivatives where the price is based on objective, independently produced data that is supported by deep historical records, many event contracts lack an underlying spot market, a correlated underlying instrument, or comparable settlement data from which to derive reliable prices. While risk metrics may be derivable in certain cases, existing regulatory margining frameworks may not fully capture the distinct risk profile of event contracts, particularly given the potential for significant price swings at or near the time of event resolution.

Accordingly, for a DCM to list or a DCO to clear event contracts on a leveraged basis, the DCM and DCO should be required to demonstrate that the event contract can be appropriately risk managed, including through an appropriately designed default management program and potentially a separate default fund (as discussed further below). Some event contracts may be able to satisfy applicable risk-management requirements and, if so, may appropriately be offered with leverage. But absent a clear showing by the DCM and DCO that fully demonstrates their implementation of the existing, robust risk-management requirements for a particular event contract, leverage should not be permitted and the contract should be offered only on a fully-collateralized and pre-funded basis.

III. Consider Whether a Separate Default Fund May Be Warranted for Leveraged Event Contracts Based on the Specific Risk Profile of Such Contracts

Even where an event contract satisfies the existing, robust risk-management requirements to justify trading and clearing such contracts on a leveraged basis, the introduction of leveraged event

- **17 C.F.R. § 39.13(g)(2)(iv):** A DCO "shall determine the appropriate historic time period based on the characteristics, including volatility patterns, as applicable, of each product."
- **17 C.F.R. § 39.13(g)(5):** A DCO "shall have a reliable source of timely price data in order to measure the [DCO]'s credit exposure accurately" as well as "written procedures and sound valuation models for addressing circumstances where pricing data is not readily available or reliable."
- **17 C.F.R. § 39.13(g)(6):** "On a daily basis, a [DCO] shall determine the adequacy of its initial margin requirements."

[14] Underscoring the limited availability of risk-management tools in prediction markets, a recent news article noted that several major institutional trading firms have declined to participate in prediction markets, citing a lack of regulatory clarity, relatively light trading volumes, and the absence of an underlying spot asset against which to hedge. Bernard Goyder, *Event Bets Pose a Problem for Wall Street Firms Looking to Trade*, BLOOMBERG (Apr. 12, 2026), available here; s*ee also* Nicholas Palumbo, *A Microstructure Perspective on Prediction Markets* (Mar. 1, 2026) (unpublished manuscript), available here.

contracts into the clearing ecosystem raises structural concerns that may warrant additional safeguards. In particular, FIA believes it may be appropriate to support leveraged event contracts with a separate and fully siloed default fund, distinct from default resources supporting traditional futures and swaps. This approach would prevent losses associated with less mature products with a unique risk profile from mutualizing across unrelated markets and clearing members.

The operational realities of clearing event contracts on a leveraged basis underscore the need for this separation. When swaps first came under regulatory oversight and began clearing, the Commission determined that they should be supported by a default fund separate from that supporting traditional futures products to prevent contagion risk. We believe a similar approach may be warranted here. DCO and clearing member stress-testing for event contracts will be in its nascent stages, with limited historical data to calibrate models. Daily pricing may be unclear, market depth may be thin, and liquidating and porting positions in a default scenario may prove particularly challenging. In addition, event contracts may experience abrupt and discontinuous price changes at the moment an underlying event is resolved, moving directly to their settlement value without intermediate pricing. This "jump-to-default" behavior is a characteristic that bears analogy to credit default swaps, especially under short margin periods of risk. For these reasons, we believe the CFTC may want to consider requiring a separate, standalone default fund for leveraged event contracts.[15]

These recommendations are consistent with FIA's prior comments in our Retail DCO Letter, in which we emphasized that leveraged products accessible to retail participants warrant heightened structural protections, including segregation of default resources. In both contexts, the objective is to ensure that novel or higher-risk products do not introduce contagion risk to the broader clearing ecosystem. It similarly protects retail participants from potential contagion risks stemming from the larger and potentially more complex portfolios of institutional participants. The purpose of such segregation is not to discourage innovation but to ensure that risks associated with new or non-standard products are borne by those who choose to participate in those markets, rather than being mutualized across multiple participant segments supporting unrelated product sets.[16]

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[15] Additionally, where a DCO clears or is considering clearing both traditional derivatives products and event contracts, the Commission should consider whether a separate DCO legal entity structure—analogous, for example, to CME's use of a distinct legal entity for Treasury clearing—may be warranted to further insulate the broader clearing ecosystem from the unique risks event contracts present.

[16] Though extended trading hours are not a focus of the ANPR, they are another potentially relevant consideration for the listing and clearing of event contracts which may merit the Commission's attention. As FIA has recently shared, round-the-clock trading should be supported by the operational ability to collateralize exposures and manage risk over extended hours. *See* FIA, 24/7 Markets in Exchange-Traded Derivatives: Identifying the Issues and Risks (Mar. 2026), available here; Letter from Allison Lurton, Gen. Counsel & Chief Legal Officer, FIA, to Christopher J. Kirkpatrick, Sec'y, CFTC (May 21, 2025) (commenting on Request for Comment on Trading and Clearing Derivatives on a 24/7 Basis), available here. This issue is relevant for event contracts as well as traditional futures and derivatives. Additionally, for contracts where the underlying spot market is not open on a 24/7 basis, 24/7 trading of event contracts could affect price discovery and risk management for market participants, including commercial end-users.

IV. *Revisit the Process by Which DCMs and DCOs List and Clear Event Contracts*

In recent years, a growing number of event contracts have been listed and cleared, often, it would seem, with limited opportunity for the Commission to assess compliance with core principles or the risk-management implications of novel products before trading begins. As noted in the ANPR, from 2006–2020, DCMs listed an average of approximately 5 event contracts per year.[17] In 2021, this increased to 131 newly listed event contracts.[18] Newly listed event contracts remained around the elevated 2021 level until 2025 when "DCMs certified approximately 1,600 event contracts for listing for trading,"[19] and some individual submissions have been drafted in generic terms to support multiple similar listings with different terms. These recent developments are unprecedented.

The Commission's ability to evaluate event contracts prior to trading and clearing is determined in significant part by the Part 40 certification framework. Under CFTC Regulation 40.2(a), self-certifications of new products become effective the business day after submission, even where the submission includes evidentiary documentation or information.[20] As a result of this short review period, the Commission has limited practical opportunity to assess novel compliance and risk-management concerns before the trading of new products begins. By contrast, CFTC Regulation 40.6(a) provides ten business days for rule self-certifications and an express ninety-day stay mechanism for rules that present novel or complex issues.[21] This structure makes a meaningful pre-effectiveness review more feasible for novel or complex matters. Separately, event contracts are subject to the special review provisions in CFTC Regulation 40.11.[22]

To support the responsible listing and clearing of event contracts, including those offered with leverage, FIA respectfully encourages the Commission to consider whether additional guidance and/or targeted enhancements to Part 38, Part 39, and Part 40 may be appropriate. This could include:

- **Clarifying the robust risk-management principles that should be satisfied before an event contract is listed or cleared on a leveraged basis**. We believe that, to offer leveraged event contracts for trading or clearing, the DCM or DCO should be able to demonstrate the ability to risk manage the product consistent with the existing core principles. The core principles suggest that the event contract should be tethered to an observable reference market (or other robust pricing sources) and have sustained market participation supporting continuous price formation. Whether through rule refinements or guidance, the Commission may want to clarify the application of the core principles to event contracts to provide clear, consistent standards for all registered entities.

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17 *ANPR*, 91 Fed. Reg. at 12,517 n.9.

18 *Id*.

19 *Id*.

20 17 C.F.R. § 40.2(a)(2).

21 17 C.F.R. § 40.6(a)(3).

22 17 C.F.R. § 40.11.

- **Enhancing the evidentiary requirements for leveraged event contract submissions under Part 40**. We believe that the Commission should consider whether both a DCM and DCO's self-certification of leveraged event contracts should include an affirmative, product-specific showing of compliance with applicable core principles and related regulatory requirements. This may include better aligning the evidentiary standard across CFTC Regulations 40.2 and 40.6 by requiring that DCOs, like DCMs, provide in their self-certifications either the documentation relied upon to establish the basis for compliance with applicable law, or information contained in such documentation, with appropriate citations to data sources.[23] In the recent Prediction Markets Advisory, the Commission reminded DCMs of their obligation to provide a complete compliance analysis in self-certified product submissions, including documentation or information establishing the basis for compliance with applicable law.[24] FIA believes these principles could appropriately apply with equal regulatory force to DCOs. The Commission could also review DCM/DCO certifications of new products and rules as part of its routine examination of the registrants.

- **Evaluating whether the current review period for product self-certifications of leveraged event contracts provides an adequate opportunity for Commission review.** Relatedly, even where a submission includes an affirmative, product-specific showing of compliance, the Commission should have a meaningful opportunity to review event contracts, particularly those that present novel compliance, market integrity, or risk-management considerations (including those associated with leverage). As noted above, the Commission has one business day (perhaps even less if the self-certification is filed late in the day) to review a product self-certification. Section 5c(c)(1) of the CEA authorizes contract listing by written certification but does not prescribe any specific lead-time, in contrast to Section 5c(c)(2) of the CEA, which expressly includes a ten-business-day effectiveness framework for rule certifications.[25] FIA believes the Commission has

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[23] *Provisions Common to Registered Entities*, 89 Fed. Reg. 88,594, 88,603–04 (Nov. 7, 2024) (imposing a documentation requirement for product self-certifications, although not expressly required by the CEA, but declining to impose a similar requirement for rule self-certifications, reasoning that the ten-business-day review period and the Commission's statutory right to stay the effectiveness of a rule self-certification if the rule presents novel or complex issues are "sufficient incentives to provide adequate explanations of new submissions under [CFTC Regulation] 40.6 without the provision of actual documentation"). The Commission's statutory authority to stay a self-certification on the basis of novel or complex issues extends only to rules, not new products. *See* 7 U.S.C. § 7a-2(c)(2)-(3). Accordingly, leveraged event contracts that present novel and complex issues may become effective through product self-certification without a comparable mechanism to pause effectiveness pending Commission review. To the extent the Commission's stay authority over rule self-certifications is not being used in practice (or is not operating as a meaningful incentive for robust submissions as originally contemplated), the Commission may wish to revisit its decision and consider requesting a more fulsome documentation and explanation in connection with rule self-certifications under CFTC Regulation 40.6 for leveraged event contracts.

[24] *Prediction Markets Advisory*, CFTC Letter No. 26-08, Div. of Mkt. Oversight (Mar. 12, 2026), available here.

[25] *Provisions Common to Registered Entities*, 89 Fed. Reg. at 88,603-04 (explaining that the ten-business-day review period in CFTC Regulation 40.6 is grounded in Section 5c(c)(2) of the CEA, 7 U.S.C. § 7a-2(c)(2), which

authority to recalibrate the product self-certification review period to provide the Commission a meaningful opportunity to review event contracts proposed to be listed or cleared on a leveraged basis without undermining the efficiency of the self-certification process for more traditional products.

To be clear, FIA has long supported the Commission's self-certification process for contracts and continues to support the ability of DCMs to list new products in a timely and efficient manner. However, and as the ANPR highlights, the volume and nature of event contracts self-certified in recent years present materially different oversight and risk-management concerns for the Commission. It is in the interest of venues, market participants, and the agency for the self-certification framework to continue to function effectively and for all stakeholders to have trust and confidence in the process. For that reason, FIA has recommended in this and the preceding section a principles-based approach intended to promote fulsome DCM and DCO compliance analyses when submitting self-certifications of leveraged event contracts and to ensure the Commission has a meaningful opportunity to review those submissions.

- **Considering whether additional transparency regarding margin models may be warranted in the listing of event contracts that are cleared on a leveraged basis**. We believe that a leveraged event contract submission should provide sufficient information to enable the Commission to assess the adequacy of the DCO's margin model as applied to the leveraged event contract. CFTC Regulation 40.1 expressly includes "margin methodology" in the definition of "rule," confirming that margin-related changes are substantive rule changes subject to Part 40 and Commission review. We understand that the Commission reviews and approves all DCO margin models before they are implemented. However, where the model is new, materially revised, or being applied to a materially new product with a different risk profile, as may be the case with leveraged event contracts, a narrative certification alone may not satisfy the registered entity's burden of demonstrating compliance with the CFTC's model-centric risk-management regulations.[26] A more appropriate showing may include identification of the applicable margin model, relevant back-testing and stress-testing outputs, and model validation information sufficient to demonstrate compliance. Ensuring that the Commission's review of self-certifications, including, where appropriate, associated margin models, keeps pace with the complexity and novelty of the products being cleared is an important step in strengthening the Commission's ability to fulfill its statutory mandate.

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sets out a specific timing for rule self-certifications; by contrast, Section 5c(c)(1) of the CEA, 7 U.S.C. § 7a-2(c)(1), does not provide an analogous review period for contracts self-certified under CFTC Regulation 40.2).

[26] 17 C.F.R. § 39.13(g)(6) (providing that "[o]n a daily basis, a [DCO] shall determine the adequacy of its initial margin requirements."); 17 C.F.R. § 39.13(g)(7) (stating that a DCO "shall conduct backtests" on a daily basis for products experiencing significant volatility and on at least a monthly basis for all products, comparing initial margin to actual price changes); 17 C.F.R. § 39.13(h)(3) (providing that a DCO "shall conduct stress tests" on at least a weekly basis for each clearing member account "under extreme but plausible market conditions").

- **Clarifying or revising CFTC Regulation 40.11 to more closely align with the CEA**. Section 5c(c)(5)(C) of the CEA provides that the Commission may determine that an event contract on an excluded commodity is "contrary to the public interest" if it involves specified enumerated categories (including unlawful activity under Federal or State law terrorism, assassination, war, or gaming) or "other similar activity" the Commission determines, by rule or regulation, to be "contrary to the public interest."[27] The CEA further provides that, once the Commission makes that public interest determination, the event contract may not be listed or made available for clearing or trading on or through a registered entity.[28] In other words, the statute contemplates a two-step approach (a public interest determination, followed by a prohibition), and it expressly requires that the Commission take final action under both steps within ninety days from commencing its review unless the party seeking to offer the product agrees to an extension of time.[29] By contrast, CFTC Regulation 40.11 operates as a categorical prohibition for enumerated categories, while expressly requiring a public interest determination by rule or regulation only for "other similar activity."[30] FIA encourages the Commission to clarify how the public interest determination is intended to operate for enumerated categories and to harmonize CFTC Regulation 40.11 with the CEA to reduce ongoing uncertainty for market participants and registered entities.[31]

V. Address Insider Trading and other Market Conduct, Conflicts of Interest, and Settlement Finality Concerns

Market integrity is foundational to the CEA's framework and public confidence in fair, orderly, and transparent markets. Event contracts typically have binary payoff structures based on the outcome of an underlying occurrence or event and can present distinctive challenges that may arise from the contract design, event definition and settlement mechanics. For example, many event contracts settle on discrete outcomes that may depend on factual determinations, official announcements, published data, determinations by third parties or evolving circumstances rather than a continuously observable cash market price.

These features of event contracts can present related integrity concerns, including artificial informational advantages, insider trading risk, insider control of the outcome, and conflicts of interest, in prediction markets. Event contracts may raise novel questions regarding how and whether traditional insider trading doctrines apply, particularly where contracts reference government actions, political developments, or other events that do not involve corporate

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27 7 U.S.C. § 7a–2(c)(5)(C)(i).

28 7 U.S.C. § 7a–2(c)(5)(C)(ii).

29 7 U.S.C. § 7a–2(c)(5)(C)(iv).

30 17 C.F.R. § 40.11.

31 Brian D. Quintenz, Comm'r, CFTC, Statement on ErisX RSBIX NFL Contracts and Certain Event Contracts: Any Given Sunday in the Futures Market (Mar. 25, 2021), available here (stating that "Regulation 40.11 somehow missed this, and violates the APA both for being contrary to the statute and for fumbling the 'reasoned decision making' test").

disclosure or clearly defined fiduciary relationships or legal duties.[32] In addition, prediction market structures may further heighten vertical integration and conflicts-of-interest concerns, including where affiliates or related parties serve as market makers or intermediaries, particularly where those arrangements could affect incentives and create opportunities for the preferential treatment of affiliates to the detriment of the customer or other market participants.

In FIA's view, these characteristics warrant clear, prospective regulatory standards, for fully collateralized and leveraged event contracts alike, so that prediction markets develop in a manner consistent with longstanding market integrity principles applicable to CFTC-regulated markets. In particular, the Commission's existing DCM core principles provide an appropriate framework for addressing these issues, including the requirement to list only contracts that are not readily susceptible to manipulation,[33] the obligation to prevent manipulation, price distortion, and market disruption through effective surveillance and enforcement,[34] and the duty to protect markets and market participants from abusive practices and promote fair and equitable trading.[35] FIA supports CFTC Letter No. 26-08 on prediction markets (the "**Prediction Markets Advisory**"),[36] which is a helpful reminder of the importance and continued application of DCM Core Principles 3, 4, and 12 to prediction markets. However, a non-binding staff advisory and an after-the-fact fraud and manipulation enforcement tool, like CFTC Regulations 180.1 and 180.2, may not be sufficient to adequately address risks in this novel market.

FIA encourages the Commission to provide a clear framework for prediction market operators, without stifling innovation, by:

- Articulating principles governing the design, listing and surveillance of event contracts, including principles addressing contract specificity, event definition, resolution process, settlement mechanics, real-time monitoring, and trade reconstruction;

- Clarifying how market conduct principles apply to event contracts, including trading on nonpublic, outcome relevant information that may affect pricing and the application of traditional misappropriation concepts in markets designed to promote information aggregation; and

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[32] Cong. Rsch. Serv., Prediction Markets and Insider Trading Law, LSB11406, at 1 (Apr. 3, 2026), available here.

[33] 17 C.F.R. § 38.200; DCM Core Principle 3 ("The board of trade shall list on the contract market only contracts that are not readily susceptible to manipulation.").

[34] 17 C.F.R. § 38.250; DCM Core Principle 4 ("The board of trade shall have the capacity and responsibility to prevent manipulation, price distortion, and disruptions of the delivery or cash-settlement process through market surveillance, compliance, and enforcement practices and procedures, including: (a) Methods for conducting real-time monitoring of trading; and (b) Comprehensive and accurate trade reconstructions.").

[35] 17 C.F.R. § 38.650; DCM Core Principle 12 ("The board of trade shall establish and enforce rules: (a) To protect markets and market participants from abusive practices committed by any party, including abusive practices committed by a party acting as an agent for a participant; and (b) To promote fair and equitable trading on the contract market.)"

[36] *Prediction Markets Advisory*, *supra* note 24, at 4-5.

- Establishing principles for identifying and mitigating conflicts of interest in prediction market structures. In particular, vertically integrated business models in prediction markets should be conditioned on rigorous, enforceable safeguards for market participants, including (i) segregated customer and affiliate assets; (ii) governance and conflicts-of-interest controls, including appropriate information barriers; (iii) financial resource requirements; and (iv) appropriate reporting, transparency, and auditability.[37]

Clear standards governing contract specifications and settlement finality (including outcome determination and verifiability), market conduct and conflicts controls would help preserve market integrity, protect customers, and support responsible innovation under Commission oversight. These standards should be developed without displacing the Commission's traditional misappropriation-based fraud framework or the flexibility it affords participants in conventional derivatives markets.

In conclusion, through this ANPR, the Commission has an opportunity to establish a principled regulatory framework for the listing of leveraged event contracts by DCMs and the clearing of such contracts by DCOs. FIA's targeted recommendations preserve the integrity of the broader clearing ecosystem the CEA was designed to protect, while ensuring the Commission is equipped to support responsible innovation in prediction markets.

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Thank you for your consideration of these comments. FIA appreciates the opportunity to participate in the Commission's review of the regulatory framework for event contracts and prediction markets. If the Commission or any member of the staff has any questions regarding the matters discussed herein or needs any additional information, please contact me at alurton@fia.org or 202.772.3057.

Respectfully submitted,

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Futures Industry Association

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[37] *See* Letter from Allison Lurton, Gen. Counsel & Chief Legal Officer, Futures Indus. Ass'n, to Christopher J. Kirkpatrick, Sec'y, CFTC (Feb. 24, 2026) (commenting on Request for Comment on the Direct Clearing of Derivatives by Retail Participants, RFC121725), available here; Letter from Allison Lurton, Gen. Counsel & Chief Legal Officer, FIA, to Christopher J. Kirkpatrick, Sec'y, CFTC (Nov. 25, 2025) (commenting on Request for Input on All Recommendations for the CFTC in the Report of the President's Working Group on Digital Asset Markets), available here; Letter from Allison Lurton, Gen. Counsel & Chief Legal Officer, FIA, to Christopher J. Kirkpatrick, Sec'y, CFTC (Sept. 28, 2023) (commenting on Request for Comment on the Impact of Affiliations on Certain CFTC-Regulated Entities), available here.

cc: Michael S. Selig, Chairman
Joshua Beale, Acting Director, Division of Market Oversight
Richard Haynes, Acting Director, Division of Clearing and Risk