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July 27, 2026

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

Re: RIN 3038-AF65 – Notice of Proposed Rulemaking on Prediction Markets; Public Interest Determinations

Dear Mr. Kirkpatrick:

The Futures Industry Association[1] ("**FIA**") appreciates the opportunity to respond to the Commodity Futures Trading Commission's ("**CFTC**" or "**Commission**") Notice of Proposed Rulemaking on Prediction Markets; Public Interest Determinations (the "**NPRM**") and to share the views of FIA members on issues presented by the Commission's review of the regulatory framework governing prediction markets and event contracts.[2] Our members include designated contract markets ("**DCMs**") and derivatives clearing organizations ("**DCOs**") that list, trade, and clear derivatives, including event contracts, as well as futures commission merchants ("**FCMs**") that intermediate customer access to these markets.

The derivatives industry has experienced significant growth in the trading of event contracts, with total trading volume across CFTC-registered prediction markets exceeding $25 billion in 2025.[3] As the Commission noted in the NPRM, these markets can serve important functions, including aggregating information and enabling market participants to manage exposure to a broad range of events. FIA remains committed to working collaboratively with the Commission to develop a clear, durable, and administrable regulatory framework that harnesses the benefits of prediction markets and event contracts while facilitating responsible innovation, promoting market integrity, and ensuring sound risk-management practices.

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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 *NPRM*, 91 Fed. Reg. 35,806 (June 12, 2026) (to be codified at 17 C.F.R. pt. 40), available here.

3 *Id*. at 35,807.

As these markets evolve, the Commission's efforts to provide clarity regarding the application of Section 5c(c)(5)(C) of the Commodity Exchange Act ("**CEA**") and CFTC Regulation 40.11 are both timely and important. FIA previously submitted a response to the Commission's Advance Notice of Proposed Rulemaking on Prediction Markets (the "**ANPR**" and FIA's response, the "**Response Letter**"). In that letter, FIA emphasized that the CEA and Commission regulations provide a strong foundation for the responsible development and effective regulation of prediction markets and event contracts. In particular, FIA recommended that the Commission (1) retain the established tripartite DCM, FCM, and DCO market structure for leveraged derivatives, including leveraged event contracts (if and when authorized); (2) limit the trading and clearing of leveraged event contracts to those for which DCMs and DCOs can demonstrate compliance with applicable DCM and DCO core principles; (3) consider whether a separate default fund (or other ring-fenced default resources) may be warranted for leveraged event contracts; (4) revisit the process by which DCMs and DCOs list and clear event contracts, including event contracts offered on a leveraged basis; and (5) address insider trading and other market conduct, conflicts of interest, and settlement finality concerns.[4]

FIA appreciates that the NPRM addresses several of the recommendations offered by FIA in the Response Letter and by other commenters. In particular, FIA supports the Commission's proposal to align the analytical framework under CFTC Regulation 40.11 more closely with the special rule under Section 5c(c)(5)(C) of the CEA and to articulate the public interest factors the Commission intends to consider when determining whether an event contract subject to the special rule is contrary to the public interest, such that it may not be listed for trading on a DCM or accepted for clearing through a DCO. The CEA identifies, among its purposes, the deterrence and prevention of price manipulation and other disruptions to market integrity.[5] Consistent with that mandate, FIA welcomes the Commission's adoption of factors that underscore the importance of market integrity in its public interest determinations.

The NPRM also raises implementation questions regarding event contracts that begin trading while the Commission's public interest review remains pending. If the Commission later determines that a contract is contrary to the public interest, market participants will need clear guidance on how the Commission expects the proposed framework to operate. FIA therefore encourages the Commission to provide additional, targeted clarifications and confirmations in the final rule to include:

- Confirmation that, absent a Commission prohibition, FCMs may reasonably rely on a DCM's self-certification and the contract's listing status when determining whether a listed event contract may be made available to customers, including where the Commission requests that a registered entity suspend the listing or trading of an event contract during the pendency of the review but the registered entity does not do so;

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[4] *See* Letter from Allison Lurton, Gen. Couns. & Chief Legal Officer, Futures Indus. Ass'n, to Christopher J. Kirkpatrick, Sec'y, CFTC (Apr. 30, 2026) (responding to the ANPR), available here.

[5] 7 U.S.C. § 5(a)–(b).

- Confirmation that FCMs are not responsible, under existing CFTC regulations or the NPRM, for monitoring customer trading in event contracts for event-specific insider trading, misuse of confidential or outcome-sensitive information, or manipulative conduct based on information or facts outside the FCM's ordinary supervisory visibility;

- Confirmation that DCMs listing event contracts and DCOs clearing such contracts should coordinate and maintain and publish objective procedures governing the treatment of open positions in contracts that are prohibited under proposed CFTC Regulation 40.11 and that any such prohibition operates prospectively and does not affect contracts that have already expired, settled, or been paid out; and

- Clarification of whether additional customer disclosure regarding regulatory termination risk is required in light of the post-listing review process under proposed CFTC Regulation 40.11 and, if so, prescribe a standardized base disclosure that DCMs can provide.

Those clarifications and confirmations would help DCMs, FCMs, DCOs, and other market participants understand their respective obligations in connection with proposed CFTC Regulation 40.11.

Beyond these implementation questions, FIA believes the Commission has an opportunity to build on the NPRM by addressing broader risk-management and conflict-of-interest matters raised in the Response Letter. The ANPR specifically recognized that margin or leverage raises distinct issues for prediction markets and event contracts. Those issues will become especially important if event contracts evolve beyond fully collateralized, pre-funded models and are offered with leverage or otherwise involve an extension of credit. Although the Commission acknowledged that the NPRM "is narrowly tailored to address one aspect of that ANPR and that ANPR may lead to further rulemaking,"[6] FIA respectfully encourages the Commission to address leveraged event contracts and conflicts of interest as soon as possible in final rules. Doing so would provide clear rules of the road for all market participants.

I. FIA Supports the NPRM's Clarification of the Commission's Review of Event Contracts under CFTC Regulation 40.11

FIA appreciates the Commission's effort in the NPRM to bring CFTC Regulation 40.11 into closer alignment with the authorizing provision in the CEA and to more clearly describe the steps the Commission will follow, and the criteria it will apply, when reviewing event contracts under proposed CFTC Regulation 40.11.

That alignment addresses a long-standing issue that has created regulatory uncertainty for market participants. Under the proposed framework, event contracts involving an activity covered by CFTC Regulation 40.11 would not be prohibited per se. Instead, a contract subject to the special rule in Section 5c(c)(5)(C) of the CEA would be prohibited only after the Commission determines

[6] Press Release, CFTC, Release No. 9249-26, CFTC Seeks Public Comment on Notice of Proposed Rulemaking Concerning Event Contracts Involving Enumerated Activities (June 10, 2026), available here.

that it is contrary to the public interest. The NPRM frames the inquiry as whether (1) the contract is an event contract; (2) the event contract involves an activity covered by the special rule; and (3) the event contract is contrary to the public interest.[7] In FIA's view, the proposed three-step framework provides needed clarity regarding when the Commission must undertake a public interest determination under CFTC Regulation 40.11, which will reduce uncertainty for registered entities and other market participants.

The proposed multifactor public interest framework also provides a more concrete structure for evaluating whether event contracts subject to the special rule are contrary to the public interest. Codifying those considerations in a rulemaking should increase transparency, promote consistency, and give registered entities and other market participants a clearer understanding of how the Commission will exercise its discretion. FIA agrees that the public interest factors should "be articulated in a manner that is clear, focused, and readily applied both by prediction markets in designing event contracts and by Commission staff in reviewing submissions."[8] FIA also agrees that a multifactor analysis should give the Commission room to account for different sources of potential harm or public benefit while accommodating novel event contract designs and market developments.[9]

FIA appreciates that the Commission proposes to include market integrity considerations in its public interest analysis. Market integrity is a core element of the CFTC's statutory mandate and has long been a central feature of derivatives markets. In FIA's view, the Section 3 considerations should serve central functions in the Commission's analysis.[10] The proposed market integrity factors provide a structured framework for evaluating whether an event contract presents a particular risk of manipulation or market disruption, exhibits settlement integrity deficiencies, or creates a particular risk of information leakage and misuse of confidential information.[11] Indeed, these considerations, in FIA's view, should inform not only the Commission's review of event contracts subject to the special rule, but also a DCM's core principle analysis when listing any event contract, whether or not it is subject to the special rule.

[7] *NPRM*, 91 Fed. Reg. at 35,811.

[8] *Id.* at 35,828.

[9] *See id*. at 35,829.

[10] 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). 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).

[11] Proposed 17 C.F.R. § 40.11(a)(5)(i)–(ii).

FIA further supports the NPRM's clarification of the information required to be submitted for the Commission to perform the public interest review under proposed CFTC Regulation 40.11. The NPRM makes clear that, for event contracts that potentially involve an activity covered by CFTC Regulation 40.11, DCMs are expected to explain whether the contract involves such an activity and, if so, why the contract is not contrary to the public interest under the proposed public interest factors.[12] These informational requirements should promote more informed and transparent Commission decision-making. As advanced in FIA's response to the ANPR, it is important for the Commission to ensure that the self-certification process for event contracts—whether in its current form or with clarifications or refinements—provides the Commission with sufficient information to exercise its oversight responsibilities.[13]

Notwithstanding these favorable features, FIA believes the Commission should provide targeted clarifications and confirmations to support the orderly implementation of the proposed framework.

II. The Commission Should Provide Targeted Confirmations and Clarifications to Support the Orderly Implementation of the Proposed Framework

Under the NPRM's proposed sequencing, self-certified event contracts may begin trading before the Commission's public interest review is complete.[14] DCMs, DCOs, FCMs, customers, and other market participants may therefore need to make trading, clearing, intermediation, risk-management, and customer-facing decisions while the regulatory status of a contract remains uncertain. If the Commission later determines that a contract is contrary to the public interest, market participants will need clear guidance on how the proposed framework should operate, including with respect to FCM reliance, FCM supervisory responsibilities, the treatment of open positions and the allocation of related risks, and potential customer disclosure.[15]

Public notice and timing are central to that framework. FIA supports the Commission's proposal to post written determinations initiating a public interest review under proposed CFTC Regulation 40.11 on its website and encourages the Commission to maintain a clear public record of each review through final resolution, including any Commission action or request affecting the continued listing, trading, clearing, or disposition of the contract.[16] That record should include notice of any Commission request to suspend the listing or trading during the review period, as well as notice when the review period or any extension has expired, including whether the

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12 *NPRM*, 91 Fed. Reg. at 35,838–39.

13 Response Letter, *supra* note 4, at 3, 8–10; *see infra* note 26.

14 *NPRM*, 91 Fed. Reg. at 35,838 (stating that the special rule applies "in connection with the listing of" event contracts, does not impose a specific time limit on when the Commission may commence a public interest review, and contemplates that self-certified event contracts may be listed and actively trading before the Commission determines they are contrary to the public interest).

15 *Id.* at 35,838–39; 35,861.

16 Proposed 17 C.F.R. § 40.11(c)(3).

Commission issued a final order or the review was deemed concluded.[17] Because proposed CFTC Regulation 40.11 would require the Commission to commence any public interest review no later than 10 days after listing, FIA encourages the Commission to act as promptly as practicable within that period so market participants can assess the contract's regulatory status before taking on additional exposure.

A. The Commission Should Confirm That FCMs May Reasonably Rely on DCM Self-Certification in the Absence of a Commission Prohibition

FCMs need clarity on whether they may rely on the DCM's self-certification and the contract's listing status without independently reassessing the contract's permissibility. FCMs do not design, certify, or approve event contracts; those responsibilities rest with the listing DCM and, where applicable, the Commission through its public interest review under CFTC Regulation 40.11. At the same time, FCMs are subject to risk-management obligations, and they must maintain policies and procedures reasonably designed to monitor and manage risks associated with their futures and cleared swaps activities, including event contracts, as applicable.

FIA respectfully requests that the Commission confirm that, absent a Commission prohibition, FCMs may reasonably rely on a DCM's self-certification and the contract's listing status when determining whether a listed event contract may be made available to customers, including where the Commission requests that a registered entity suspend the listing or trading of an event contract during the pendency of the review, but the registered entity does not do so. Such clarification would not relieve FCMs of their own risk-management obligations but rather would confirm that FCMs are not responsible for independently determining whether an event contract "involves" an activity within the scope of proposed CFTC Regulation 40.11 and whether it is contrary to the public interest. Without this clarification, FCMs may respond inconsistently—some blocking access to all event contracts, others conducting duplicative legal reviews, and others continuing access with uncertain regulatory exposure. Such confirmation would allow FCMs to focus their compliance and risk-management efforts on actual operational and credit risks.

B. The Commission Should Confirm That FCMs Are Not Required to Monitor for Event-Specific Information or Conduct Outside Their Ordinary Supervisory Visibility

FIA respectfully requests that the Commission confirm that FCMs are not responsible, under existing CFTC regulations or the NPRM, for monitoring customer trading in event contracts for event-specific insider trading, misuse of confidential or outcome-sensitive information, or manipulative conduct based on information or facts outside the FCM's ordinary supervisory visibility. DCMs design and list event contracts and have market-wide surveillance responsibilities under their core principles. FCMs, by contrast, maintain risk-based supervisory systems and comply with applicable regulatory obligations, but generally do not have the same market-wide view, contract design role, settlement design role, or access to event-specific information needed

[17] *Id.* § 40.11(c)(5), (e)(1)(i)–(ii).

to identify customers who may possess confidential or outcome-relevant information. That allocation is consistent with the NPRM itself, which repeatedly ties potential market integrity concerns to the terms of the contract, the DCM's compliance capabilities, and the relevant integrity framework, information-sharing arrangements, and surveillance responsibilities, rather than to the ordinary supervisory visibility of an FCM.[18] Clear confirmation regarding the allocation of surveillance responsibilities would promote consistent compliance expectations and reduce unnecessary duplication of supervisory functions. Absent a clear boundary, FCMs may face an unworkable expectation to police facts outside their systems and control, duplicating DCM surveillance without improving detection.

C. The CFTC Should Clarify the Treatment of Open Positions in, and Risk Allocation for, Event Contracts That Are Prohibited

The NPRM does not fully specify how open positions would be treated, or how related risks would be allocated, if an event contract begins trading while Commission review is pending and is later prohibited. The NPRM contemplates delisting and suggests that cancellation with the return of purchase price and fees may be manageable, while also recognizing that market participants may lose hedge value and unrealized gains. Uncertainty regarding the treatment of open positions can have immediate consequences that may extend beyond the contract itself to public confidence in regulated markets, certainty in contracting, the orderly functioning of the market, and the potential for financial harm to market participants, including retail participants.

FIA respectfully requests that the Commission confirm that DCMs listing event contracts and DCOs clearing such contracts should coordinate and maintain and publish objective procedures governing the treatment of open positions in contracts that are prohibited under proposed CFTC Regulation 40.11 and that any such prohibition operates prospectively and does not affect contracts that have already expired, settled, or been paid out. Although DCMs or DCOs may already have rules that could apply in this scenario, the Commission should establish minimum parameters while recognizing that event contracts can differ materially, including in contract design, trading characteristics, and risk profile. In particular, the Commission should clarify how open positions should be treated, including whether they may proceed to settlement, be canceled with the return of the purchase price and fees, be forcibly unwound, be valued at fair value determined by the DCM, be resolved under a methodology approved by the Commission, or be subject to another objective valuation standard. If the Commission supports cancellation with the return of the purchase price and fees, it should also confirm that amounts so transferred under those procedures constitute final settlement payments in accordance with the requirements set forth in CFTC Regulation 39.14(d), including that such transfers are irrevocable and unconditional under the DCO's rules and procedures.

Customers may challenge a resolution outcome, particularly if they suffer a loss of hedge value or unrealized gains, and a forced unwind could create liquidity stress for FCMs, DCOs, customers,

[18] *Id.* § 40.11(a)(5)(ii)–(iii) & app. F(f)(3)–(4).

or the broader market. The Commission should therefore confirm that an FCM does not incur liability to a customer solely because, in accordance with applicable Commission requirements, directives, or orders or the DCM's or DCO's published rules and procedures, it facilitates settlement, cancellation, forced unwind, valuation, or another resolution of a prohibited event contract. Clear standards are needed to support the orderly resolution of affected contracts and predictable outcomes for customers and market participants.

D. The Commission Should Clarify Whether Additional Customer Disclosure Is Required and Specify Standardized Base Disclosure for DCMs As Necessary

The NPRM creates a potential customer disclosure issue because event contracts may begin trading before the Commission completes its public interest review. A customer may expect that a listed event contract can be held through expiration or settlement. However, that expectation may not hold if the Commission later determines that the contract is contrary to the public interest, particularly where the customer may lose hedge value or suffer losses as a result of delisting, cancellation, forced unwind, or valuation uncertainty.

FIA respectfully requests that the Commission clarify whether additional customer disclosure regarding regulatory termination risk is required in light of the post-listing review process under proposed CFTC Regulation 40.11 and, if so, prescribe a standardized base disclosure that DCMs can provide. FIA recommends that any supplemental standardized disclosure address, at a minimum, regulatory review, potential delisting, cancellation, forced unwind, valuation uncertainty, and the possibility that customers may lose hedge value or unrealized gains if a contract is prohibited. Standardized disclosure language would promote consistent customer understanding, avoid fragmented or conflicting disclosures across DCMs and provide clear compliance expectations for market participants. The Commission should also consider using its public-facing prediction-markets page to publish baseline disclosures or explanatory material about its authority to review live contracts, the possibility that a listed contract may later become impermissible, and general principles governing how such contracts would be treated if prohibited by the CFTC after trading commences. Without appropriate disclosure, a post-listing prohibition could create disputes and customer claims.

III. The Commission Should Address Previously Raised Market Structure and Risk-Management Concerns That Remain Important to Prediction Markets

The implementation measures discussed above are important to the orderly operation of the proposed post-listing review process. They do not, however, resolve the distinct market structure and risk-management questions presented if event contracts are offered on a leveraged basis or within prediction market structures that present conflicts of interest.

FIA believes the Commission has an opportunity to build on the NPRM by providing additional clarity on two issues raised in FIA's Response Letter to the ANPR: leverage and conflicts of interest with respect to event contracts, including those that are not subject to the special rule. The ANPR sought comment on whether prediction markets should be permitted to offer trading on margin and on related DCM and DCO risk-management implications.[19] The NPRM recognizes that prediction markets have grown rapidly with "fully collateralized designs that limit immediate clearing risk."[20] That observation provides a useful foundation for distinguishing fully collateralized, pre-funded event contracts from leveraged event contracts, which would involve an extension of credit and present materially different margin, liquidity, default-management, settlement, clearing, and customer-protection considerations. FIA encourages the Commission to provide clear rules for the listing, trading, and clearing of leveraged event contracts (if allowed).[21]

FIA also encourages the Commission to consider conflicts of interest in prediction market structures as these markets continue to develop. Although the ANPR did not specifically focus on conflicts of interest, the Response Letter identified conflicts as important to market integrity, customer protection, and public confidence.

FIA urges the CFTC to adopt the principal recommendations from our Response Letter to the ANPR.

- ***First*, the Commission should retain the tripartite DCM, FCM, and DCO market structure for leveraged derivatives, including event contracts, consistent with FIA's comment letter in response to the Commission's Request for Comment on Direct Clearing of Derivatives by Retail Participants ("Retail DCO Letter").**[22] 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. However, where a DCO clears fully collateralized and pre-funded contracts 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

[19] The Commission identified leverage/margin as a material regulatory issue. ANPR, 91 Fed. Reg. 12,516, 12,519 (Mar. 16, 2026) (to be codified at 17 C.F.R. ch. 1) (requesting comment on whether prediction markets should be permitted to offer trading on margin and on related issues, including customer disclosures, margin methodology, liquidity, variation margin, eligible collateral, cross-margining, and DCO risk-management implications), available here.

[20] *NPRM*, 91 Fed. Reg. at 35,857.

[21] If the Commission determines not to address leveraged event contracts in this rulemaking, it should say so expressly and explain whether leverage will be addressed through a separate rulemaking, advisory, guidance, staff review, or case-by-case application of DCM and DCO core principles. FIA respectfully submits that new or novel products and market structures are better addressed through broadly applicable Commission action than through the approval of bespoke, platform-specific applications, which may provide the Commission with limited options and other market participants with limited information or compliance guidance.

[22] Response Letter, *supra* note 4, at 2–4; Letter from Allison Lurton, Gen. Couns. & 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.

participants and the broader clearing ecosystem.[23] This risk-based approach provides a consistent framework for the Commission's resolution of certain prediction market considerations involving retail participants.

- ***Second*, applying this risk-based approach, the Commission should limit the listing and clearing of leveraged event contracts to those for which the DCM and DCO can fully demonstrate compliance with existing, robust risk-management requirements, taking into account the unique risk considerations of event contracts in each product submission.**[24] Event contracts may have binary payoff structures, short trading windows, discontinuous risk profiles, limited liquidity, limited historical data, and no observable cash market or correlated underlying instrument from which to derive reliable risk parameters. These features may pose challenges for initial margin, variation margin, liquidation, porting, stress testing, and default management. In addition, abrupt price movements at or near event resolution may create risks that differ materially from those associated with more traditional derivatives products. Where unique risk considerations arise, a DCM and DCO should address those risks in their respective product submissions.[25]

  For these reasons, FIA continues to believe that fully collateralized, pre-funded event contracts should not be treated as a prototype for leveraged event contracts. A fully collateralized model may limit immediate clearing and credit risk, but leverage or an extension of credit materially changes the contract's risk profile. If event contracts are permitted to trade or clear on a leveraged basis, the Commission should require product-specific analysis by the DCM and DCO, including analysis of the relevant margin methodology, stress testing, default management resources, settlement processes, and liquidity risks.[26] As noted in the Response Letter, in the context of leveraged event

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[23] As stated in the Response Letter, 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. This scenario is also referred to as lacking an "extension of credit." Response Letter, *supra* note 4, at 4 n.8.

[24] Response Letter, *supra* note 4, at 2, 4–6.

[25] While some registrants may already be voluntarily submitting robust analyses to support the risk management characteristics of their product submissions, FIA believes the CFTC should make clear that all must do so for leveraged event contracts.

[26] After FIA submitted its Response Letter, the Commission announced technical enhancements to its electronic filing system to streamline the product self-certification process. Press Release, CFTC, Release No. 9244-26, CFTC Implements Technical Enhancements to Streamline Product Self-Certification Process (June 1, 2026), available here. Those enhancements permit DCMs to submit a single set of product certification documents for multiple closely related contract certifications in one consolidated submission. The NPRM would also permit the Commission to consolidate review of submissions involving the "same underlying event or a substantially similar set of underlying events." Proposed 17 C.F.R. § 40.11(c)(4). Subsequently, Division of Market Oversight ("**DMO**") staff advised that consolidated filings may be used for related contracts with common supporting materials, such as a common rulebook, settlement source analysis, or common terms and conditions, but each contract must still be certified individually under CFTC Regulation 40.2(a) or satisfy the requirements for class certification under CFTC Regulation 40.2(d) by sharing the same key pricing and settlement features, including

contracts, DCM and DCO core principles are informed by whether a product is capable of supporting reliable risk management, including through an observable cash market (or other robust pricing source), and whether the derivative facilitates hedging and price discovery rather than serving primarily as a vehicle for pure speculation.[27]

FIA also reiterates that extended trading hours may be relevant to the listing and clearing of event contracts. As discussed in the Response Letter and prior comments on 24/7 trading, round-the-clock trading should be supported by the operational ability to collateralize exposures and manage risk over extended hours, particularly where the underlying spot or reference market is not itself open on a 24/7 basis.[28] In particular, event contracts with heavy weekend volume may present greater risk-management challenges because collateral may be more difficult to move.

- ***Third*, even for event contracts that satisfy the existing, robust risk-management requirements to justify listing and clearing on a leveraged basis, the Commission should consider whether separate default resources, ring-fenced default funds, or other structural safeguards may be appropriate for leveraged event contracts based on the risk profile of such contracts.**[29] Novel or higher-risk event contracts should not introduce unanticipated contagion to clearing members or mutualized default resources supporting unrelated product sets.[30] In the context of retail participants, siloing default resources protects them from potential contagion risk stemming from the larger and potentially more complex portfolios of institutional participants. The introduction of these

identical pricing sources, formulas, procedures, and methodologies. Staff advised against the use of one broad, vague template filing to cover many different event contracts with different settlement sources or methodologies, explaining that such an approach prevents an adequate review of the contracts' terms, settlement methods, data sources, and manipulation risk. Staff noted in the advisory that, if a certification is inadequate, DMO staff may recommend that the Commission stay listing under CFTC Regulation 40.2(c) or require resubmission of individual contracts under CFTC Regulation 40.2(a) or for Commission approval under CFTC Regulation 40.3. For novel or unique certification questions, the advisory encouraged DCMs to consult DMO staff before filing. *See* CFTC Staff Advisory, *Self-Certification of an Event Contract Series*, CFTC Letter No. 26-22, at 3–5 (July 24, 2026), available here. FIA supports technical process improvements that promote administrative efficiency and reduce duplicative filings for closely related contracts. At the same time, streamlined submission mechanics and class certifications should not diminish the substantive review required for event contracts proposed to be traded or cleared on a leveraged basis, or otherwise involving an extension of credit.

27 *See* Response Letter, *supra* note 4, at 4.

28 *Id.*, *supra* note 4, at 7 n.16.

29 *Id.*, *supra* note 4, at 3, 6–7.

30 *Id.*, supra note 4, at 7 n.15 ("Additionally where a DCO clears or is considering clearing both traditional derivatives products and leveraged 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.").

safeguards facilitates innovation while ensuring that risks associated with new or nonstandard products are borne by those who choose to participate in those markets.[31]

- ***Fourth*, the Commission should establish principles for identifying and mitigating conflicts of interest in prediction market structures.**[32] Vertically integrated business models in prediction markets should be conditioned on rigorous, enforceable safeguards for market participants. These safeguards should include (1) segregated customer and affiliate assets; (2) governance and conflict-of-interest controls, including appropriate information barriers; (3) financial resource requirements; and (4) appropriate reporting, transparency, and auditability.[33] Conflict-of-interest concerns are heightened where affiliates or related entities serve as market makers or intermediaries because those arrangements may undermine public confidence in fair, orderly, and transparent markets and may result in actual or perceived preferential treatment of affiliates to the detriment of customers or other market participants.[34] Clear, prospective standards addressing vertically integrated models, affiliated market makers, related-party intermediaries, or common control arrangements would support responsible innovation and provide greater certainty to market participants.

FIA's recommendations are intended to help the Commission preserve the benefits of prediction markets while ensuring that leveraged event contract structures develop within a clear and resilient regulatory framework and that conflicts of interest arising in those markets are appropriately addressed.

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[31] Retail DCO Letter, *supra* note 22, at 10–11 ("Leveraged retail transactions (which in today's rapidly evolving market may include futures, options on futures, swaps, or leveraged spot retail commodity transactions) present both a unique risk profile (event and digital asset underliers) and user base (thinly capitalized [non-eligible contract participants]) very different from the more established listed derivatives product complex (equities, rates, energy, metals, and agricultural commodities) and institutional and end-user customers who predominantly trade those products. Where a DCO clears transactions with such risk profiles, it should be required to establish a fully separate default fund for them. Fully separating default fund resources for leveraged retail transactions is critical to the mitigation of systemic risk concerns and prevent[s] contagion from novel leveraged, retail-focused products that exhibit high volatility and operational, legal and regulatory complexity.").

[32] Response Letter, *supra* note 4, at 3, 11–13.

[33] *See* Retail DCO Letter, *supra* note 22, at 8–10; Letter from Allison Lurton, Gen. Couns. & 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. Couns. & Chief Legal Officer, FIA, to Christopher J. Kirkpatrick, Sec'y, CFTC (Sep. 28, 2023) (commenting on Request for Comment on the Impact of Affiliations on Certain CFTC-Regulated Entities), available here.

[34] Retail DCO Letter, *supra* note 22, at 10 n.35 (stating that FIA strongly believes that a self-regulatory organization ("**SRO**") should not serve as the designated self-regulatory organization ("**DSRO**") of an affiliated FCM where there is more than de minimis common ownership between them, and that an SRO—including both the DCM serving in that capacity and its linked DCO—should not serve as the DSRO for a clearing member of that DCO where there is more than de minimis common ownership between the DCO and another clearing member).

In conclusion, FIA appreciates the Commission's efforts to provide greater clarity regarding prediction markets and event contracts. FIA supports the proposed clarification of CFTC Regulation 40.11 and the articulation of public interest factors. FIA respectfully submits, however, that the Commission should make targeted implementation clarifications and confirmations regarding FCM reliance, FCM supervisory responsibilities, the treatment of open positions and the allocation of related risks, and customer disclosure, and should also address the broader market structure and risk-management considerations presented by leveraged event contracts and conflicts of interest. FIA believes the recommendations set forth here and in the Response Letter provide a practical roadmap for supporting responsible innovation, preserving market integrity, protecting customers, and providing DCMs, FCMs, DCOs, and market participants with clear and workable rules.

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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 prediction markets and event contracts. 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,

Allison Lurton

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