

Regulatory Alert

Regulatory Insights

March 2026

Prediction Markets: CFTC Advisory and ANPR

KPMG Regulatory Insights:

- **Growing Market:** Listings of event contracts jumped from fewer than 150 annually between 2021 and 2024 to approximately 1600 in 2025; the number of DCM registration applications more than doubled between 2024 and 2025.
- **Regulatory Definition:** Responses to ANPR are intended to shape potential future regulation of prediction markets, especially within nonfinancial contracts involving sports, politics, public interest (e.g., definitions of terrorism, gaming).
- **Jurisdictional Issues:** Coordinated releases affirm the CFTC position that it is the primary regulator with exclusive jurisdiction over prediction markets; ongoing federal-state jurisdictional disputes/lawsuits and state enforcement activity.
- **Engagement Encouraged:** Proactive engagement with CFTC and market participants (e.g., sports leagues, governing bodies) to prevent manipulation, protect market participants, structure new products, and promote innovation. Notably, CFTC has signed a “first of its kind” information-sharing agreement with Major League Baseball to promote “the integrity and resilience of the prediction markets relating to professional baseball.”

The Commodity Futures Trading Commission (CFTC) has coordinated the release of two documents – guidance in the form of a Staff Advisory and a rulemaking through an advanced notice of proposed rulemaking (ANPR) – on the topic of prediction markets. The CFTC states the actions respond to the “rapidly increasing popularity” of “event contract” derivatives that trade on these markets.

- **Guidance:** The CFTC Department of Market Oversight (DMO) Staff Advisory acknowledges the agency’s interest in encouraging both innovation and growth in prediction markets within the federal oversight framework, which includes the Commodity Exchange Act (CEA) and CFTC regulations. The Advisory is intended to outline the agency’s views on listing and trading of event contracts, including the

responsibilities of prediction market entities registered as designated contract markets (DCMs).

- **Rulemaking:** The ANPR seeks comment on multiple issues including how the statutory (CEA) core principles and CFTC regulations apply to prediction markets and the types of event contracts that may be prohibited as contrary to the public interest.

Although “event contract” is not a defined term in the CEA or the CFTC’s regulations, the CFTC states that event contracts are a type of derivative contract, often with a binary payoff structure, whose settlement is based on the outcome of an underlying occurrence or event. The agency adds that these features fit within the definition of a “swap” in the CEA as amended by the Dodd-Frank Act.

Guidance: DMO Staff Advisory

The DMO Staff Advisory is intended to remind CFTC-registered DCMs of their responsibilities as “front-line regulators”. DCMs are required to comply with 23 Core Principles as set forth in the CEA and CFTC rules and regulations to establish and enforce rules for trading on the DCM and monitoring trading activity. The Advisory highlights several specific principles, including requirements to:

- List for trading only derivative contracts that are not readily susceptible to manipulation.
- 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.
- Establish and enforce rules to protect markets and market participants from abusive practices, and to promote fair and equitable trading.

Specific regulatory requirements mentioned include prohibitions against employing any device, scheme, or artifice to defraud or attempt to defraud any person or manipulate the price of any contract listed on a DCM. The prohibition includes misappropriation of confidential information in breach of a pre-existing duty of trust to the source of the information (commonly known as “insider trading”).

Self-Certification. To offer a new event contract for trading, a DCM may provide the CFTC with a written certification—a “self-certification”—which must include an explanation and analysis (including documentation and citations to data sources) of how the contract complies with the CEA, including the CFTC’s regulations. DMO staff observes that overly broad or general contract specifications may affect a DCM’s ability to analyze the compliance of the contract’s various permutations with the CEA and CFTC regulations, including the contract’s susceptibility to manipulation.

Listing Requirement. DCMs are encouraged to consider whether certain categories of event contracts may create a heightened potential for manipulation or price distortion (e.g., sports contracts that resolve or settle based on the action of a single individual) and to mitigate the risks with appropriate controls.

For listings of sports-related events contracts in particular, DCMs are encouraged to:

- Engage in pre-self-certification communications with relevant sports governing bodies or authorities when developing terms and conditions, compliance, and market oversight programs for sports-related events contracts.
- Include, as part of the self-certified product submission, an explanation of whether the contract is consistent with the relevant league’s or governing body’s integrity standards (e.g., markets, contracts, and restricted or insider participants’ lists to guard against manipulation or insider trading).
- Establish information-sharing and data arrangements with the relevant sports integrity monitoring organization.
- Rely on official data provided by the relevant league or governing body, as applicable, as the settlement source.

The DMO reminds DCMs that the CFTC may stay the listing of a self-certified contract pending proceedings for filing a false certification (e.g., falsely certifying a contract complies with the “not readily susceptible to manipulation” requirements) and may separately investigate and bring civil enforcement actions related to efforts to defraud or attempt to defraud any person or manipulate the price of any contract listed on a DCM.

Rulemaking: Advanced Notice of Proposed Rulemaking

The CFTC states that it is issuing the ANPR in response to “the number of applications for DCM registration has more than doubled over the past year, largely from entities that are interested primarily, or exclusively, in operating prediction markets.” The comments provided, including in areas related to the application of the CEA core principles and the CFTC’s regulations with regard to prediction markets and the types of event contracts that may be potentially prohibited as contrary to the public interest, will assist the agency in the formulation of a potential future agency action, including rulemaking, with respect to prediction markets. Comments will be accepted through April 30, 2026.

The ANPR contains 40 separately numbered questions, many with additional sub-components. Key areas and relevant issues covered include:

- **Application of the CEA's core principles to prediction markets**, including impartial access, prohibitions on abusive trade practices, resolution criteria, susceptibility to manipulation, surveillance and enforcement practices, position limits, margin, and operational risk analysis.
- **Determination of whether an event contract is contrary to the public interest**, given that no contract that is contrary to the public interest may be listed, cleared, or traded on or through a registered entity. Key questions address whether to reconsider reapplying a previous “economic purpose” test; the use of event contracts in hedging, price risk, and price discovery; and clarifications regarding prohibitions against contracts that involve terrorism, assassination, war, gaming, and any activity that is unlawful under federal or state law. Particular interest is given to the relationship between “gaming” and “gambling” under federal and state statutes.
- **The listing process for event contracts**, with a focus on when during the listing process a public interest determination is made, what factors should inform the CFTC’s interpretation of when event contracts “involve” an activity (that is contrary to public interest), and whether public interest determinations could be made for a category of event contracts rather than specific event contracts.

- **The potential for misuse of inside information**, including questioning if prediction markets are more or less likely than other derivative markets to be susceptible to any manipulative or deceptive device or contrivance, if there is some public interest utility if people with an asymmetric information advantage on a particular event contract are able to trade, and if prediction markets are likely to be affected by nonpublic information available to Federal Government employees or officials.
- **Distinctions between event contracts and other types of swaps and futures contracts**, such as embedded risks that warrant separate treatment; how to regulate features that do not meet the statutory definition of “excluded commodities”; and similarities/differences between event contracts and agreements, contracts, or transactions significantly similar to event contracts but not listed on a DCM.

Note: Earlier this year, the CFTC withdrew its 2024 proposal (see KPMG Regulatory Alert [here](#)), which sought to further specify types of event contracts that are contrary to the public interest (i.e., terrorism, assassination, war, gaming, and activity that is unlawful under any Federal or State law) as well as to define “gaming”.

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