6351-01-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Chapter I

RIN 3038-AF65

Prediction Markets

AGENCY: Commodity Futures Trading Commission.

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is issuing this Advance Notice of Proposed Rulemaking and seeking public comment regarding event contract derivatives traded on markets commonly referred to as "prediction markets." In particular, the Commission is seeking information and public comment on statutory core principles and Commission regulations that apply to prediction markets, the types of event contracts that may be prohibited as contrary to the public interest, cost-benefit considerations related to prediction markets, and other topics. The Commission may use the information and comments received from this Notice to inform potential future agency action, such as rulemaking, with respect to prediction markets.

DATES: Comments must be in writing and received by [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by "Prediction Markets" and RIN 3038-AF65, by any of the following methods:

- *CFTC Comments Portal*: *https://comments.cftc.gov.* Select the "Submit Comments" link for this release and follow the instructions on the Public Comment Form.

- *Mail*: Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

- *Hand Delivery/Courier*: Follow the same instructions as for Mail, above.

Please submit your comments using only one of these methods. Submissions through the CFTC Comments Portal are encouraged.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://comments.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (FOIA), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://comments.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and

[1] 17 CFR 145.9.

will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under FOIA.

FOR FURTHER INFORMATION CONTACT: Mark Fajfar, Senior Assistant General Counsel, 202-418-6636, *mfajfar@cftc.gov*, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1151 21st Street, NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
- **A. Prediction Markets**
- **B. Statutory and Regulatory Requirements**
- **C. Past Commission Notices Regarding Prediction Markets**

II. Questions and Request for Comment
- **A. Core Principles and Commission Regulations**
- **B. Public Interest**
- **C. Activities Listed in CEA Section 5c(c)(5)(C)**
- **D. Procedural Aspects of CEA Section 5c(c)(5)(C)**
- **E. Inside Information**
- **F. Types of Event Contracts and Other Issues**

I. Background

A. Prediction Markets

On prediction markets, participants buy and sell contracts based on whether events stated in the contracts occur. Prediction markets "function as information aggregation vehicles" because the contract prices will reflect the market participants' aggregate beliefs regarding whether the events will occur.[2]

[2] *See* Concept Release on Appropriate Regulatory Treatment of Event Contracts, 73 FR 25669, 25669 (May 7, 2008) (2008 Concept Release).

As discussed further below, the contracts traded on prediction markets may fall within the definition in the Commodity Exchange Act (CEA) of the term "swap."[3] The contracts may also be contracts for the future delivery of a commodity (futures contracts) that are covered by the CEA.[4] A prediction market which offers swaps or futures contracts for trading by the general public must register with the CFTC as a designated contract market (DCM), which the Commission is charged with overseeing.[5] Since the early 1990s, parties have sought Commission staff guidance regarding prediction markets, and the Commission first designated a prediction market as a DCM in February 2004.[6]

While the term "event contract" is not a defined term in the CEA or the CFTC's regulations thereunder, the CFTC has used this term to describe derivative contracts, typically with a binary payoff structure, based on the outcome of an underlying

---

[3] *See* CEA section 1a(47), 7 U.S.C. 1a(47).

[4] *See* CEA section 2a(1)(A), 7 U.S.C. 2(a)(1)(A).

[5] *See Id.*, which expressly extends the CFTC's "exclusive jurisdiction" to encompass "transactions involving swaps or contracts of sale of a commodity for future delivery … traded or executed on a contract market designated pursuant to [CEA section 5, 7 U.S.C. 7] …." The CFTC shares jurisdiction over mixed swaps and security futures with the Securities and Exchange Commission (SEC), and the SEC has sole jurisdiction over security-based swaps. *See* section 1a(44) of the CEA, 7 U.S.C. 1a(44) and sections 3(a)(55) and 3(a)(68) of the Securities Exchange Act of 1934 (Exchange Act), 15 U.S.C. 78c(a)(55) and 78c(a)(68). *See also* section 712(d)(1) of Title VII of the Wall Street Transparency and Accountability Act of 2010 (Dodd-Frank Act) (directing the CFTC and SEC to undertake joint rulemaking on covered topics).

[6] *See* CFTC Order of Designation for HedgeStreet, Inc. (Feb. 20, 2004), available at *https://www.cftc.gov/sites/default/files/opa/press04/opa4894-04.htm*. The Commission's Division of Market Oversight issued staff no-action positions to two academic institutions. The no-action positions provide that, subject to specified terms, staff will not recommend enforcement action for operating prediction markets, without registration as a DCM, swap execution facility, or foreign board of trade, that offer trading in political and economic indicator event contracts for academic purposes. *See* CFTC Staff Letter No. 93-66 issued to the University of Iowa (June 18, 1993), available at *https://www.cftc.gov/sites/default/files/idc/groups/public/@lrlettergeneral/documents/letter/93-66.pdf*. This no-action position superseded a more limited no-action position issued in 1992. *See also* CFTC Staff Letter No. 14-130 issued to Victoria University of Wellington, New Zealand (Oct. 29, 2014), available at *https://www.cftc.gov/csl/14-130/download*.

occurrence or event since at least 2008.[7] In this document, the term "prediction market" refers to a CFTC-registered DCM or swap execution facility (SEF) that offers event contracts for trading.[8]

Since 2021, the Commission has observed a significant increase in the number of event contracts listed for trading on prediction markets, as well as in the diversity of occurrences and events underlying such contracts.[9] The Commission has also received recent applications for DCM registration, and expressions of interest regarding DCM registration, from entities that have indicated that they are interested primarily, or exclusively, in operating prediction markets.[10]

As noted above, event contracts can fall within multiple subsections of the CEA's definition of "swap." CEA section 1a(47)(A)(ii) defines "swap" to include "any agreement, contract, or transaction . . . that provides for any purchase, sale, payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with

---

[7] *See* 2008 Concept Release. *See also* Contracts & Products: Event Contracts, available at *https://www.cftc.gov/IndustryOversight/ContractsProducts/index.htm*.

[8] In addition to DCMs, a SEF may make any swap, including an event contract, available for trading. *See* CEA section 5h, 7 U.S.C. 7b-3. However, swap trading on a SEF is not available to the general public, but rather only to institutional investors within the definition of "eligible contract participant" in CEA section 1a(18), 7 U.S.C. 1a(18).

[9] From 2006-2020, DCMs listed for trading an average of approximately five event contracts per year. In 2021, this number increased to 131, and the number of newly-listed event contracts per year remained at a similar level until 2025, when DCMs certified approximately 1,600 event contracts for listing for trading. These event contracts are based on a wide variety of financial indices, economic indicators, weather events, political events, international events, scientific and cultural events, current events, and sporting events. A list of event contracts certified for listing is available on the CFTC's web site. *See* *https://www.cftc.gov/IndustryOversight/IndustryFilings/TradingOrganizationProducts?Status=Certified&Category=Event*.

[10] As of March 2026, Commission staff are reviewing several pending applications for DCM designation from entities with a stated interest in operating prediction markets. Commission staff have received multiple additional inquiries from other entities indicating an interest in applying for DCM registration in order to operate prediction markets.

a potential financial, economic, or commercial consequence."[11] Also, CEA section 1a(47)(A)(i) defines the term "swap" to include "any agreement, contract, or transaction . . . that is a put, call, cap, floor, collar, or similar option of any kind that is for the purchase or sale, or based on the value, of 1 or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind."[12] Event contracts traded as swaps under CEA section 1a(47)(A)(i) are sometimes referred to as binary options, a type of swap which is an "option whose payoff is either a fixed amount or zero."[13]

Prediction markets can also list event contracts for trading as futures contracts.[14] Since futures contracts are specifically excluded from the statutory definition of "swap," these event contracts are not swaps.[15]

Although the event contracts listed on CFTC-registered DCMs and SEFs are swaps or futures contracts subject to the jurisdiction of the CFTC,[16] other event contracts referencing events associated with potential financial, economic or commercial

---

[11] 7 U.S.C. 1a(47)(A)(ii).

[12] 7 U.S.C. 1a(47)(A)(i).

[13] *See* CFTC Futures Glossary, available at *https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/CFTCGlossary/index.htm#B*.

[14] *See* CEA section 2a(1)(A), 7 U.S.C. 2(a)(1)(A). A list of event contracts certified for listing as futures contracts is available on the CFTC's web site. *See* *https://www.cftc.gov/IndustryOversight/IndustryFilings/TradingOrganizationProducts?Type=Future&Category=Event*.

[15] CEA section 1a(47)(B), 7 U.S.C. 1a(47)(B), provides that "[t]he term 'swap' does not include – (i) any contract of sale of a commodity for future delivery (or option on such contract) …."

[16] *See supra*, note 5.

consequences may be security-based swaps or other instruments subject to the jurisdiction of the SEC.[17]

B. Statutory and Regulatory Requirements

A prediction market that seeks to list event contracts for trading, or make event contracts available for clearing, must comply with the substantive and procedural requirements that apply, more generally, to the listing for trading, or making available for clearing, of derivative contracts.[18] Further, a prediction market is subject to statutory requirements to only list or permit trading in derivative contracts that are not readily susceptible to manipulation;[19] to enforce compliance with contract terms and conditions;[20] and to monitor trading on the exchange in order to prevent manipulation, price distortion, and disruption of the settlement process through market surveillance, compliance, and enforcement practices and procedures.[21]

In addition to the more generally applicable requirements to which registered entities are subject when listing derivative contracts for trading or making such contracts available for clearing, CEA section 5c(c)(5)(C) grants the Commission the authority to prohibit prediction markets from listing for trading or making available for clearing

---

[17] *See* 7 U.S.C. 1a(47)(B) (providing "exclusions" from the definition of "swap" under the CEA, including for securities such as security based-swaps, certain options, and debt securities); *see also, e.g.*, 15 U.S.C. 78c(a)(68)(A) (defining "security-based swap" under the Exchange Act).

[18] For example, Regulation 40.2, 17 CFR 40.2, sets forth the general process by which a DCM or SEF may list a new derivative contract for trading by providing the Commission with a written certification. *See also infra*, note 27.

[19] *See* Core Principle 3 for DCMs, CEA section 5(d)(3), 7 U.S.C. 7(d)(3), and Core Principle 3 for SEFs, CEA section 5h(f)(3), 7 U.S.C. 7b-3(f)(3).

[20] *See* Core Principle 2 for DCMs, CEA section 5(d)(2), 7 U.S.C. 7(d)(2), and Core Principle 2 for SEFs, CEA section 5h(f)(2), 7 U.S.C. 7b-3(f)(2).

[21] *See* Core Principle 4 for DCMs, CEA section 5(d)(4), 7 U.S.C. 7(d)(4), and Core Principle 4 for SEFs, CEA section 5h(f)(4), 7 U.S.C. 7b-3(f)(4).

particular types of event contracts, if the Commission determines that such contracts are contrary to the public interest.[22]

Specifically, CEA section 5c(c)(5)(C)(i) provides that, "[i]n connection with the listing of agreements, contracts, transactions, or swaps in excluded commodities[[23]] that are based upon the occurrence, extent of an occurrence, or contingency (other than a change in the price, rate, value, or levels of a commodity described in [CEA] section la(2)(i)),[[24]] by a [DCM] or [SEF], the Commission may determine that such agreements, contracts, or transactions are contrary to the public interest if the agreements, contracts, or transactions involve—(I) activity that is unlawful under any Federal or State law; (II) terrorism; (III) assassination; (IV) war; (V) gaming; or (VI) other similar activity determined by the Commission, by rule or regulation, to be contrary to the public interest."[25]

In 2011, the Commission adopted final rules under part 40 of the Commission's regulations, including new Regulation 40.11.[26] The Commission adopted

---

[22] 7 U.S.C. 7a-2(c)(5)(C).

[23] The term "excluded commodity" is defined in CEA section 1a(19), 7 U.S.C. 1a(19), as: "(i) an interest rate, exchange rate, currency, security, security index, credit risk or measure, debt or equity instrument, index or measure of inflation, or other macroeconomic index or measure; (ii) any other rate, differential, index, or measure of economic or commercial risk return, or value that is—(I) not based in substantial part on the value of a narrow group of commodities not described in clause (i); or (II) based solely on one or more commodities that have no cash market; (iii) any economic or commercial index based on prices, rates, values, or levels that are not within the control of any party to the relevant contract, agreement, or transaction; or (iv) an occurrence, extent of an occurrence, or contingency (other than a change in the price, rate, value, or level of a commodity not described in clause (i)) that is—(I) beyond the control of the parties to the relevant contract, agreement, or transaction; and (II) associated with a financial, commercial, or economic consequence."

[24]There is no "section 1a(2)(i)" in the CEA. The Commission believes that the reference in CEA section 5c(c)(5)(C)(i) to "section 1a(2)(i)" is a typographical or drafting error.

[25] 7 U.S.C. 7a-2(c)(5)(C)(i). CEA section 5c(c)(5)(C)(ii), 7 U.S.C. 7a-2(c)(5)(C)(ii), further provides that "[n]o agreement, contract or transaction determined by the Commission to be contrary to the public interest under clause (i) may be listed or made available for clearing or trading on or through a registered entity."

[26] Provisions Common to Registered Entities, 76 FR 44776 (July 27, 2011).

Regulation 40.11 to implement CEA section 5c(c)(5)(C) as part of broader changes to the Commission's part 40 regulations.[27]

C. Past Commission Notices Regarding Prediction Markets

In 2008, the Commission published the 2008 Concept Release, requesting input from the public on the appropriate regulatory treatment of prediction markets.[28] The 2008 Concept Release was prompted by the Commission's receipt of requests for guidance related to the application of the CEA to prediction markets.[29] The Commission ultimately did not take further action at that time.

In 2024, the Commission proposed rules to further specify the types of event contracts that fall within the scope of CEA section 5c(c)(5)(C) and are contrary to the public interest.[30] In 2026, the Commission withdrew the proposed rules to reconsider them "in light of various forms of state regulatory actions and litigation concerning the Commission's exclusive jurisdiction over event contract derivatives listed on [DCMs]

---

[27] Part 40 of the Commission's regulations, more generally, implements the contract and rule submission requirements for registered entities set forth in CEA section 5c(c). For example, Regulation 40.2 sets forth the general process by which a DCM or SEF may list a new derivative contract for trading by providing the Commission with a written certification – a "self-certification" – that the contract complies with the CEA, including the CFTC's regulations thereunder. 17 CFR 40.2; *see also* CEA section 5c(c)(1), 7 U.S.C. 7a-2(c)(1). The Commission must receive the DCM's or SEF's self-certified submission at least one business day before the contract's listing. 17 CFR 40.2(a)(2). Regulation 40.3 sets forth the general process by which a DCM or SEF may elect voluntarily to seek prior Commission approval of a derivative contract that the DCM or SEF seeks to list for trading. 17 CFR 40.3; *see also* CEA sections 5c(c)(4)-(5), 7 U.S.C. 7a-2(c)(4)-(5). Amendments to an existing derivative contract also must be submitted to the Commission either by way of self-certification or for prior Commission approval. 17 CFR 40.5, 40.6.

[28] *See supra*, note 2.

[29] Between 1992 and 2008, CFTC-registered exchanges listed for trading event contracts involving interests such as regional insured property losses, the count of bankruptcies, temperature volatilities, corporate mergers, and corporate credit events. 2008 Concept Release, 73 FR at 25671.

[30] Event Contracts; Proposed Rule, 89 FR 48968 (June 10, 2024).

and the proper application of the swap and excluded commodity definitions under the [CEA]."[31]

Given that 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 Commission is issuing this Advance Notice of Proposed Rulemaking to seek information about significant issues that have come to light since the 2024 proposal. The comments provided will assist the Commission in the formulation of a potential future agency action, including rulemaking, with respect to prediction markets.

II. Questions and Request for Comment

In responding to each of the following questions, please provide a detailed response, including the rationale for such response, cost and benefit considerations, and relevant supporting information, such as data, or studies when available. The Commission encourages commenters to include the assigned topic number of the specific request for comment in their submitted responses to facilitate the review of public comments by Commission staff.

A. Core Principles and Commission Regulations

1. What factors should the Commission consider in determining whether to provide guidance or amend its regulations regarding how the DCM Core Principles in CEA section 5(d) apply to prediction markets?[32] Are there specific points on which the Commission should provide guidance or adopt rule amendments? Why or why not?

---

[31] Event Contracts; Withdrawal of Proposed Regulatory Action, 91 FR 5386 (Feb. 6, 2026).

[32] 7 U.S.C. 7(d).

2. With respect to the following DCM Core Principles, what factors are relevant to prediction markets?

a. Core Principle 2 states that a DCM "shall establish, monitor, and enforce compliance with the rules of the [DCM], including- (i) access requirements; … and (iii) rules prohibiting abusive trade practices."[33] Regulation 38.151, adopted under this core principle, requires that a DCM provide "impartial access to its markets and services, including … [a]ccess criteria that are impartial, transparent, and applied in a non-discriminatory manner."[34] What aspects of prediction markets affect how a DCM provides impartial access and prohibits abusive trade practices? Are there potential barriers to impartial access that the Commission should consider? Are there particular risks of abusive trading?

b. Core Principle 2 also requires a DCM to "establish, monitor, and enforce compliance with … the terms and conditions of" contracts traded on the DCM.[35] In this regard, what factors should the Commission consider regarding a DCM's rules related to resolution criteria for event contracts? For example, if there is a dispute regarding how an event contract is resolved or how the trigger event for an event contract is determined (such as a dispute regarding whether an event underlying a contract has occurred), what factors should the Commission consider in setting expectations for DCMs to have rules to resolve the dispute? Are dispute resolution procedures for other types of swaps, such as credit default swaps, helpful precedents? Also, what considerations under Core Principle 14, which requires a DCM to have "rules regarding, and provide facilities for alternative

[33] CEA section 5(d)(2), 7 U.S.C. 7(d)(2).

[34] 17 CFR 38.151.

[35] CEA section 5(d)(2)(A)(ii), 7 U.S.C. 7(d)(2)(A)(ii).

dispute resolution as appropriate for, market participants and any market intermediaries,"[36] are relevant in this regard?

c. Core Principle 3 states that a DCM may list "only contracts that are not readily susceptible to manipulation."[37] How should a determination of whether an event contract is "readily susceptible to manipulation" be made? What factors should be considered? Are there particular aspects of event contracts that make this determination different from the determination with respect to other listed contracts? Do any existing rules for other types of exchanges and platforms (i.e., not prediction markets) limit or mitigate the potential for manipulation? If so, how and to what extent are these rules appropriate as requirements for prediction markets? See also the questions regarding inside information in part II.E. below.

d. Core Principle 4 states that a DCM "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."[38] Do any aspects of prediction markets pose challenges to compliance with this Core Principle or, on the other hand, facilitate compliance? Are there market surveillance, compliance, or enforcement practices on which the Commission should focus? Are there existing surveillance practices for detecting suspicious activity in other types of exchanges and platforms that would be useful in prediction markets?

e. Core Principle 5 states that a DCM shall, for each contract, adopt position limitations or position accountability for speculators as is necessary and appropriate to

---

[36] CEA section 5(d)(14), 7 U.S.C. 7(d)(14).

[37] CEA section 5(d)(3), 7 U.S.C. 7(d)(3).

[38] CEA section 5(d)(4), 7 U.S.C. 7(d)(4).

"reduce the potential threat of market manipulation or congestion."[39] What factors should the Commission expect a DCM to consider in adopting position limitations or position accountability for prediction markets? For example, what factors should the Commission consider regarding how position limits across similar event contracts should be aggregated (e.g., whether there is the same underlying reference, or whether there are similar references)? Are there reasons why event contracts, as compared to other swaps and futures contracts, should, or should not, be subject to different position limitations or position accountability? Are existing position limitation or position accountability provisions helpful as precedent for determining how prediction markets should implement such measures?

f. Core Principle 11 requires that a DCM have "rules and procedures for ensuring the financial integrity of transactions entered into on or through facilities of the [DCM] (including the clearance and settlement of the transactions with a derivatives clearing organization [(DCO)]); and rules to ensure the financial integrity of any [intermediary] and the protection of customer funds."[40] Currently, event contracts are fully collateralized. What factors should the Commission consider in determining whether prediction markets should be permitted to offer trading on margin, and should such factors be different for retail as opposed to institutional customers? If margin is provided to retail customers, what disclosure, if any, should the Commission consider to ensure that customers are fully informed of the consequences and potential losses resulting from the customer's failure to meet margin requirements? If prediction markets

[39] CEA section 5(d)(5), 7 U.S.C. 7(d)(5).

[40] CEA section 5(d)(11), 7 U.S.C. 7(d)(11) (formatting modified).

are allowed to offer trading on margin, what factors should be involved in the calculation of initial margin, such as concentration, or liquidity (i.e., the cost to the DCM to liquidate a defaulting member's portfolio)? What methods should be involved, such as a flat percentage rate or a statistical analysis? Given that some event contracts resolve quickly and others may not resolve for years, what time series of data and other time period considerations should be involved when calibrating appropriate margin? What factors should be involved in considering other issues such as whether daily variation margin should be required, the time intervals for collecting margin, and the instruments permitted for posting initial margin and exchanging variation margin? What products should be eligible for cross-margin with event contracts if trading on margin is allowed? See also question 3.c. regarding the implications of margin trading for DCOs.

g. Core Principle 20 requires a DCM to "establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk, through the development of appropriate controls and procedures, and the development of automated systems, that are reliable, secure, and have adequate scalable capacity."[41] What sources of operational risk related to prediction markets should the Commission consider? What operational risk analysis and other measures do prediction markets currently employ? Are there challenges to the reliability, security or scalable capacity of the systems used by prediction markets?

h. In general under the DCM Core Principles, what factors should the Commission consider with respect to blockchain-based prediction markets? Are there challenges or advantages in applying existing regulations and guidance to blockchain-

[41] CEA section 5(d)(20), 7 U.S.C. 7(d)(20).

based prediction markets? Which areas, if any, would benefit from Commission guidance or rule amendments for blockchain-based prediction markets?

3. Are there aspects of the clearing of event contracts that the Commission should consider in applying the DCO Core Principles in CEA section 5b(c)(2)?[42] Are there specific points on which the Commission should provide guidance or adopt rule amendments? If so, why?

a. The following DCO Core Principles may be relevant in this regard: (C) participant and product eligibility, (D) risk management, (H) rule enforcement, and (I) system safeguards.[43] What factors should the Commission consider in applying these Core Principles?

b. Are there relevant differences in how the Core Principles and underlying regulations for DCMs and DCOs apply to prediction markets? If so, how should the differences factor into the Commission's consideration of these issues?

c. What implications for DCOs should the Commission consider if event contracts were traded on prediction markets on margin? Are there any issues arising with respect to, for example, the requirements in DCO Core Principle D that "(iv) … [t]he margin required from each member and participant of a [DCO] shall be sufficient to cover potential exposures in normal market conditions" and "(v) … [e]ach model and parameter used in setting margin requirements under clause (iv) shall be- (I) risk-based; and (II) reviewed on a regular basis"?[44] What factors should the Commission consider regarding the clearing silo, if any, that would be appropriate for event contracts? What

[42] 7 U.S.C. 7a-1(c)(2).

[43] CEA sections 5b(c)(2)(C), (D), (H), (I), 7 U.S.C. 7a-1(c)(2)(C), (D), (H), (I).

[44] CEA section 5b(c)(2)(D), 7 U.S.C. 7a-1(c)(2)(D).

factors should the Commission consider regarding whether event contracts should be eligible for margin credit or cross margin, both on DCOs, and when cross-margined with securities exchanges? See also question 2.f. regarding margin considerations for DCMs.

4. Institutional traders (that is, parties that are eligible contract participants) may enter into event contracts on prediction markets registered as SEFs, which are subject to Core Principles in CEA section 5h(f).[45] Are there aspects of prediction markets that the Commission should consider in applying these Core Principles? How is trading on prediction markets by institutional traders the same, or different from, retail trading on prediction markets? How would or does prediction market trading on DCMs and SEFs impact liquidity in both types of exchanges? What factors should the Commission consider in determining whether any public disclosure requirements should apply to prediction market trading on SEFs? For example, would public disclosure help to mitigate, or exacerbate, adverse selection? Are there specific points on which the Commission should provide guidance or adopt rule amendments? If so, why?

5. What factors should the Commission consider in determining whether to provide guidance or amend any other of its regulations with respect to the listing, trading, and clearing of event contracts on prediction markets?

a. CEA section 2(a)(13) authorizes the Commission "to make swap transaction and pricing data available to the public in such form and at such times as the Commission determines appropriate to enhance price discovery."[46] CEA section 2(a)(13)(G) states

[45] 7 U.S.C. 7b-3(f). The term "eligible contract participant" is defined in CEA section 1a(18), 7 U.S.C. 1a(18).

[46] 7 U.S.C. 2(a)(13)(B); *see also* 17 CFR part 43 and 17 CFR part 45.

that each swap "shall be reported to a registered swap data repository."[47] What factors should the Commission consider in applying these provisions to prediction markets listing event contracts as swaps? Are there aspects of event contract swaps that hinder or facilitate their reporting to a swap data repository or the public availability of the relevant transaction and pricing data? To what extent should such reporting and data availability be standardized in order, for example, to facilitate Commission analysis and to detect potential cross-market activity from a risk or manipulation perspective? Are public identifiers (e.g. CUSIP/ISIN/LEI)[48] appropriate for event contracts? How does such reporting and data availability relate to enhanced price discovery?

b. CEA section 4c(a)(1) and (2)(A) provide that it is unlawful to enter into a transaction involving a futures contract, option thereon, or swap, if the transaction is a pre-arranged or noncompetitive trade, or a wash sale.[49] What factors should the Commission consider in applying these provisions to prediction markets? Are there aspects of prediction markets that make them more or less susceptible to pre-arranged or noncompetitive trades, or wash sales?

c. CEA section 4c(a)(5) provides that it is unlawful to engage, on any CFTC-registered entity, in disruptive trading practices.[50] What factors should the Commission

---

[47] 7 U.S.C. 2(a)(13)(G).

[48] A CUSIP number is an identifier for financial instruments assigned by the Committee on Uniform Securities Identification Procedures. An International Securities Identification Number (ISIN) is an identifier used globally. A legal entity identifier (LEI) is assigned through the Global Legal Entity Identifier Foundation.

[49] 7 U.S.C. 6c(a)(1) and (2)(A). *See also* Regulation 1.38(a), 17 CFR 1.38(a) (competitive execution requirement).

[50] 7 U.S.C. 6c(a)(5).

consider in applying this provision to prediction markets? Are there aspects of prediction markets that make them more or less susceptible to disruptive trading practices?

6. With respect to any rule changes that the Commission may propose for the foregoing reasons, what are the relevant considerations of costs and benefits?[51] What less costly alternatives should the Commission consider? Please provide any relevant specific information, data, or studies regarding the costs and benefits of such regulations that you may have.

B. Public Interest

7. As described above, CEA section 5c(c)(5)(C) provides for the Commission to make a determination that event contracts are "contrary to the public interest" if the event contracts involve any of five listed activities or "other similar activity determined by the Commission, by rule or regulation, to be contrary to the public interest."[52] In general, what factors should the Commission consider in making a public interest determination under this section? (Public interest factors specific to the five listed activities are discussed in part II.C., below, in connection with those activities.)

8. The public interests underlying the CEA are described in CEA section 3(a), which states that "[t]he transactions subject to [the CEA] … 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

---

[51] CEA section 15(a) requires that the Commission, before it promulgates a regulation under the CEA, consider the costs and benefits of its action. 7 U.S.C. 19(a). Further, CEA section 15(a)(2) states that "[t]he costs and benefits of the proposed Commission action shall be evaluated in light of- (A) considerations of protection of market participants and the public; (B) considerations of the efficiency, competitiveness, and financial integrity of futures markets; (C) considerations of price discovery; (D) considerations of sound risk management practices; and (E) other public interest considerations." 7 U.S.C. 19(a)(2). In responding to this question, please consider these five considerations.

[52] 7 U.S.C. 7a-2(c)(5)(C).

secure trading facilities."[53] Further, CEA section 3(b) provides that in order to foster the public interests described in subsection (a), the purposes of the CEA include "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 [DCMs], other markets and market participants."[54] How should the public interests set out in CEA section 3 inform the Commission's public interest determination under CEA section 5c(c)(5)(C)?

9. Under a past version of the CEA that was repealed in 2000, the Commission applied an "economic purpose" test as part of determining whether a DCM could list a contract for trading.[55] Are there any elements of the former "economic purpose" test that should or should not be applied in the Commission's public interest determination under CEA section 5c(c)(5)(C)?

10. What role do event contracts play in "managing and assuming price risks, discovering prices, or disseminating pricing information" as contemplated by CEA section 3(a)? How are event contracts used in hedging, which is one aspect of managing price risks? How should the Commission incorporate considerations of hedging, price risk, price discovery, and price dissemination in its public interest determination under CEA section 5c(c)(5)(C)?

---

[53] 7 U.S.C. 5(a).

[54] 7 U.S.C. 5(b).

[55] *See* 2008 Concept Release, 73 FR at 25672.

11. CEA section 3(b) lists several purposes of the CEA, including to prevent price manipulation, to protect all market participants from fraudulent or other abusive sales practices, and to promote responsible innovation and fair competition.[56] What factors should the Commission consider in its effort to fulfill these purposes with respect to prediction markets? Is there any potential conflict between these purposes, and if so, how should they be balanced?

12. How do event contracts compare to, or substitute for, insurance contracts? Should the liquidity and availability of insurance with respect to a particular event be a factor in the Commission's public interest determination?

13. Why, or why not, would it be appropriate for the Commission to propose any changes to its regulations related to its public interest determination?

14. If the Commission were to propose any changes to its regulations related to its public interest determination, what considerations of costs and benefits would be relevant to those changes? What less costly alternatives should the Commission consider? Please provide any relevant specific information, data, or studies that you may have regarding the costs and benefits of such rule changes.

C. Activities Listed in CEA Section 5c(c)(5)(C)

15. CEA section 5c(c)(5)(C) lists five activities, and provides that if an event contract involves any such activity, the Commission may determine that the event contract is contrary to the public interest. What factors should the Commission consider in determining the scope of these five listed activities? What aspects of these activities would be relevant to the Commission's public interest determination?

---

[56] 7 U.S.C. 5(b).

16. The first listed activity is an "activity that is unlawful under any Federal or State law." What types of event contracts could potentially involve such activity? What steps should the Commission appropriately take in order to determine which State laws may be involved in a particular event contract? What steps should the Commission appropriately take in order to determine which Federal laws, such as the Exchange Act, may be involved in a particular event contract? If an event contract involves an activity that is unlawful under some State laws, but not others, how should this conflict be resolved? What public interest factors should the Commission consider for event contracts involving unlawful activity?

17. The second and third listed activities are terrorism and assassination. Are the meanings of these terms self-evident, or are there any ambiguities that the Commission should consider? Are specific definitions in other contexts, such as insurance, helpful? Would event contracts involving cyberterrorism be covered by the terrorism provision, and if so, what factors distinguish cyberterrorism from other cyber attacks? What public interest factors should the Commission consider for event contracts involving terrorism or assassination?

18. The fourth activity is war. Does this activity encompass all military actions, or are there military actions that do not constitute war? What factors distinguish war from, for example, civil unrest? What factors distinguish war from political actions, or other actions as part of international relations? Are specific definitions in other contexts, such as insurance, helpful? What public interest factors should the Commission consider for event contracts involving war?

19. The fifth activity is gaming. What factors should the Commission consider in determining the scope and public interest implications of this activity?

a. What sources should inform the Commission's determination of the scope of the term "gaming"? For example, is gaming synonymous with, or more or less extensive than, the scope of activities covered by State and Federal gambling statutes? Are there characteristics – such as an entertainment purpose, or an element of chance – that distinguish gaming from other activities?

b. In this regard, how should the Commission distinguish between various types of contests? For example, should a sports competition be treated differently than an award competition, and if so, what factors support this distinction? What other types of contests should or should not be considered to be gaming?

c. What aspects of event contracts involving gaming should the Commission consider in a public interest determination? For these event contracts, are there any challenges to the deterrence of manipulation and protection from abusive sales practices contemplated by CEA section 3(b)? If so, how could these challenges be mitigated? How are the responsible innovation and fair competition goals in CEA section 3(b) served by event contracts involving gaming?

d. How should the Commission factor into its public interest determination the characteristics of market participants that trade event contracts involving gaming? For example, do these market participants tend to be younger than those trading other financial instruments, and if so, how should this inform the Commission's consideration?

e. What aspects of responsible gaming standards, such as self-exclusion programs, monetary or time limits, or advertising limits, disclaimers, or warnings, should the Commission consider in its public interest determination?

f. How do the various types of event contract that involve gaming differ from each other? How are these differences relevant to the Commission's public interest determination?

20. CEA section 5c(c)(5)(C)(i)(VI) provides that the Commission may determine that an event contract is contrary to the public interest if it involves another "similar activity determined by the Commission, by rule or regulation, to be contrary to the public interest."[57] What factors should the Commission consider in determining whether an activity is similar to the activities listed in CEA section 5c(c)(5)(C)? Are there any examples of existing event contracts involving potentially similar activities that should be a factor in the Commission's determination on this issue? Are there any differences in how the public interest determination should be applied to such similar activities, as compared to the listed activities?

21. Why, or why not, would it be appropriate for the Commission to propose any changes to its regulations related to the activities listed in CEA section 5c(c)(5)(C)?

22. If the Commission were to propose any changes to its regulations related to the activities listed in CEA section 5c(c)(5)(C), what considerations of costs and benefits would be relevant to those changes? What less costly alternatives should the Commission consider? Please provide any relevant specific information, data, or studies that you may have regarding the costs and benefits of such regulations or rule changes.

---

[57] 7 U.S.C. 7a-2(c)(5)(C)(i)(VI).

D. Procedural Aspects of CEA Section 5c(c)(5)(C)

23. CEA section 5c(c)(5)(C)(i) provides that the Commission may make a public interest determination "[i]n connection with the listing" of event contracts by prediction markets.[58] What aspects of the prediction market listing process are relevant to deciding at what point in the listing process the public interest determination could occur? What factors should inform the Commission's interpretation of what occurs "[i]n connection with the listing" by a prediction market of an event contract? For example, why would it be appropriate, or not, for the Commission to make a public interest determination when a listing application is reasonably expected, but not yet filed?

24. What factors should inform the Commission's interpretation of whether CEA section 5c(c)(5)(C) contemplates that elements of a public interest determination could be made with respect to a category of event contracts, rather than a specific event contract? For example, what factors should the Commission consider in determining whether to provide guidance regarding how it expects to make any public interest determination? Would it be useful for the Commission to provide illustrative examples of event contracts that do, or do not, involve the listed activities? Why or why not?

25. CEA section 5c(c)(5)(C)(i) provides that the Commission may make a public interest determination for event contracts that "involve" the listed activities.[59] What elements are relevant to determining what event contracts "involve"? What factors should inform the Commission's interpretation of when event contracts are sufficiently tied to a listed activity in order to say that the event contracts "involve" that activity?

---

[58] 7 U.S.C. 7a-2(c)(5)(C)(i).

[59] *Id*.

26. CEA section 5c(c)(5)(C)(iv) provides that the Commission must take final action regarding its public interest determination "not later than 90 days from the commencement of [the Commission's] review unless the party seeking to offer the contract or swap agrees to an extension."[60] How should this time limit inform the Commission's procedure for making public interest determinations? Considering this limitation, what steps would be appropriate, or not, for the Commission to take prior to making its determination?

27. Why, or why not, would it be appropriate for the Commission to propose any changes to its regulations related to procedures under CEA section 5c(c)(5)(C)?

28. If the Commission were to propose any changes to its regulations related to procedures under CEA section 5c(c)(5)(C), what considerations of costs and benefits would be relevant to those changes? What less costly alternatives should the Commission consider? Please provide any relevant specific information, data, or studies that you may have regarding the costs and benefits of such regulations or rule changes.

E. Inside Information

29. The price on a prediction market could be viewed as an indication of how likely the underlying event is to occur. The price may be a more reliable indicator of probability if the people trading on the prediction market have some insight into how likely the underlying event is to occur. On the other hand, trading by these informed participants may lead to manipulation, unfairness, and the misuse of inside information. Is there some public interest utility if people with an asymmetric information advantage on a particular event contract are able to trade on prediction markets? Does the public

[60] 7 U.S.C. 7a-2(c)(5)(C)(iv).

interest utility depend on the type of event in question? What factors should the Commission consider in evaluating and balancing the public interest in this scenario?

30. Some events underlying event contracts are under the control of a single individual or small group of individuals. What role should this aspect of event contracts play in the Commission's consideration of how prediction markets should be regulated? Do the considerations change depending on the type of event in question? Are there particular challenges related to cross-market manipulation – for example, where an individual or small group of individuals seeks to move the prediction market to influence another market, or vice versa? Are prediction markets more likely than other DCMs or SEFs to be susceptible to manipulation? Why or why not?

31. CEA section 6(c)(1) provides that "[i]t shall be unlawful for any person, directly or indirectly, to use or employ, or attempt to use or employ, in connection with any swap, or a contract of sale of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Commission shall promulgate by [July 21, 2011], provided no rule or regulation promulgated by the Commission shall require any person to disclose to another person nonpublic information that may be material to the market price, rate, or level of the commodity transaction, except as necessary to make any statement made to the other person in or in connection with the transaction not misleading in any material respect."[61] What aspects of prediction markets are relevant to the application of this statute? Are prediction markets more or less likely than other derivative markets to be susceptible to "any manipulative or deceptive

[61] 7 U.S.C. 9(1). *See also* Regulation 180.1, 17 CFR 180.1.

device or contrivance"? How should the potential for application of this statute inform the Commission's regulation of prediction markets?

32. CEA section 4c(a)(3) provides that "[i]t shall be unlawful for any employee or agent of any department or agency of the Federal Government or any Member of Congress or employee of Congress … or any judicial officer or judicial employee … who, by virtue of the employment or position of the Member, officer, employee or agent, acquires information that may affect or tend to affect the price of any commodity in interstate commerce, or for future delivery, or any swap, and which information has not been disseminated [or disclosed] … in a manner which makes it generally available to the trading public, … to use the information in his personal capacity and for personal gain to enter into, or offer to enter into [a futures contract, option on a futures contract, commodity option, or swap]."[62] Similarly, CEA section 4c(a)(4) provides that it is unlawful for any such Federal Government employee or official to impart such information in his personal capacity and for personal gain with intent to assist another person in entering into a futures contract, option on a futures contract, commodity option, or swap, and it is unlawful for the other person who receives such information from any such Federal Government employee or official to knowingly use the information in such transactions.[63] How are prediction markets likely to be affected by nonpublic information that is available to Federal Government employees or officials? How should the potential for application of this statute inform the Commission's regulation of prediction markets?

F. Types of Event Contracts and Other Issues

[62] 7 U.S.C. 6c(a)(3).

[63] 7 U.S.C. 6c(a)(4).

33. As noted above, event contracts may be covered by the statutory definition of the term "swap" in CEA section 1a(47)(A).[64] What aspects of prediction markets are relevant to whether event contracts should, or should not, appropriately be classified as swaps? What aspects, if any, distinguish event contracts from other types of swaps? The definition in CEA section 1a(47)(A)(ii) includes an event contract that "is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence."[65] What potential financial, economic, or commercial consequences underlie event contracts? Similarly, CEA section 1a(47)(A)(i) includes an event contract that is an option "based on the value, of … financial or economic interests or property of any kind."[66] How are any event contracts based on the value of financial or economic interests or property? What idiosyncratic risks embedded in event contracts differentiate them from other commodity derivative instruments? How should the Commission take these risks into account when considering how to regulate event contracts and prediction markets? Commodity options are also covered by the statutory swap definition in CEA section 1a(47)(A)(i).[67] How are event contracts similar to, or different from, other types of commodity options?

34. Event contracts are also traded on DCMs as futures contracts.[68] What aspects of prediction markets are relevant to whether event contracts should, or should not,

---

[64] *See* text accompanying note 11, *supra*.

[65] 7 U.S.C. 1a(47)(A)(ii).

[66] 7 U.S.C. 1a(47)(A)(i).

[67] *Id*.

[68] *See supra*, note 14.

appropriately be classified as futures contracts? What aspects, if any, distinguish event contracts from other types of futures contracts?

35. The event underlying an event contract is typically within the definition of the term "excluded commodity" in CEA section 1a(19).[69] Are there any event contracts that are based on events that are not within this statutory definition? If so, how are those event contracts similar to, or different from, event contracts based on events that are within the statutory definition of "excluded commodity"? How are such differences, if any, relevant to the Commission's regulation of event contracts and prediction markets?

36. Are there any agreements, contracts or transactions that are significantly similar to event contracts, but are not listed on a DCM or SEF? If so, how are those agreements, contracts or transactions similar to, or different from, event contracts listed on DCMs and SEFs?

37. In the 2012 joint rulemaking to further define the term "swap," the CFTC and the SEC adopted an interpretation which, in part, listed certain types of agreements, contracts, or transactions that "will not be considered swaps or security-based swaps when entered into by consumers (natural persons) … primarily for personal, family, or household purposes."[70] In doing so, the CFTC and SEC stated that they "do not believe that Congress intended to include these types of customary consumer and commercial agreements, contracts, or transactions in the swap or security-based swap definition, to limit the types of persons that can enter into or engage in them, or to otherwise to subject

---

[69] 7 U.S.C. 1a(19). The definition is set out in full in note 23, *supra*.

[70] Further Definition of "Swap," "Security-Based Swap," and "Security-Based Swap Agreement"; Mixed Swaps; Security-Based Swap Agreement Recordkeeping, 77 FR 48208, 48246 (Aug. 13, 2012). This further definition was adopted pursuant to Dodd-Frank Act section 712(d)(1), which directed the CFTC and SEC to undertake a joint rulemaking to define, among other terms, "Swap," "Security-Based Swap," and "Security-Based Swap Agreement."

these agreements, contracts, or transactions to the regulatory scheme for swaps and security-based swaps."[71] Are any event contracts similar to, or different from, the types of agreements, contracts and transactions that are excluded from the swap definition under this interpretation? How are such similarities or differences, if any, relevant to the CFTC's regulation of those event contracts?

38. As noted above, CEA section 15(a) requires that the Commission, before it promulgates a regulation under the CEA, consider the costs and benefits of its action, including an evaluation "in light of- (A) considerations of protection of market participants and the public; (B) considerations of the efficiency, competitiveness, and financial integrity of futures markets; (C) considerations of price discovery; (D) considerations of sound risk management practices; and (E) other public interest considerations."[72] How are these five considerations relevant to the Commission's regulation of prediction markets? In general, what other costs and benefits should the Commission consider as it determines whether to adopt or amend any regulations with respect to prediction markets? Are there less costly alternatives that the Commission should consider? If possible, please provide specific information, data, or studies that you believe would be helpful to the Commission in this regard.

39. CEA section 15(b) requires that the Commission "take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of [the CEA], as well as the policies and purposes of [the CEA], in issuing any order or adopting any Commission rule or

---

[71] *Id.*

[72] 7 U.S.C. 19(a).

regulation."[73] What aspects of prediction markets are relevant to the Commission's consideration of the public interest to be protected by the antitrust laws as it determines whether to adopt or amend any regulations with respect to prediction markets? It may be appropriate to consider the scope of the relevant market in this regard; in that case, what factors should the Commission take into account? Also, it may be appropriate for the Commission to "endeavor to take the least anticompetitive means," as contemplated by CEA section 15(b), with respect to prediction markets; in that case, what factors should the Commission take into account?

40. As noted above, the Commission has received recent applications for DCM registration from entities that have indicated that they are interested primarily, or exclusively, in operating prediction markets. While registered entities are not considered small entities by the Commission for Regulatory Flexibility Act (RFA) purposes,[74] the Commission is nevertheless seeking information on how any potential rule changes for prediction markets would impact "small entities" as defined by the RFA.[75] What

---

[73] 7 U.S.C. 19(b).

[74] The Commission previously determined that DCMs are not small entities in accordance with the RFA. *See* Policy Statement and Establishment of Definitions of "Small Entities" for Purposes of the Regulatory Flexibility Act, 47 FR 18618 (Apr. 30, 1982). Similarly, the Commission previously determined that SEFs are not small entities for purposes of the RFA. *See* Core Principles and Other Requirements for SEFs, 78 FR 33476, 33548 (June 4, 2013).

[75] 5 U.S.C. 601 et seq. The RFA provides that the term "small entity" has the same meaning as "small business", ''small organization'' and ''small governmental jurisdiction'' defined in paragraphs (3), (4) and (5) of section 601. "Small business," in turn, is defined as having the same meaning of "small business concern" set forth in section 3 of the Small Business Act (SBA). 5 U.S.C. 601(6). The RFA permits an agency to establish its own definition of small entity; otherwise, size standards set forth by the SBA apply. A size standard, which is usually stated in number of employees or average annual receipts, represents the largest size that a business (including its subsidiaries and affiliates) may be to remain classified as a small business for SBA and federal contracting programs. The definition of "small" varies by industry. The SBA provides that the small business size threshold for securities and commodity exchanges is $47 million in average annual receipts. *See* SBA's 2022 Table of Size Standards, classifying securities and commodity exchanges under the North American Industry Classification System (NAICS), code 523210, Sector 52-Finance and Insurance, Subsector 523-Securities, Commodity Contracts, and Other Financial Investments and Related Activities, available at *https://www.sba.gov/document/support-table-size-standards*.

projected cost increases would there be for any small entities impacted by a potential rule change? What less costly alternatives or flexibilities should the Commission consider? In general, how do small entities use prediction markets?

The Office of Management and Budget has determined that this action is a significant regulatory action as defined in Executive Order 12866, as amended, and this action has been reviewed by the Office of Management and Budget.

Issued in Washington, DC, on March 12, 2026, by the Commission.

Christopher Kirkpatrick,

Secretary of the Commission.

NOTE: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Prediction Markets – Commission Voting Summary

On this matter, Chairman Selig voted in the affirmative. No Commissioner voted in the negative.