Submitted via CFTC Comments Portal

Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre 1155 21st Street NW
Washington, D.C. 20581

July 27, 2026

Re: Response to the Commodity Futures Trading Commission's Request for Comments on Prediction Markets; Public Interest Determinations (RIN 3038–AF65)

Dear Secretary Kirkpatrick,

Paradigm Operations LP ("***Paradigm***") is a frontier technology investment firm that invests and builds in crypto, AI, robotics, and across new frontiers from the earliest stages.[1] Paradigm supports the broad availability of regulated prediction markets to American investors. These markets are not merely technologically innovative—they are also a valuable source of information to the public and a means for market participants to hedge exposure to specific future events.

As a participant in this developing field, Paradigm brings a valuable perspective and a wealth of experience to issues concerning prediction markets. Paradigm has, for example, previously commented on the CFTC's Advance Notice of Proposed Rulemaking regarding event contracts.[2] Paradigm is also active in the ongoing litigation concerning whether the Commodity Exchange Act ("***CEA***") preempts state regulation of sports- or politics-related event contracts. Paradigm has appeared as an amicus party in multiple pending or resolved cases, including alongside the Commodity Futures Trading Commission ("***CFTC***" or the "***Commission***") in the Ninth and Sixth Circuits.[3]

Paradigm believes that flexible, principles-based, and nuanced rulemaking will facilitate responsible and continued innovation in prediction markets. The Commission's notice of proposed rulemaking (the "***NPRM***") is an important step in this direction. The NPRM proactively engages

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1 More information about Paradigm is available online at https://www.paradigm.xyz.

2 *See* Paradigm Comment Regarding CFTC's Advance Notice of Proposed Rulemaking, available at https://assets.ctfassets.net/vb2n37v5ldjn/asset-https-cdn-sanity-io-files-dgybcd83-p-267c5629ff/800b1527e246d4ded1d01bb1f27a66e7/asset-https-cdn-sanity-io-files-dgybcd83-p-267c5629ff.pdf (Apr. 30, 2026).

3 *See, e.g.*, Amicus Curiae Br. of Paradigm Operations LP in Support of Appellant, *North American Derivatives Exchange, Inc. v. State of Nevada, et al.*, No. 25-7187 (9th Cir. Jan. 15, 2026), Dkt. No. 15; Amicus Curiae Br. of Paradigm Operations, *KalshiEX LLC v. Orgel*, No. 26-5235 (6th Cir. June 24, 2026), Dkt. No. 66.

with central issues relevant to the fair and effective regulation of prediction markets and sets the stage for the industry's success and stability, consistent with the provisions and intent of the CEA.[4]

Paradigm endorses the thoughtful approach the CFTC has taken in the NPRM. Its comments focus on three areas that Paradigm believes merit special attention. ***First***, Paradigm offers strong support for the Commission's proposed ordinary-meaning approach to the definition of "gaming" and urges the Commission to consider certain refinements that may enhance the definition's administrability. ***Second***, Paradigm commends the Commission for adopting a nuanced approach to the public interest analysis, which is firmly rooted in the statutory text. To bolster that analysis, Paradigm provides a modest suggestion regarding the appropriate role of input from professional sports leagues in the public interest analysis, observes that the Commission may wish to provide guidance on consumer protection measures for designated contract markets ("***DCMs***") through future regulatory action, and urges the CFTC to finalize its position that contracts should remain listed while the public interest inquiry takes place. ***Third***, Paradigm urges the Commission to use its Section 4(c) exemptive authority[5] to relieve certain well-understood classes of event contracts from individualized review while, at the same time, ensuring that those contracts that have undergone an individualized public interest inquiry are insulated from re-review absent new facts and circumstances, consistent with the NPRM's prospective character.

I. The Commission's Proposed Definition of "Gaming"

Paradigm endorses the Commission's adoption of a specific definition of the term "gaming."[6] As prediction markets evolve, both the Commission and participants in those markets will benefit from an easily applied standard to determine whether an activity constitutes "gaming" for purposes of 7 U.S.C. § 7a-2(c)(5)(C) and 17 C.F.R. § 40.11. A specific definition of "gaming," as opposed to a multi-factor test or list of examples, best serves this need. Paradigm also supports the proposed definition of "gaming" itself: "any activity that: (i) one or more participants typically engage in for purposes of recreation or to entertain others, (ii) is governed by rules; and (iii) includes measurable occurrences or outcomes that depend on the participants' luck, skill, or athletic ability during the activity."[7] The Commission's commonsense approach mirrors that of the only court to have considered this question; that court held that the "word 'gaming'" in the Special Rule "carries its ordinary, plain meaning and involves playing a game."[8] By anchoring "gaming" in its ordinary meaning (and the one adopted by the D.C. District Court), the Commission's definition minimizes the potential for interpretive disputes, which is an important first step in developing the type of easily applied and durable standard that both the Commission

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4 7 U.S.C. § 1a *et seq.*

5 *See* 7 U.S.C. § 6(c).

6 *See* NPRM at 35825.

7 *Id.*

8 *See* NPRM at 35824; *KalshiEX LLC v. CFTC*, No. 23-cv-3257, 2024 WL 4164694, at *7 (D.D.C. Sept. 12, 2024), *dismissed*, No. 24-5205, 2025 WL 1349979 (D.C. Cir. May 7, 2025).

and prediction markets require.[9] While Paradigm believes that the proposed definition is strong, it encourages the Commission to consider the following refinements.

First, regulated entities would benefit from clarification on the distinction between "gaming" events and nongaming "contests." The current dividing line does not appear entirely consistent with the NPRM's otherwise commonsense approach to defining gaming. For example, the Cy Young award or a "best figure skater of the year" award would appear to "involve" gaming under the definition, but the NPRM specifies that both events are in fact *nongaming* "contests."[10] On the other hand, the NPRM specifies that "most strikeouts in a season" is a gaming event.[11] The NPRM suggests that the "most strikeouts" contract is distinct because it is based on objective rather than subjective considerations, but elsewhere the NPRM reasonably observes that a figure skating competition may be considered a "game" even though the judging is subjective.[12] Accordingly, the Commission may wish to provide a more robust explanation for its contest/gaming distinction.

Alternatively, the Commission might consider adjusting the gaming/contest distinction to capture the intuitive distinction between competitions involving sports and those involving other activities. For example, the Commission could explain that a contract involving the evaluation of individual or team performance during a game or series of games—whether objective (like "most strikeouts") or subjective (like the Cy Young)—is a contract "involving gaming." By contrast, a contract involving the evaluation of a person's performance outside the context of a game—such as the Nobel Prize for Chemistry or the Golden Globe for Best Actor in a Television Drama—should be considered a contract involving a "contest," not gaming.

Second, Paradigm encourages the Commission to further sharpen the distinction between contracts based on events that "involve gaming" and those regarding events that merely "occur[ ] in connection with or around games."[13] The NPRM states that a contract does not "involve gaming" unless the outcome of the contract depends on events or occurrences that happen *in* a game—such as a game's outcome or a specific occurrence (like a strikeout) that happens as part of game play.[14] Thus, contracts involving events associated with sporting events, but not occurring *in* the game—such as a contract regarding attendance figures or the location of major sporting events—do not "involve" gaming. This distinction is appropriately commonsense and workable. It also aligns with the public policy concerns traditionally relevant to gaming, which have typically been rooted in fears that players, coaches, or officials may manipulate the gaming occurrences for

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9 *See Gen. Elec. Co. v. EPA*, 53 F.3d 1324, 1329 (D.C. Cir. 1995) (fair notice requires that, "by reviewing the regulations and other public statements issued by the agency, a regulated party acting in good faith [sh]ould be able to identify, with 'ascertainable certainty,' the standards with which the agency expects parties to conform"); Plain Writing Act of 2010, Pub. L. No. 111-274, October 13, 2010, 124 Stat. 2861 (requiring agencies to use plain writing in public explanations of government requirements).

10 NPRM at 35826.

11 *Id.*

12 *Id.*

13 *Id.*

14 *Id.* at 35826-27.

their own financial gain, thereby threatening the game's fairness and integrity.[15] Those same public interest concerns do not extend to contracts regarding events that are merely *associated* with gaming but with no direct bearing on gaming *outcomes*, such as attendance numbers. The NPRM's discussion of this well-reasoned dividing line between event contracts involving games and those merely related to games is, however, relatively sparse. The Commission may wish to offer a more robust explanation to assist regulated entities in understanding and applying the rule and to provide a more in-depth explanation of its rationale for this distinction. In particular, the CFTC may wish to explain that events "happening in a game" include events that happen *as part of the game itself*, such as strikeouts, touchdowns, or goals, but *not* events that—although related to or even occurring concurrently with the game—do not occur as part of the game itself.

Third, Paradigm urges the Commission not to adopt the alternative definition of gaming described in the NPRM. That formulation—turning on whether (1) all participants whose conduct determines the outcome of a rules-based activity operate within the activity itself, and (2) those participants, in their capacity as participants, have purposes that are defined by and internal to the activity itself[16]—would prove too philosophical to lend itself to ready application in the real world. For example, the NPRM posits that, under the alternative definition, an election would not qualify as gaming because although an election "may have [a] rule-governed structure," an electoral candidate seeking office possesses purposes (such as policy preferences) "that exist independently of any electoral contest" and thus "transcend" the electoral contest.[17] But the very same can be said of participants in a sporting event who might seek fame, fortune, or another interest that exists independently of the rules of the sport and thus transcends it. Conversely, a political candidate who seeks electoral victory for its own sake, rather than to achieve a purpose extrinsic to the election, would fall within the alternative definition of gaming. Accordingly, the alternative definition appears to require the Commission and market participants to peer into an activity participant's subjective state of mind. That inquiry would be neither administrable nor verifiable and would yield different classifications for the same activity depending on the idiosyncratic and frequently unknowable motives of its participants. The proposed primary definition better serves the CFTC's goals of clarity, predictability, and consistency.

II. Public Interest Inquiry

Paradigm endorses the Commission's nuanced discussion of factors relevant to the public interest inquiry and its recognition that gaming contracts are not categorically contrary to the public interest.[18] This approach is faithful to the CEA and firmly rooted in its text: The CFTC "*may*"—not "must"—determine that contracts involving gaming are contrary to the public

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15 *See* NPRM at 35837 (explaining that discrete-action event contracts "raise[ ] public interest concerns relating to manipulation and information leakage because a single player or team coaching staff member can determine the settlement outcome of the event contracts," and that "the risk that athletes' in-game decisions would be influenced by such event contracts is contrary to the integrity of the game"); *cf.* Kendall Howell, *You Can Bet On It: The Legal Evolution of Sports Betting*, 11 HARV. J. SPORTS & ENT. L. 73, 74 (2020) ("consumers will not tolerate [ ] the notion that the results of games are rigged").

16 NPRM at 35827.

17 *Id.*

18 *Id.* at 35813 (emphasis added).

interest.[19] The public interest inquiry outlined in the NPRM reflects the Commission's thoughtful exercise of the discretion that Congress gave it through the use of the term "may."[20] The NPRM's proposed "multifactor approach" is also an appropriate regulatory response to the "potential breadth of event contracts" and the fact that a dynamic market cannot be properly regulated through a one-size-fits-all approach, and it pragmatically and realistically frames the "public interest."[21] For example, the NPRM recognizes that the public interest is served when event contracts are traded on regulated entities, rather than on platforms outside the Commission's jurisdiction. Thus, a decision to bar a contract may have detrimental effects on the public interest where the decision would "divert trading to offshore or otherwise less transparent and less supervised markets," thereby depriving the public both of "transparency and market integrity safeguards" and the "benefits associated with responsible innovation occurring within the U.S."[22]

The Commission's gaming-specific public interest factors are particularly well-reasoned. The factors highlighted in the NPRM sensibly tie the public interest inquiry to the structural features of a gaming contract that actually bear on manipulation risk, informational value, and settlement integrity. Thus, the NPRM favors contracts that settle on aggregate outcomes drawn from objective data within established sport-level integrity frameworks, while disfavoring contracts that lack informational content or those that concentrate determinative influence in a few individuals, such as player-injury, officiating-only, discrete-action, and altercation contracts.[23] Those factors are well-calibrated to distinguish contracts on the basis of the specific characteristics that can give rise to public interest concerns. These commonsense factors will allow for responsible innovation while screening for those contracts most susceptible to abuse.

While Paradigm applauds the overall strength of the NPRM's gaming-specific public interest factor discussion, three issues merit further consideration.

First, the NPRM contemplates coordination with sports leagues or governing bodies as a factor suggesting that event contracts involving sports activities are not contrary to the public interest.[24] Paradigm agrees that such coordination should be fostered, but wishes to ensure that input from sports leagues does not have an undue effect on regulatory determinations, thereby infringing on the Commission's role as exclusive regulator of designated contract markets. Paradigm therefore encourages the Commission to consider the appropriate weight to grant this factor and to consider whether any other guidance is appropriate to ensure that sports leagues and governing bodies are not given, or perceived to carry, quasi-regulator status.

Second, the NPRM observes that "some prediction market trading characteristics" are "generally associated with addictive potential," and the Commission astutely explains that "[p]rotective measures, such as position limits, cooling off periods, notification restrictions, or

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19 NPRM at 35813; 7 U.S.C. § 7a-2(c)(5)(C)(i).

20 *See Bouarfa v. Mayorkas*, 604 U.S. 6, 13-14 (2024) (citations omitted).

21 NPRM at 35829.

22 *Id.* at 35831.

23 *Id.* at 35835-37.

24 *Id.* at 35836.

self-exclusion mechanisms might preserve legitimate market functions while mitigating harm to retail traders."[25] Paradigm shares the Commission's concern for the protection of retail participants and supports measures reasonably designed to mitigate potential harms. Paradigm also notes that some prediction market platforms have already implemented robust consumer protection programs that include the measures outlined in the NPRM.[26] These efforts build upon the surveillance, eligibility screening, and trader-identification practices that prediction market platforms already maintain.[27]

Still, Paradigm recognizes that it may be appropriate for the Commission to engage in further regulatory efforts specifically targeting consumer protection and addiction-related issues. Paradigm believes, however, that it would not be appropriate to try to address those issues in this rulemaking. Consumer protection issues are analytically distinct from the Special Rule, the subject of the NPRM. The Special Rule allows a focused public interest inquiry when an event contract involves an Enumerated Activity—it does not authorize a general assessment of retail-trading behavior.[28] Furthermore, consumer-protection and addiction concerns arise across event contracts, regardless of whether those contracts implicate an Enumerated Activity. As such, addressing consumer protection considerations in this rulemaking risks confusing the targeted public interest inquiry the Special Rule authorizes with a broader inquiry the Commission has sensibly declined to undertake here. For that reason, a separate notice-and-comment rulemaking or the promulgation of guidance directed specifically to consumer protection and addiction concerns is the appropriate vehicle for addressing such matters.

Third, Paradigm strongly supports the Commission's preliminary conclusion that neither the Special Rule nor any other provision of the CEA authorizes the Commission to compel a prediction market to suspend trading or clearing of an event contract while a public interest review is pending.[29] As proposed § 40.11(c)(5) recognizes, the Commission's authority is limited to requesting suspension; it is not empowered to require it.[30] This allocation follows from the statutory text, which contemplates that event contracts may continue trading throughout the 90-day review period absent a completed public interest determination,[31] and it appropriately reflects the substantial reliance interests, compliance costs, and price-discovery benefits that an implied suspension authority would place at risk. Paradigm therefore encourages the Commission to state this conclusion unambiguously in the Final Rule, rather than as a preliminary view, so that prediction markets and their counterparties may rely on it with confidence.

25 NPRM at 35857.

26 *Id.*; *see, e.g.*, Kalshi, Responsible Trading Tools, available at https://kalshi.com/policy-center/responsible-trading (listing tools including trading breaks, self-exclusions, and deposit limits).

27 *See, e.g.*, PredictIt, Frequently Asked Questions, available at https://www.predictit.org/support/faq (explaining requirement that traders provide personal information before trading).

28 *See* 7 U.S.C. § 7a-2(c)(5)(C)(i).

29 NPRM at 35818.

30 *Id.* at 35861.

31 *See id.*; 7 U.S.C. § 7a-2(c)(5)(C)(iv); NPRM at 35818, 35838.

III. The Commission Should Use Its Exemptive Authority to Exempt Certain Defined Classes of Event Contract from Individualized Review

The Commission has requested comment on whether it should use its exemptive authority under Section 4(c) to provide that defined classes of event contracts may be listed and traded without individualized review. Although the phrasing of the Special Rule appears to discourage categorical or classwide bars,[32] the Commission has clear authority to ***exempt*** classes of event contracts from individualized review: "In order to promote responsible economic or financial innovation and fair competition," Section 4(c)(1) empowers the Commission to prospectively "exempt any agreement, contract, or transaction (***or class thereof***)" from the requirements of the CEA.[33] Accordingly, Paradigm urges the Commission to use its authority to exempt from individualized review classes of contracts that are generally considered not to be contrary to the public interest, such as season-long aggregate contracts.[34]

The NPRM itself provides a ready means for assessing which categories of events are suitable candidates for classwide treatment, such as those for which "settlement relies on objective, verifiable data and robust integrity measures" (such as season-long contracts), which are generally considered not to be contrary to the public interest.[35] The Commission may also wish to consider whether, absent specific compelling circumstances, single-game contracts may be exempt from individualized review consistent with the public interest. Compelling circumstances that may justify maintaining individualized review include, for example, individual-player sports games that are uniquely vulnerable to the potential for undue influence by a single individual (such as tennis). Similarly, the Commission's inclination that player-injury, officiating-only, pre-collegiate, discrete action, and physical altercation contracts are likely contrary to the public interest is appropriate and those classes of event contracts should not be exempt from individualized review.[36]

In addition, Paradigm proposes that the Commission adopt a complementary, track-record-based method of defining classes eligible for exemption under Section 4(c): once a specific event contract design has completed an individualized public interest review without a Commission prohibition order, that contract design should itself constitute (or be added to) a defined class exempt from individualized review going forward. A completed review that does not result in a prohibition order is, in substance, an affirmative Commission determination that the reviewed contract design is not contrary to the public interest. Thus, there is no principled reason to require that same design to undergo a fresh 90-day review each time it, or a substantially similar version of it, is subsequently listed. This approach allows the Commission to build out exempt classes incrementally, based on its own accumulated determinations, while preserving full individualized review for any contract design that has not yet been tested. This approach would meaningfully

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32 *See* 7 U.S.C. § 7a-2(c) (discussing prohibition of contracts deemed contrary to the public interest, but not permission of contracts deemed congruent with the public interest).

33 7 U.S.C. § 6(c)(1) (emphasis added).

34 *See* NPRM at 35853 (explaining that season-long event contracts are "generally considered not to be contrary to the public interest, if settlement relies on objective, verifiable data and robust integrity measures.").

35 *Id.*

36 *Id.* at 35836-37.

reduce the compliance burden of repeat submissions without requiring the Commission to relinquish its authority over materially different contract designs.

Lastly, Paradigm urges the Commission to clarify that modification to any of the classwide exemptions detailed above must be prospective. As the Commission recognizes, prohibiting contracts after trading has begun carries substantial consequences and creates the potential for market disturbances.[37] Given these market harms and the reliance interests of markets and their participants, the Commission should make clear that any changes to classwide exemptions are intended to operate prospectively and that already-traded contracts will not be canceled or delisted absent compelling circumstances.[38] Paradigm encourages the Commission to include language in the Final Rule emphasizing the prospective nature of any exemptive or classwide public interest determinations and to invoke its policy against revisiting event contracts that have been listed and traded.

IV. Conclusion

The NPRM is an invaluable step forward in the fair regulation of prediction markets. Paradigm commends the Commission for its dedication to fostering innovation and its thoughtful, principles-based engagement with central issues affecting prediction markets. To address the unique features of these markets, the Commission should weigh the considerations and suggested refinements Paradigm describes above, which are geared toward promoting clarity, predictability, and certainty for market participants.

If you have further questions regarding our comments to the NPRM, you can contact us at Stefan@Paradigm.xyz.

Sincerely,

/s/ *Stefan Schropp*

Stefan Schropp
Senior Regulatory Counsel
Paradigm Operations LP

Cc: Joshua Sterling, Milbank LLP

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37 *See* NPRM at 35838.

38 *See id.* (determinations that event contracts are contrary to the public interest "might entail the delisting of at least some event contracts that are actively trading").