Paradigm

Submitted via Regulations.gov Portal

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

November 18, 2026

Re: Further Definition of "Swap"–Inclusions, RIN 3038-AF82, 91 Fed. Reg. 66,022 (proposed Oct. 19, 2026); Further Definition of "Swap" to Exclude Casino-Style Gambling Products, RIN 3038-AF81, 91 Fed. Reg. 65,969 (Oct. 19, 2026)

Dear Secretary Kirkpatrick:

Paradigm Operations LP ("***Paradigm***")[1] respectfully submits this letter in response to the Commodity Futures Trading Commission's (the "***CFTC***" or the "***Commission***") Notice of Proposed Rulemaking to add event contracts to the regulatory definition of "swap" in Regulation 1.3 (the "***NPRM***")[2] and the related Interim Final Rule to exclude casino-style gambling products from the definition of "swap" (the "***IFR***").[3]

The NPRM and IFR are best interpreted together, and we support both. Read in tandem, they draw a clear and administrable line: event contracts traded on Commission-regulated markets are swaps within the Commission's exclusive jurisdiction, while wagers offered by state- and Tribe-licensed operators are not. That line is firmly rooted in the statutory text of the Commodity Exchange Act ("***CEA***") and the CFTC's historical treatment of event contracts, dating back to at least 1992 when CFTC staff issued a no-action letter to the University of Iowa regarding the trading of presidential election event contracts on the Iowa Electronic Markets.[4]

Our comments thus focus on four related points. *First*, we explain that event contracts are not wagers, that the Commission has regulated them as derivatives for more than three decades, that designated contract markets ("***DCMs***") operate in a fundamentally different way from

[1] Paradigm is a frontier technology investment firm that invests and builds in crypto, AI, robotics, and across new frontiers from the earliest stages. More information about Paradigm is available online at https://www.paradigm.xyz.

[2] Further Definition of "Swap"–Inclusions, 91 Fed. Reg. 66,022 (proposed Oct. 19, 2026) (to be codified at 17 C.F.R. pt. 1).

[3] Further Definition of "Swap" to Exclude Casino-Style Gambling Products, 91 Fed. Reg. 65,969 (Oct. 19, 2026) (interim final rule) (to be codified at 17 C.F.R. pt. 1).

[4] Letter from Andrea M. Corcoran, Div. of Trading & Mkts., Commodity Futures Trading Comm'n, to George R. Neumann, Professor of Econ., Univ. of Iowa (Feb. 5, 1992) (CFTC Staff Letter No. 92-04a), https://www.cftc.gov/sites/default/files/idc/groups/public/@lrlettergeneral/documents/letter/92-04a.pdf ("***1992 No-Action Letter***").

sportsbooks, and that the price discovery that DCMs provide is a public good. *Second*, we explain that the CEA's text confirms that event contracts are swaps, both because the events underlying these contracts carry the potential financial, economic, or commercial consequences the statute describes and because event contracts are commonly known to the trade as swaps. *Third*, we describe why a single federal standard is essential to investors and other market participants in this asset class. *Fourth and finally*, we urge the Commission to finalize the NPRM substantially as proposed, with (1) a clarification that the new regulation rests on each of the statutory grounds the NPRM identifies and (2) a definition of "event contract" that aligns with the IFR's Product Test.

I. Event Contracts Are Not Wagers and Should Not Be Regulated as Such

While states and gaming incumbents have recently argued that sports event contracts are "indistinguishable from traditional sports betting,"[5] that argument is not only wrong as a factual matter and beside the point as a legal matter, but it is also ahistorical. It has been clear for decades now that event contracts are derivatives, and that clear and blinding fact was questioned by no one until the very late hour of the last few months. Indeed, both common sense and formal law routinely recognize differences between transactions based on the same underlying commodity and exposure. For instance, a homeowner can buy an insurance policy, purchase a weather derivative, or pay to have shutters put over their windows, all to protect the same underlying asset (*e.g.*, a house) from the same underlying exposure (*e.g.*, a hurricane). Similarly, a retail investor can buy a gold bar at Costco, purchase shares of a gold fund, or enter into a gold futures contract, all to protect the same asset (*e.g.*, consumer savings) from the same underlying risk (*e.g.*, inflation). No fair assessment would label those transactions indistinguishable, and the law does not treat them as such.

The same is true for sports event contracts. The products offered by sportsbooks and DCMs may bear superficial similarities, but the law recognizes the clear differences of structure, venue, and counterparty risk and assigns them different regulators on that basis. Arguments based purely on the perceived similarities would collapse those distinctions and, with them, the different regulatory regimes that Congress built. Accordingly, the remainder of this section explains why that distinction is critical and should be preserved, including that (1) event contracts have been regulated as federal derivatives for at least three decades, (2) DCMs differ from sportsbooks at least in who sets the price, who bears the risk, and whether a position can be traded, and (3) price discovery provided by DCMs is a public good that no sportsbook supplies.

A. Event Contracts Have Long Been Regulated as Derivatives

As an initial matter, it bears mentioning that the NPRM and IFR are consistent with long-standing Commission practice, and the interests of those who have relied on those interpretations deserve careful consideration before upending a well-accepted regime. Indeed, exchanges regulated by the Commission have long listed contracts where the underlying commodity is the

[5] IFR, 91 Fed. Reg. at 65,971 & n.18 (quoting Letter from Dave Yost, Ohio Att'y Gen., et al., to Michael S. Selig, Chairman, Commodity Futures Trading Comm'n 1 (Apr. 30, 2026)).



occurrence or non-occurrence of an event,[6] with DCMs certifying thousands of event contracts under the same procedures that apply to any other derivative. Institutional firms have made markets in them,[7] Federal Reserve Board staff have analyzed them,[8] the Department of Justice has brought commodity fraud charges based on their status as swaps,[9] and the CFTC has monitored and regulated them as derivatives, all for over three decades.

Indeed, in its 2008 Concept Release, quoted by both the NPRM and the IFR, the CFTC recognized this long and detailed history of regulating event contracts: "Since 1992 Commission-regulated exchanges have listed for trading a variety of commodity futures and options contracts with payout terms based on interests other than price-based interests," involving "regional insured property losses, the count of bankruptcies, temperature volatilities, corporate mergers, and corporate credit events."[10] Examples of such derivatives products include:

- *Insured Property Losses (1992)*: The Chicago Board of Trade offered regional catastrophe insurance futures settled based on the level of insured property losses from catastrophes in a given region and quarter, measured by an industry loss index, with the payout depending on how much damage disasters caused.[11]

- *Quarterly Bankruptcy Indices Futures (1998)*: The Chicago Mercantile Exchange listed quarterly bankruptcy index futures settled on the number of new bankruptcy filings in federal courts during a calendar quarter, with the payout depending on a count of bankruptcy events.[12]

[6] As the IFR and NPRM both note, some event contracts may be structured as futures. *See* IFR, 91 Fed. Reg. at 65,970 & n.4; NPRM, 91 Fed. Reg. at 66,023 & n.5.

[7] *See* Letter from Susquehanna Int'l Grp., LLP to Michael S. Selig, Chairman, Commodity Futures Trading Comm'n (Apr. 30, 2026), https://comments.cftc.gov/Handlers/PdfHandler.ashx?id=35981 (comment letter on event contracts and prediction markets).

[8] Anthony M. Diercks, Jared Dean Katz & Jonathan H. Wright, *Kalshi and the Rise of Macro Markets* (Fed. Rsrv. Bd., Fin. & Econ. Discussion Series No. 2026-010, 2026), https://doi.org/10.17016/FEDS.2026.010.

[9] Sealed Complaint, *United States v. Spagnuolo*, No. 26 MAG 2020 (S.D.N.Y. unsealed May 27, 2026), https://www.justice.gov/usao-sdny/media/1442621/dl.

[10] Commodity Futures Trading Comm'n, *Concept Release on the Appropriate Regulatory Treatment of Event Contracts*, 73 Fed. Reg. 25,669, 25,670–71 (May 7, 2008) ("***2008 Concept Release***").

[11] Chicago Board of Trade Proposed Futures and Futures Option Contracts, 57 Fed. Reg. 40,897 (Sept. 8, 1992); Designated Contract Market Products: 223, Commodity Futures Trading Comm'n (Nov. 16, 1992), https://www.cftc.gov/IndustryOversight/IndustryFilings/TradingOrganizationProducts/223 (approval of CBOT's "Catastrophe Insurance, National" futures contract).

[12] Designated Contract Market Products: 967, Commodity Futures Trading Comm'n (Apr. 13, 1998), https://www.cftc.gov/IndustryOversight/IndustryFilings/TradingOrganizationProducts/967 (approval of CME's "CME Bankruptcy Index, Quarterly" futures contract).

- *Degree Day Futures and Options for Specified Cities (1999)*: The Chicago Mercantile Exchange listed degree day index futures and options that settled based on recorded temperatures in ten specified U.S. cities.[13]

- *Merger and Acquisition Binary Options (2007)*: HedgeStreet listed merger and acquisition binary options that paid a fixed amount only if a named merger or acquisition closed by a set expiration date.[14]

Additionally, the CFTC's former Division of Trading and Markets issued no-action letters to the University of Iowa regarding the trading of event contracts similar to binary options on the Iowa Electronic Markets. The first letter was issued in 1992 for presidential election event contracts, and relief was expanded in 1993 to cover a wider range of event contracts.[15] In short, the Commission has treated event contracts as derivatives within its jurisdiction for more than thirty years, across every presidential administration and under both the pre- and post-Dodd-Frank versions of the CEA. To repeat: the history of event contracts being derivatives has been accepted truth for nearly two decades longer than Dodd-Frank has been law. We have all known and agreed that event contracts are derivatives for the vast majority of the CFTC's lifespan.

B. DCMs Operate Differently from Sportsbooks

Moreover, the Commission's historical treatment of event contract trading on DCMs as a distinct financial product subject to its jurisdiction makes good sense: licensed sportsbooks do not operate like registered exchanges and should not be regulated by identical regimes, even if both offer products on the same underlier. At a sportsbook, the operator is the counterparty to every contract and controls the proprietary odds, which are offered to the customer on a take-it-or-leave-it basis. The operator's revenue is the margin built into the odds, plus the customer's net losses, ensuring that sportsbooks make more money when the side of a bet with more volume loses and giving the operator a stake in the outcome. Additionally, a sportsbook bet generally cannot be sold or offset and must be held until event resolution, unless the sportsbook opens the ability to cash out (based on odds that the sportsbook sets). And if a customer becomes too successful at betting, or for any reason or no reason at all, the operator may limit the customer or exclude the customer from placing bets.

DCMs materially differ on each of those points. On a DCM, the price of a contract is determined by competing bids and offers on a central limit order book. The exchange does not profit from participant losses and, instead, earns revenue by charging a transaction fee, leaving it

[13] Applications of the Chicago Mercantile Exchange for Designation as a Contract Market in CME Degree Days Index Futures and Option Contracts Representing 10 Specified Cities, 64 Fed. Reg. 33,472 (June 23, 1999), https://www.cftc.gov/foia/fedreg99/foi990623a.htm.

[14] *See, e.g.*, Designated Contract Market Products: 14269, Commodity Futures Trading Comm'n (May 29, 2007), https://www.cftc.gov/IndustryOversight/IndustryFilings/TradingOrganizationProducts/14269 (certification of HedgeStreet's (now CDNA) "Merger & Acquisition, Sirius/XM" binary option).

[15] *See* 1992 No-Action Letter (granting no-action relief for the Iowa Presidential Stock Market's 1992 presidential election markets); Univ. of Iowa, CFTC Staff Letter No. 93-66 (June 18, 1993), https://www.cftc.gov/sites/default/files/idc/groups/public/@lrlettergeneral/documents/letter/93-66.pdf (expanding no-action relief to the Iowa Electronic Markets' political and economic indicator submarkets).

with no stake in the outcome of a contract. Event contracts are fungible and tradable, and the exchange has no ability (or incentive) to restrict a trader from exiting a position even before the contract resolves. Participants are protected from counterparty risk through the clearing and settlement process, which must go through a Derivatives Clearing Organization ("***DCO***").[16] DCMs must publish price and volume data for actively traded contracts, enabling anyone to transparently analyze market data,[17] and must also report trades daily to the Commission.[18] And DCMs must provide impartial access and are prohibited from excluding market participants for profiting on the venue.[19]

While each of those differences ensures a better experience for the individual user, the purpose of describing them is not to say that trading on DCMs is without risk. Rather, it is to say that the risks are different in kind and require a different regime to monitor them. Gaming regulators have policed the risks of sportsbook wagers—the integrity of the house, the fairness of odds, and the protection of a customer against an operator-counterparty—for more than a century.[20] But the risks of an exchange-traded contract are unique to the derivatives market: manipulation of the price or the settlement, trading on misappropriated information, counterparty default, and disorderly markets. The CEA, not state gambling law, addresses each of those risks directly. Assigning oversight of those markets to state gaming regulators would do nothing to reduce those risks and would instead give responsibility over them to agencies whose tools were built for a different product.

C. Price Discovery on DCMs Is a Public Good

In addition to the material benefits to individual users, the listing of event contracts on DCMs offers a material benefit to the public that sportsbooks cannot. Price discovery is not incidental to the CEA; Congress declared that the transactions subject to the Commission's jurisdiction serve "a national public interest by providing a means for managing and assuming price risks, discovering prices, or disseminating pricing information through trading in liquid, fair and financially secure trading facilities."[21] Core Principle 9 carries that purpose into the design of every DCM, requiring "a competitive, open, and efficient market and mechanism for executing transactions that protects the price discovery process of trading in the centralized market."[22] A sportsbook wager—where odds are unilaterally set and revocable at will to protect a casino's balance sheet—cannot serve that purpose.

That difference is why DCM prices are useful even to people who never trade them. The CEA requires a DCM to publish price and volume data every day, resulting in real-time price signals. That is why Federal Reserve staff have studied event contracts on inflation, employment,

[16] *See* 7 U.S.C. § 2(h).

[17] 7 U.S.C. § 7(d)(8).

[18] 7 U.S.C. § 7(d)(7).

[19] 17 C.F.R. § 38.151.

[20] *See, e.g.*, Act of 1920, ch. 273, § 1, subsec. 11, 1920 Md. Laws 479, 484–88.

[21] 7 U.S.C. § 5(a).

[22] 7 U.S.C. § 7(d)(9)(A).



and interest-rate decisions as a complement to survey measures.[23] Likewise, economists have documented for two decades that prediction market prices are often more accurate than polls or expert panels.[24] And the record before the Commission already includes businesses using sports and legislative contracts to hedge exposure they could not otherwise manage. Each of those uses depends on a price that reflects the market and on the ability to open and close a position as the underlying risk changes. Highlighting these differences is not intended as a criticism of sportsbooks, but merely to underscore why Congress correctly assigned a different product, serving a different purpose, to a different regulator.

II. The Statutory Basis for Classifying Event Contracts as Derivatives Is Clear

Considered in light of the differences outlined above, the NPRM and IFR do nothing more than recognize the crucial and long-standing differences between event contracts and sportsbook wagers, while ensuring that the former are subject to the full suite of protections embedded in the CEA. The NPRM adds a new paragraph (2)(i)(G) to the swap definition in Regulation 1.3, confirming that "[e]vent contracts, including those based on sports-, politics-, cultural-, and weather-related events" are swaps by definition.[25] The IFR then adds paragraph (7) to the same swap definition in Regulation 1.3, which excludes from the definition of "swap" any agreement or transaction that (A) is offered by a person licensed to offer gambling under state law or the Indian Gaming Regulatory Act where the transaction is regulated as gaming under that law (the "***Provider Test***") and (B) is not traded on a board of trade, an organized exchange, a swap execution facility, or any other market in which trades are executed multilaterally or subject to individual negotiation (the "***Product Test***").[26]

As with the Commission's decision more than a decade ago to exclude insurance contracts and consumer transactions from the definition of swap, the IFR and NPRM flow directly from the authority that Congress expressly delegated to the Commission to "further define" the meaning of swap.[27] Moreover, and as explained in the remainder of this Part, the Commission's conclusion is not only authorized but compelled by the CEA's text, both because the events underlying these contracts carry potential financial, economic, or commercial consequences,[28] and because event contracts are commonly known to the trade as swaps.[29]

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[23] *See* Anthony M. Diercks, Jared Dean Katz & Jonathan H. Wright, *Kalshi and the Rise of Macro Markets* (Fed. Rsrv. Bd., Fin. & Econ. Discussion Series No. 2026-010, 2026), https://doi.org/10.17016/FEDS.2026.010.

[24] *See* Justin Wolfers & Eric Zitzewitz, *Prediction Markets*, 18 J. Econ. Persps. 107, 112 (2004), https://doi.org/10.1257/0895330041371321.

[25] NPRM, 91 Fed. Reg. at 66,033 (proposed 17 C.F.R. § 1.3).

[26] IFR, 91 Fed. Reg. at 65,979 (to be codified at 17 C.F.R. § 1.3).

[27] 15 U.S.C. § 8302(d)(1).

[28] 7 U.S.C. § 1a(47)(A)(ii).

[29] 7 U.S.C. § 1a(47)(A)(iv).

A. The Economic Consequences of Sports Event Contracts

The recent suggestion by certain courts that "sports-event contracts have only downstream economic consequences, assuming they have the potential to cause economic consequences at all"[30] is mistaken, and the Commission is correct to reject that view. Sporting outcomes are deeply intertwined with commercial interests that exist independently from the trading of event contracts and impose concrete economic consequences outside of the arena. Indeed, just three examples, covering the most common sports event contract types, illustrate the futility of arguing otherwise:

Game Outcomes. The outcome of a game undeniably has a direct economic impact on any number of parties who never place a bet or enter into a trade based on it. A team that advances to the postseason based on its regular season performance, or that advances in the postseason based on its performance once there, plays additional home games, and the ticket, concession, and hospitality revenue that comes with them flows to the franchise and to the businesses around the arena. These financial windfalls are not speculative; the Commission's own record illustrates that the Knicks' 2026 championship run generated roughly $380 million in economic activity for New York City, and the market value of the team's parent company doubled over the course of the season.[31] Likewise, Milwaukee's tourism authority measured the Bucks' 2021 NBA title run and found that the economic impact to the city increased with each passing round, escalating from $2.7 million in the first round to $28 million in the finals.[32] And of course, that economic impact is dependent not just on who wins, but on how quickly they win, as a four-game sweep will invariably lead to lower revenues than a seven-game nail-biter, regardless of who emerges as the ultimate winner.

But the direct consequences of game outcomes extend well beyond the franchises and their host cities. As just one example, 30-second advertising spots for Super Bowl LX were sold for $8 million each in the hope of reaching 127 million viewers.[33] But while the price that the advertiser will pay is fixed at the time of contracting, what the advertiser actually receives for that price is not. Instead, the benefit that the advertiser receives for that enormous outlay depends on which teams advance, whether the game is competitive, and which players take the field. Two nationally popular teams from large markets will invariably draw more viewers than two smaller-market teams, and a game that is decided by the first quarter loses viewers in the second half, when many advertisers' spots air. The same is true for broadcasters—who risk purchasing the rights to a game several years before it is to be played only to be stuck airing a non-competitive contest between two teams with limited fan bases—as well as the news and analysis programming built around those games.

Individual Performance. Significant economic activity is also directly associated with the performance of star athletes and the corresponding attention they command. Indeed, despite courts also recently suggesting that "who is named Super Bowl MVP would likely not have financial

[30] *KalshiEX LLC v. Schuler*, Nos. 26-3196 & 26-5235, slip op. at 16 (6th Cir. Sept. 25, 2026).

[31] NPRM, 91 Fed. Reg. at 66,029 & nn.90, 92.

[32] NPRM at 66,029 & nn. 91.

[33] Anthony Crupi, *$8 Million Buys You One Super Bowl Ad or Steve Cohen's Dead Shark*, Sportico (July 18, 2025), https://www.sportico.com/business/media/2025/super-bowl-lx-ads-nbc-commercials-1234863212.

consequences,"[34] numerous NFL players have precisely that provision in their contracts, and the NPRM notes that player contracts routinely carry multi-million-dollar bonuses tied to statistical results, individual accolades, and team outcomes.[35]

But individual performance also matters beyond the individual performer and the team that pays them. As just one example, a recent study by an Indiana University finance professor concluded that 26.5% of *all* WNBA economic activity over an entire year could be directly linked to the performance of one player, Caitlin Clark, including year-over-year sales increases of WNBA merchandise at licensed retailers of up to 500%.[36] Similarly, research at Texas A&M University has shown that sponsor exposure is directly correlated with an individual professional golfer's performance, finding that a first-place finish earned more than 30% extra sponsor exposure attention time when compared to even the fifth-place finisher (in a field of more than 100 golfers).[37]

Point Spreads and Totals. Lastly, point spreads and total scores within a given game are closely tied to viewer engagement and viewer numbers.[38] The value of broadcast advertising purchased prior to a game, the likelihood that patrons remain at bars and restaurants, and the viewership that post-game news and analysis programs will draw all turn on how exciting the game is. That, in turn, is a function of how close, or how high-scoring, the game is. Economic studies have shown that tightening point spreads during the game result in a 30% increase in ratings points, with a similar boost for games that remain close to the projected total.[39]

B. Event Contracts Are Commonly Known to the Trade as Swaps

Even if the events underlying these contracts were not associated with potential financial, economic, or commercial consequences—which, for the reasons noted above, they plainly are—event contracts would still qualify as swaps because they are "commonly known to the trade as a swap."[40] Congress wrote that clause to ensure that the definition would track how the derivatives industry actually understands and handles an instrument rather than how a court or self-interested state regulator might later characterize it. As a result, "the trade" in this context refers to the participants in the derivatives markets, not the general public or a state gaming regulator. And

[34] *KalshiEX LLC v. Schuler*, Nos. 26-3196 & 26-5235, slip op. at 20 (6th Cir. Sept. 25, 2026).

[35] NPRM, 91 Fed. Reg. at 66,029 & n.95 (citing Zach Kruse, *How Packers WR Christian Watson Can Make Another $15M in Contract Incentives*, Packers Wire (June 19, 2026), https://packerswire.usatoday.com/story/sports/nfl/packers/2026/06/19/christian-watson-contract-packers-incentives-catches-yards-touchdowns-pro-bowl/90619346007/).

[36] Andrew Greif, *Caitlin Clark's Impact on the WNBA Could Eclipse 'A Billion Dollars'*, NBC News (May 24, 2025), https://nbcnews.com/sports/wnba/caitlin-clark-wnba-business-rcna208097.

[37] Jonathan A. Jensen, *The Importance of Winning: An Analysis of the Relationship Between an Athlete's Performance and Sponsor Exposure During Televised Sports Events*, 13 Int'l J. Sports Mktg. & Sponsorship 282, 289–90 (2012).

[38] David Purdum, *Point Spreads Play Key Role in Television Ratings*, ESPN (May 26, 2015), https://www.espn.com/chalk/story/_/id/12955757/point-spreads-play-key-role-television-ratings-espn-chalk.

[39] *Id.*

[40] 7 U.S.C. § 1a(47)(A)(iv).

"commonly known" does not require unanimity, but instead asks whether the industry treats the instrument as a swap in practice.

There can be little doubt that, among the "trade" of people who actually participate in derivatives markets, event contracts are commonly known as swaps. Indeed, examples from exchanges, industry groups, and the Commission itself abound:

- *The Futures Industry Association ("**FIA**")*: FIA has expressly identified event contracts as a class of swaps in its regulatory comments to the CFTC and has recommended that they be reported to the CFTC through the swap-reporting framework.[41]

- *CME Exchange Product Certification*: Thousands of event contracts have been self-certified with the Commission as swaps. One example is Submission No. 26-164 (March 26, 2026), where CME self-certified soccer, basketball-combination, and golf products as "Event Contract Swaps," explaining that they clear as swaps, and expressly stating that they are "commonly known to the trade as a swap."[42]

- *CFTC Santos Settlement*: In settling an enforcement action against George Santos for market manipulation, the CFTC found that Santos had traded positions in an event contract concerning whether he would attend the 2026 State of the Union. The CFTC expressly found that the event contract qualified as a swap, because, among other grounds, it was "commonly known to the trade as a swap."[43]

Paradigm's own experience investing and building in the prediction market space is consistent with these examples. We evaluate these exchanges by the depth of their order books, their clearing and margin arrangements, and their compliance with the Commission's core principles, just as we would any other derivatives venue. And we are not alone: other participants on these platforms—from proprietary trading firms to market makers to commercial hedgers—treat event contracts as a class of swaps, and none hedges event exposure at a sportsbook. In short, "the trade" is consistent on this point: event contracts traded on Commission-regulated markets are swaps, and the Commission is their regulator.

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[41] Letter from Allison Lurton, Gen. Couns. & Chief Legal Officer, Futures Indus. Ass'n, to Christopher Kirkpatrick, Sec'y, Commodity Futures Trading Comm'n 2 (July 31, 2026), https://www.fia.org/sites/default/files/2026-08/FIA%20Response%20to%20Event%20Contracts%20Reporting.pdf (comment letter on Data Reporting Requirements for Certain Event Contracts, RIN 3038-AF73).

[42] Letter from Jonathan Marcus, Senior Managing Dir. & Gen. Couns., Chi. Mercantile Exch. Inc., to Christopher Kirkpatrick, Sec'y, Commodity Futures Trading Comm'n 1–3 (Mar. 26, 2026), https://www.cftc.gov/filings/ptc/ptc03262642141.pdf (letter regarding CME Submission No. 26-164S); Chi. Mercantile Exch. Inc., Regulation 40.2(a) Certification of Initial Listing of Event Contract Swaps, CME Submission No. 26-164 (Mar. 26, 2026), https://www.cftc.gov/sites/default/files/filings/ptc/26/03/ptc03262642133.pdf.

[43] *In re Santos*, CFTC Docket No. 26-05, at 2, 4–6 (July 31, 2026) (consent order), https://www.cftc.gov/media/14451/ENF_SantosOrder073126/download.

III. The NPRM and IFR Replace Uncertainty with a Clear Test

Paradigm's principal concern is not any one contract but the legal status of event contracts as an asset class and of the prediction markets industry as a whole. The present uncertainty hinders long-term investments of capital within the industry. It is extremely disruptive for exchanges, clearinghouses, market makers, and other market participants to attempt to plan a balance sheet against a backdrop in which the lawfulness of a significant set of core products may be decided contract by contract and forum by forum. As the NPRM states, a federal regulatory regime "may benefit" market participants by permitting them to "spend less time and fewer resources determining which regulatory regime applies."[44]

Under the reading adopted by the Sixth Circuit, whether a listed contract is a swap turns on whether a court later concludes that its particular underlying event is "inherently" associated with a financial consequence.[45] As a result, every event contract now listed on a DCM is exposed to potential litigation in state or federal court as to whether the potential economic consequences of its underlying event are sufficient. That clearly is not what Congress intended when it defined the term swap broadly and gave the CFTC additional authority to define the term. A single federal standard is the only arrangement consistent with how contracts on DCMs actually trade in a central limit order book, accessible across the country. A national central limit order book would cease to function nationally if the legal status of the contracts changed based on the jurisdictions of market participants.

The same considerations support the Commission's finding that good cause existed to make the IFR effective on publication. Pending state criminal and civil enforcement actions against DCMs, and the resulting risk that nationally traded contracts become unlawful in some jurisdictions but not others, are exactly the kind of concrete harm that justifies swift action. The Commission should reaffirm that finding, and the record supporting it, in the final rule.

IV. The CFTC Should Consider Two Proposals for the Final Rule

A. Clarify that the New Swap Definition Accords with Multiple Prongs of the Statutory Swap Definition and Its Own Authority to Further Define the Term

In Dodd-Frank, Congress both defined the term "swap" broadly and directed the CFTC, along with the SEC, to "further define" the term.[46] The NPRM correctly reads the statute as conferring on the CFTC, with the SEC's agreement, authority to resolve by rule whether and to what extent event contracts qualify as swaps, rather than leaving that question to the 50 states to litigate.[47] And it correctly observes that event contracts already fit within at least two separate statutory prongs of the "swap" definition. The CFTC may, however, wish to clarify in the final rule that (1) events in each of the categories the rule names (sports-, politics-, cultural-, and

[44] NPRM, 91 Fed. Reg. at 66,031.

[45] *Id.* at 66,025 & n.37 (citing *KalshiEX LLC v. Schuler*, Nos. 26-3196, 26-5235, slip op. at 11 (6th Cir. Sept. 25, 2026)).

[46] 15 U.S.C. § 8302(d)(1).

[47] NPRM, 91 Fed. Reg. at 66,028.



weather-related events) are associated with potential financial, economic, or commercial consequences, and (2) the Commission would *independently* adopt the rule on each stated ground—*i.e.*, that the underlying events are associated with potential economic consequences, that event contracts are commonly known to the trade as swaps, and that adjusting the swap definition through rulemaking is within the Commission's power to "further define" the term.

Absent those clarifications, the new rule might be misread as treating every event contract as a swap regardless of whether its underlying event is "associated with potential financial, economic, or commercial consequences." That criticism would be misplaced in light of the preamble's (accurate) determination that the categories of event contracts specifically identified in the regulation are all "associated with potential financial, economic, or commercial consequences" and the proposed rules' analysis of the Commission's wide-ranging authority. But expressly stating those findings in the rule, and making clear that those findings are but one of the several ways in which event contracts fall within the definition of swap, will ensure that a court's disagreement with any one reading of the statute cannot unsettle the rule.

B. Finalize the NPRM Substantially as Proposed, but Add an "Event Contract" Definition That Mirrors the IFR's Product Test

The text of the proposed rule identifies event contracts as swaps but does not define the term "event contract," leaving its scope to an illustrative list and the statutory text.[48] To achieve the certainty the NPRM aims to deliver, we recommend that the final rule define the term "event contract" and that the definition align with the IFR to describe a single boundary from both sides.

The IFR excludes products that are "not traded on a board of trade, an organized exchange, a swap execution facility, or any other market in which trades are executed multilaterally or subject to individual negotiation."[49] The NPRM's definition could include the converse as an affirmative statement. Paradigm proposes the following to be added to Regulation 1.3 to define the term "event contract":

> *Event contract means an agreement, contract, or transaction that: (i) provides for any purchase, sale, payment, or delivery that is dependent on the occurrence, non-occurrence, or the extent of the occurrence of an event or contingency that is beyond the control of the parties, and (ii) is traded on a designated contract market, swap execution facility, board of trade, or other market in which trades are executed multilaterally, or is entered into bilaterally between eligible contract participants. Nothing in this definition modifies the exclusions from the definition of "swap" in section 1a(47)(B) of the Act or this section, including the exclusion for futures contracts.*

[48] *Id.* at 66,033.

[49] IFR, 91 Fed. Reg. at 65,979 (to be codified at 17 C.F.R. § 1.3).

V. Conclusion

Paradigm believes the Commission has done what Congress authorized it to do. The NPRM formalizes a position that the agency has held for more than three decades, which market participants have relied upon to list thousands of contracts. The IFR resolves the concern that led two courts to stray from the statute's plain language.[50] And neither the NPRM nor the IFR expands the Commission's jurisdiction beyond that authorized by the CEA.

It is unfortunate that the Commission must act to state that which was nearly universally known a few short years ago, but the Commission is to be congratulated for going the extra mile to make the regulatory position clear and obvious for all stakeholders. Paradigm applauds the efforts of the Commission to bring certainty to market participants through the release of the NPRM and IFR. We urge the Commission to finalize the NPRM substantially as proposed, with the clarifications and the minor addition of a definition of "event contract."

If you have further questions regarding our comments, 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

[50] *See* NPRM, 91 Fed. Reg. at 66,025 & n.25 (noting a circuit split among the Third, Ninth, and Sixth Circuits) (citing *KalshiEX LLC v. Flaherty*, 172 F.4th 220, 228 (3d Cir. 2026), *petition for cert. filed*, No. 26-299 (U.S. Sept. 2, 2026)); *id.* at 66,027 & nn.65–68.