



USET

SOVEREIGNTY PROTECTION FUND

Washington, DC Office
1730 Rhode Island Ave., NW, Suite 909
Washington, DC 20036

Nashville, TN Office
711 Stewarts Ferry Pike
Nashville, TN 37214
P: 615-872-7900 | F: 615-872-7417

Transmitted Electronically

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Michael Selig
Chairman
Commodity Futures Trading Commission
1155 21st St. NW
Washington, DC 20581

RE: USET SPF Comments in Response to the CFTC's Advance Notice of Proposed Rulemaking on Prediction Markets, 91 FR 12516

Dear Chairman Selig,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we write in response to the Commodity Futures Trading Commission's (CFTC) Advance Notice of Proposed Rulemaking on Prediction Markets published on March 16, 2026. Specifically, the CFTC is requesting comments on the need to amend or issue new regulations concerning what the CFTC describes as "event contract" derivatives traded on prediction markets.

USET SPF strongly opposes any revision of the CFTC's regulations that would purport to authorize the use of futures markets to facilitate online gambling, including on the outcome of sporting events, under the auspices of the Commodities Exchange Act (CEA). USET SPF is urgently concerned about the illegal and unregulated gambling occurring on prediction markets, including by entities such as Kalshi, Crypto.com, and Robinhood. These entities are encroaching on Tribal Nations' exclusive rights as sovereign governments to regulate and conduct gaming occurring on our Indian lands—gaming we rely upon to generate revenue to fund our governments.

USET SPF is a non-profit, inter-Tribal organization advocating on behalf of thirty-three (33) federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico.¹ USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations, and assisting its membership in dealing effectively with public policy issues.

¹ USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Catawba Indian Nation (SC), Cayuga Nation (NY), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe—Eastern Division (VA), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mi'kmaq Nation (ME), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Monacan Indian Nation (VA), Nansemond Indian Nation (VA), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Rappahannock Tribe (VA), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), Upper Mattaponi Indian Tribe (VA), and Wampanoag Tribe of Gay Head (Aquinnah) (MA).

Because there is Strength in Unity

Proliferation of Illegal Online Gambling via So-Called “Event Contracts”

Over the past year, Tribal Nations and regulatory authorities have watched with growing dismay the failure of the CFTC to prohibit the exploitation of the CEA to facilitate interstate online gambling, including online sports betting, outside of a lawful state and/or Tribal regulatory framework. CFTC inaction has allowed the explosion of prediction market platforms offering so-called “event contracts” based on the outcome of sporting events. The fact is that these “event contracts” are interstate wagers that are unlawful under the CEA and its implementing regulations. Equally, they constitute illegal gambling under federal, state, and Tribal law.

Instead of applying its own correct interpretation of the law as reflected in its existing regulations, the CFTC in recent months has become an active proponent of online sports betting through prediction markets, filing litigation briefs opposing the enforcement of Tribal and state gambling laws and even initiating its own lawsuits to prevent such enforcement. Now, the CFTC has issued this Advance Notice of Proposed Rulemaking, opening the door to weakening the CFTC’s existing regulations.

Proponents of the use of so-called “event contracts” or “sports contracts” under the auspices of the CEA seek to conduct sports betting free of the costs and responsibilities of a responsible, well-regulated legal framework. Sports betting dressed up as investments on prediction markets under the CEA is a fiction fabricated by commercial interests as an end run around responsible Tribal and state regulation of sports betting activities. It is a means to bypass public policies restricting, regulating, or prohibiting sports betting. Furthermore, “event contracts” directly violate the CEA, and the plain language of the CFTC’s implementing regulations, because they involve gambling, violate Tribal, state, and federal laws, and are contrary to the public interest. To adopt a regulation that classifies sports betting as a derivative, event contract, swap, or other financial instrument would stretch the reach of the CFTC far beyond what Congress intended in the CEA.

Dire Effects on Tribal Self-Governance

Tribal Nations are inherently sovereign governments that predate the arrival of Europeans, which the United States acknowledged early on. U.S. Const. art. I, § 8, cl. 3; *Worcester v. Georgia*, 31 U.S. 515 (1832). The United States has also recognized Tribal Nations’ inherent and exclusive sovereign rights to regulate gaming activities occurring on our Indian lands. *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987). Congress enacted the Indian Gaming Regulatory Act (IGRA) to provide a comprehensive federal regulatory framework for such gaming. Pub. L. 100-497, 102 Stat. 2467 (Oct. 17, 1988) (codified at 25 U.S.C. §§ 2701–2721). IGRA mandates that Tribal Nations “have the exclusive right to regulate gaming activity on Indian lands.” 25 U.S.C. § 2701(5); *see also* 24 U.S.C. § 2710. IGRA controls all gaming activity occurring on Indian lands, including placement of off-reservation wagers that are then received on Indian lands. *See W. Flagler Assocs., Ltd. v. Haaland*, 71 F.4th 1059, 1061 (D.C. Cir. 2023), *cert. denied*, 144 S. Ct. 2671, 219 L. Ed. 2d 1292 (2024).

Tribal Nations’ gaming activities, among other economic development activities, have been integral to generating funding for our government coffers so that we may provide essential government services for our communities. The United States took the lands and resources with which we traditionally cared for our communities without ever fully funding its resulting debt-based trust and treaty obligations. We now face convoluted legal precedent that siphons revenue away from Tribal lands and prevents us from collecting taxes like other governmental entities do, all while the federal government strictly regulates the development activities we attempt to undertake on our lands.

Congress recognized these realities when it enacted IGRA, acknowledging many Tribal Nations already engaged in gaming “as a means of generating tribal governmental revenue,” 25 U.S.C. § 2701(1), and that one

purpose of IGRA was “to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments,” 25 U.S.C. § 2702(1). For this reason, Congress made clear in IGRA that Tribal Nations must “have the sole proprietary interest” in gaming activity occurring on our lands. 25 U.S.C. § 2710(b)(2)(A). Tribal Nations and states have negotiated through IGRA compacts for revenue sharing payments from Tribal Nations to states in exchange for Tribal Nations’ rights to exclusively offer certain types of gaming throughout those states without competition—benefiting Tribal Nations and states alike. 25 U.S.C. § 2710(d); *Rincon Band of Luiseno Mission Indians of Rincon Rsrv. v. Schwarzenegger*, 602 F.3d 1019 (9th Cir. 2010). Tribal gaming has succeeded as a tool for allowing Tribal Nations to build our governance structures and care for our people. *Michigan v. Bay Mills Indian Cmty.*, 572 U.S. 782, 810 (2014) (Sotomayor, J., concurring) (explaining that “tribal gaming operations cannot be understood as mere profit-making ventures that are wholly separate from the Tribes’ core governmental functions”).

Additionally, Tribal governments, like state governments, have invested heavily in regulatory systems to monitor, audit, and enforce compliance with laws, regulations, and internal control systems as a means not only of safeguarding Tribal gaming revenues, but to prevent unlawful practices harmful to the public interest, including safeguards designed to protect consumers. Licensing and background requirements are designed to prevent infiltration by criminal elements. Tribal gaming regulations go beyond operational procedures, and they address gambling addiction, problem gambling, the adjudication of patron complaints, and the prevention of cheating and money laundering. Such rules, regulations, processes, and procedures are designed to facilitate integrity in the conduct of gaming, mitigate potential threats and harms, and protect the public interest through the deployment of robust regulation. We have seen in the prediction markets space that the lack of regulatory safeguards for gambling harms communities.

Indian Country has worked hard to build a Tribal gaming industry that is not only prosperous, but which plays by the rules, acknowledges, respects, and protects the public interest, and actively shields itself from criminal infiltration, criminal activities, and money laundering through robust regulation. Despite the clear mandates of IGRA and Tribal Nations’ inherent sovereignty, entities engaged in so-called “event contracts” and illegal and unregulated gambling occurring on prediction markets argue their activities are lawful because they fall outside the scope of IGRA and Tribal jurisdiction. This impingement on Tribal sovereignty and economic development must be stopped.

Request

USET SPF strongly urges the CFTC to affirm its current interpretation of the CEA that so-called “event contracts” or “sports contracts”—and indeed any forms of online gambling—are prohibited from listing and trading on financial markets pursuant to the CEA. Should you have any questions or require further information, please contact Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at LMalerba@usetinc.org, or Katie Klass, USET/USET SPF General Counsel, at KKlass@usetinc.org.

Sincerely,



Kirk Francis
President



Kitcki A. Carroll
Executive Director