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Testimony of the United South and Eastern Tribes Sovereignty Protection Fund For the Record of the July 21, 2026 Hearing Held by the Subcommittee on Commodity Markets, Digital Assets, and Rural Development of the House Committee on Agriculture on "Examining Customer Protections and Market Integrity in Sports Event Prediction Markets"

The United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) provides the Subcommittee on Commodity Markets, Digital Assets, and Rural Development (Subcommittee) of the House Committee on Agriculture the following testimony. USET SPF continues to be urgently concerned about the illegal and unregulated gambling occurring on prediction markets, including by entities such as Kalshi, Crypto.com, and Robinhood, under the guise of the Commodity Exchange Act (CEA). The federal government must protect Tribal Nations' jurisdictional authorities and Tribal government revenue flowing from Tribal gaming, and yet the Commodity Futures Trading Commission (CFTC) is now defying congressional intent by actively supporting the prediction markets in their gaming endeavors. *We call on the Subcommittee to work with other members of Congress to put an end to prediction markets' illegal gambling.*

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 Turtle Island.[1] USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations and to assisting its membership in dealing effectively with public policy issues.

The prediction markets' gaming activity infringes upon Tribal Nations' exclusive rights as sovereign governments to regulate and conduct gaming occurring on our Indian lands, as confirmed by the U.S. Supreme Court in *Cabazon* and federally codified by Congress in the Indian Gaming Regulatory Act (IGRA). It also violates many Tribal Nations' bargained-for and federally protected gaming exclusivity rights under IGRA and threatens a critical source of Tribal governmental revenue. Indian Country relies upon this gaming to generate revenue for our Tribal governments in order to provide essential government services

[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 Tribe (VA), and Wampanoag Tribe of Gay Head (Aquinnah) (MA).

to our people—such as housing, health care, public safety, and education—in the face of serious underfunding of trust and treaty obligations by the federal government.

I. Prediction Markets' Illegal Gambling Infringes on Tribal Nations' Sovereign and IGRA-Confirmed Jurisdictional and Gaming Rights

Tribal Nations are inherently sovereign governments that predate the arrival of colonizing forces, and the United States acknowledged this early on. *See* U.S. Const. art. I, § 8, cl. 3; *Worcester v. Georgia*, 31 U.S. 515 (1832). The United States has also recognized that, stemming from our status as inherently sovereign governments, Tribal Nations possess inherent 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 IGRA to provide a comprehensive federal regulatory framework for such gaming. Pub. L. No. 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 id.* § 2710. IGRA controls all gaming activity occurring on Indian lands, including placement of wagers electronically that are then received on Indian lands. *W. Flagler Assocs., Ltd. v. Haaland,* 71 F.4th 1059, 1061 (D.C. Cir. 2023), *cert. denied*, 144 S. Ct. 2671 (2024).

In enacting IGRA, Congress also sought to assist Tribal Nations as we aim to fill critical funding gaps created by the federal government's own failure to deliver on its promises. Prior to the arrival of colonizing forces to our shores, Tribal Nations fully exercised our sovereign jurisdiction over all two billion acres of what is now called the United States, developing robust local economies and complex, wide-ranging trade networks alongside effective governance structures. In taking for itself nearly all our original territory through war, treaty-making, and other political means, the United States incurred a debt to Tribal Nations that manifests in trust and treaty obligations to provide services and funding to Tribal Nations, Tribal communities, and Native people, including for economic development purposes.

Yet, by the government's own accounting, the United States has persistently fallen far short of meeting its trust and treaty obligations with sufficient federal funding, while federal policies have often caused or contributed to economic hardship in Indian Country. For example, the United States has erected convoluted legal precedent that siphons revenue away from Tribal lands and prevents Tribal Nations from collecting taxes like other governmental entities do. The federal government also strictly regulates the development activities we attempt to undertake on our lands, such as by creating a burdensome process requiring federal approval for entering into leases. This lack of parity with other units of government places Tribal Nations at a disadvantage when trying to fund government services and spur economic development.

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 a primary 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," *id.* § 2702(1). For this reason, Congress made clear in IGRA that Tribal Nations must "have the sole proprietary interest" in gaming occurring on our lands. *Id.* § 2710(b)(2)(A). Tribal gaming has succeeded as a tool for allowing Tribal Nations to build our governance structures and care for our people. *See 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").

IGRA also plays an important societal good in helping to fund state and local governments through mutually beneficial revenue-sharing agreements, in addition to employing non-Tribal citizens and strengthening local economies. Under IGRA, Tribal Nations and states have negotiated compacts providing for Tribal Nations to share a portion of their gaming revenue with states in exchange for the states' guarantee of Tribal Nations' ability to exclusively offer certain types of gaming without competition—benefiting Tribal Nations and states alike. *See* 25 U.S.C. § 2710(d)(3); *Rincon Band of Luiseño Mission Indians of Rincon Rsrv. v. Schwarzenegger*, 602 F.3d 1019 (9th Cir. 2010). Should prediction markets be allowed to infringe on those exclusivity rights, such violations trigger remedies under existing compacts, including Tribal Nations' right to no longer engage in revenue sharing with the relevant state.

Despite the clear mandates of IGRA and Tribal Nations' inherent sovereignty, entities engaged in illegal and unregulated gambling occurring on prediction markets argue their activities fall outside the scope of IGRA and Tribal jurisdiction and instead fall under the CEA as "swaps." This impingement on Tribal sovereignty and economic development must be stopped. It is for this reason we have joined amicus briefs in litigation attempting to rein in these bad actors. *E.g.,* Amicus Br. of Indian Gaming Ass'n, et al., *KalshiEX LLC v. Flaherty*, No. 1:25-cv-2152 (D.N.J. filed June 17, 2025) (first of many amicus briefs we have joined). We also submitted comments to the CFTC on its proposed rule attempting to facilitate prediction markets' gaming, setting out the legal arguments for why the CEA cannot be read to allow gambling via swaps and why, even if it could, IGRA would override the CEA for gaming activity occurring on Indian lands.

II. Current Proposals Do Not Sufficiently Address Tribal Concerns Regarding Prediction Markets' Illegal Gambling.

A. The CLARITY Act Requires Critical Changes to Protect Tribal Sovereignty.

USET SPF reiterates its strong opposition to the Digital Asset Market Clarity Act (CLARITY Act), H.R. 3633 (including the provisions of the Digital Commodity Intermediaries Act), unless the bill is amended to address the concerns of Tribal Nations. As written, the bill represents an existential threat to Tribal Nations' ability to provide for our people using governmental revenue derived from gaming. It violates our exclusive rights as sovereign governments to regulate gaming occurring on our Indian lands, our statutory rights to have the sole proprietary interest in gaming occurring on our lands, and our bargained-for exclusivity rights to conduct certain types of gaming under our Tribal-state gaming compacts.

We therefore urge you to oppose the CLARITY Act unless language is included that would:

1. Preclude the use of prediction markets for the conduct of traditional forms of gaming, including, but not limited to, sports betting and casino-style games, which have long been governed by state and Tribal governments; and
2. Ensure that Decentralized Finance cannot be used to avoid, repeal, or preempt state, Tribal, or federal gambling laws.

Tribal sovereignty and self-government must not be sacrificed to create a federal loophole for unregulated gambling. We urge you to reject any version of the CLARITY Act that does not include vital protections for Tribal economies and existing gaming laws.

B. The CFTC's Proposed Rule Purports to Transform the CFTC into a Gaming Regulator—a Role that Congress Never Intended for the CFTC to Take On.

USET SPF has also submitted comments strongly opposing the CFTC's proposed rule that would amend its regulations implementing the CEA's special rule—thereby removing the regulatory prohibition against using event contracts for gaming because they are against the public interest. *See Prediction Markets; Public Interest Determinations*, 91 Fed. Reg. 35806 (proposed June 12, 2026) (to be codified at 17 C.F.R. pt. 40). Even before the proposed rule, we submitted comments conveying our strong opposition to 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 CEA. Yet, despite our opposition, and the opposition of many others, the CFTC's proposed rule would purport to do just that. It prioritizes prediction markets' profits above all else—capitulating to their pressure by attempting to jam transactions into the CEA framework that were never meant to fit.

Among the many reasons for opposing this proposed rule, including that it violates federal law and harms Tribal governments, is the fact that allowing the CEA to authorize sports betting or other types of gaming would *effectuate* a societal harm rather than work to correct one. The CFTC is not a gaming regulator, and it has neither the resources nor the expertise to act as one. This lack of regulation fuels the prediction markets' insatiable drive for profits and threatens the well-being of our people—especially our young people—who are able to access their unregulated gambling platforms. Instead, it is the carefully designed regulatory structure under IGRA, carried out by Tribal Nations, the National Indian Gaming Commission (NIGC), and states, that must regulate all gaming activities occurring on Indian lands. Gaming conducted pursuant to IGRA, or even state law, provides significantly more consumer protection for patrons than the self-certification regulatory framework of the CEA. And keeping the CEA's doors closed to gaming in no way hampers the societal good the CEA was designed to address—namely, mitigating the risks involved in commodities markets, like farmers who need relief from the risk of a bad harvest.

To prevent the CFTC from moving forward with its proposed rule, we ask that Congress amend the CEA to reinforce existing law and regulations prohibiting prediction markets from offering event contracts on sporting events or other gaming activities, including casino-style gambling.

III. Conclusion

USET SPF appreciates the Subcommittee's attention to this important matter. The Subcommittee should work to amend the CEA to reinforce the prohibition on prediction markets' ability to offer event contracts on gaming, including, but not limited to, sports betting and casino-style games. Doing so will not only protect consumers and the public interest, but it will also put a stop to the CFTC's and prediction markets' efforts to undermine congressional intent and infringe upon Tribal sovereignty, exclusive gaming rights, and our ability to provide essential government services to our people.

Sincerely,

Chief Kirk Francis
President

Kitcki A. Carroll
Executive Director