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Mr. Christopher Kirkpatrick, Secretary

Commodity Futures Trading Commission (CFTC)

Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581

Re: Prediction Markets; Public Interest Determinations (RIN 3038-AF65)¹

Dear Mr. Kirkpatrick,

On behalf of Data Boiler Technologies, I am pleased to provide the Commission with our comments on the captioned release on identifying CFTC regulatory items, aimed at facilitating innovation and fostering competition in financial products and services for Fintech firms, issued pursuant to Executive Order 14405. Data Boiler is a Pioneer in FinTech with patented inventions in signal processing, trade analytics, machine learning, time-lock cryptography, etc. We frequently comment on regulatory policy both domestically and abroad with over 12 years in business.

In prior, Rule 40.11 forces the Commission to engage in philosophical debates over the “*social utility*” of binary event contracts (such as political election or macro-economic outcomes). Such subjective approach introduces massive regulatory bias, favoring select incumbent participant groups while causing long-term market stagnation. It drives scarce resources – such as skilled labor and capital – away from product innovation and towards endless lobbying, litigation, and regulatory capture. **We appreciate the many examples provided in the proposal that bring clarity to the issues.**

Also, we applaud the Commission’s attempt to weight various positive and negative factors as in §40.11(a)(6)(iii) to determine “*public interest*.” The goal should NOT simply be to eliminate the harm to non-participants at all costs. Instead, the approach taken should look at the aggregated balance of all social effects – both positive and negative. We however do see room for improvements. Please see the BOX below for an Executive Summary of our comments:

Executive Summary: *The What and How of regulating Prediction Markets*

Favorite-longshot bias is the core problem in Prediction Markets that harms retail investors per the empirical [Whelan Paper](#). The “*Volume versus Integrity Paradox*” have too much **friction**. It starves out the “*healthy*” speculators. There is a lack of arbitrageurs to engage in price improvement to reduce the “*stupid tax*” or “*overpriced lottery ticket effect*” due to the market operator’s *high fee-to-contract-value ratio*. As long as regulators tolerate market structures that prioritize flow capture over actual market integrity, retail investors will continue to suffer from systemic exploitation. So, after the Commission finalizes the definition of *what* is traded, more emphasis should focus on *how* trades are executed.

The proposed review process, if adopted as-is, is insufficient or blind to data architecture and contract mechanics problems. It allows vertically integrated retail platforms to secure an exchange designation (DCM) or clearing license (DCO) to list event contracts while running a closed corporate loop. Vertical integrated platforms exploit their economies of scale to gamify execution, using a “*False-Beard*” veneer of retail democratization to drive unhedged momentum upstream.

Our recommendations: *A Framework for Market Efficiency and Market Integrity*

1. Definition of Gaming

We suggest the use of **powers of two logic** (*binary search*) to serve as a practical [litmus test](#). It creates an **objective regulatory safe harbor** by replacing vague, case-by-case “*public interest*” debates with a deterministic test rooted in computational intricacy, the CFTC can immediately filter out recreational games that rely on artificial friction and prolonged suspense. It is well fitted for the §40.11 (b)(2) [Reserved] provision to supplement the definition under the

¹ <https://downloads.regulations.gov/CFTC-2026-1189-0001/content.pdf>

proposed §40.11 (b)(1). The litmus test implementation cost for DCM/ SEF is negligible, while the benefit for market participants is tremendous. This framework ensures that all listed contracts maintain high information velocity and strict commercial utility, protecting the integrity of the derivatives ecosystem while granting innovators a predictable, legally insulated path to launch novel hedging instruments.

2. Public Interest Factors applicable to Enumerated Activities

We strongly object to the Commission's designation of contracts settling on "*pre-collegiate level*" or certain "*collegiate level*" outcomes as "*negative public interest factors*"; do NOT undermine the measurable achievements of young American leaders. Whilst, the "[Presence of Prediction Laundering](#)" (platforms that offload fact-checking to pseudonymous users while capturing commercial fees without legal recourse) should be added to the list of negative public interest factors.

Also, **News ingestion must be banned** in prediction markets because it relies on biased, addictive central curation that replaces active critical thinking with passive consumption, fuels extreme polarization, destroys public trust, and acts as a manipulative business tactic that ruins market neutrality.

3. Market Monitoring Metrics (Section 40.11 & Part 16)

- **Adopt the Whelan Approach:** Utilize the empirical Whelan Paper approach annually to calculate trading frictions and clear out the favorite-longshot biases that systematically exploit retail traders.
- **Shift Insider Tracking to FCMs:** Transfer the obligation to collect employee and occupation data from exchanges (DCMs/SEFs) to Futures Commission Merchants to prevent cybersecurity honeypots.
- **Leverage DCOs for Migration:** Mandate that Derivatives Clearing Organizations act as the back-end validators to track macro-level asset flights to offshore platforms.
- **Audit Event-Adjacent Incident Referrals:** Incorporate multi-tiered surveillance metrics from third-party monitors and sports leagues to track and log real-world match-fixing, DDoS infrastructure sabotage, and oracle tampering.
- **Submit Narrow-Outcome Influence Scores:** Require exchanges to provide mathematical risk scores mapping out exactly how easily an insider or a small group of decision-makers can manipulate a niche contract.

4. Operational and Technological Safeguards

- **Mandate Cooling-Off Windows:** Establish a 2-to-24-hour buffer window for contested inputs before distributing payouts to keep settlements anchored to verified facts.
- **Deploy Supervisory AI:** Proactively integrate machine learning and automated text-analytics to parse self-certified filings, flag ambiguities, and group similar contracts to assist the DMO review.
- **Enforce Algorithmic Risk Simulations:** Require platforms to programmatically prove their routing architectures naturally prevent spread widening, oracle manipulation, and front-running by preferred market makers.

5. Friction Test and Market Integrity

An empirical [friction test](#) evaluates market integrity by measuring how structural barriers, such as high fees and wide spreads, exploit retail participants and induce a favorite-longshot bias. By analyzing these metrics, regulators can identify when platforms transition from neutral utilities to predatory systems where liquidity providers extract risk-free rents, thus compromising true [market integrity](#). To mitigate [vertical integration](#) risks, the CFTC should enforce strict arm's-length separation between an exchange venue, guarantor, and brokerage arm to prevent platforms from using a "False-Beard" retail democratization veneer to generate hidden, toxic leverage loops. Lastly, vertical integration and the overuse of leverage could be a danger to the health of financial markets if the market for a "*cause*" may become an outsized risk in itself. We propose establishing a [cross-market surveillance](#) network.

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Definition of Gaming

A. “Gaming” is the game itself, the activity that occurs

We applaud the Commission for drawing the line and providing many examples in the proposal, in an attempt to delineate permissible versus prohibited event contracts applicable to Enumerated Activities, in particular about “gaming”. We concur with the proposal’s footnote 203 the Commission’s statement about *“the coherent reading is the one the ordinary meaning of the word naturally supplies: gaming is the game itself—the activity in which occurrences, the extent of occurrences, or contingencies determine settlement.”* Congressional or polarized public opinions on what constitute as “Gaming” may never end, given styles of literature and social norms that could change overtime. The proposal presents a workable administrative resolution to ease the contentious debates about this definition and foster positive momentum in facilitating development of Prediction Markets.

Proposed §40.11(b)(1)(i) about *“one or more participants typically engage in for purposes of recreation or to entertain others”* coincide with our August 2025 comments to the CFTC² that stated, *“Sport bets, the lottery, and other forms of consumer goods and services that provide ‘entertainment’ or ‘use value’ (tangible features of a ‘commodity’) other than having resale or for commercial purposes, or motives or the pursuit of capital accumulation, then such buy, sell, or borrow activities over digital assets should be guarded under Casino and consumer rights laws rather than subjected to investor protection rules...”*

Reference to our April 2026 comment letter regarding Advanced Notice of Proposed Rulemaking to regulate Prediction Markets,³ we illustrated the **subjectivity** of the Economic Purpose Test and its limitations. The proposed §40.11(b)(1)(ii) and (iii) are insufficient. Both derivatives trading and “gaming” are “governed by rules; and includes measurable occurrences or outcomes that depend on the participants’ luck, skill, or [mental/ physical] ability during the activity”, though the dependence may vary to different degrees. Therefore, if the CFTC wants to further strengthen the §5c(c) and Core Principle 1 about the “self-certify” of new rules or contracts, for *better certainty* and *objectivity* to differentiate a **game of chance/ entertainment** from a **market** with **economic purpose**, we recommend using the **powers of two logic (binary search)**⁴ to serve as a practical **litmus test**.

B. Litmus Test

The following illustrates how our recommended **powers of two logic** can serve as a practical **Litmus Test** well fitted for the §40.11 (b)(2) [Reserved] provision to supplement the definition under the proposed §40.11 (b)(1). It is also relevant to the SEC-regulated binary contracts in distinguishing between “gaming” versus a financial market:

² https://www.databoiler.com/index_htm_files/DataBoiler%20CFTC%2020250818.pdf

³ https://www.databoiler.com/index_htm_files/DataBoiler%20CFTC%20SEC%2020260430.pdf

⁴ <https://www.khanacademy.org/computing/computer-science/algorithms/intro-to-algorithms/a/a-guessing-game> ; E.g., In a number guessing game from 1 to 300, you should take no more than 9 guesses because of a mathematical strategy called **binary search**. Using this method, each guess eliminates exactly half of the remaining possibilities. Mathematically, the number of guesses is the binary logarithm of the range, rounded up to the nearest whole number: $\text{Roundup}[\log_2(300)] \approx 8.23 = 9$.

Market Information is NOT Static. The number guessing game has a fixed target. Binary event prices fluctuate constantly based on new information. Because the target moves, a trader might “place order” multiple times as the market’s perceived probability of the event changes. High Spreads Indicate Low Liquidity. in illiquid markets, one CANNOT always “halve the range” effectively because there may be no buyers or sellers at the midpoint.

In a number game, feedback is free. In trading, the bid-ask spread is a direct cost. Every “trade” requires participant to pay the ask and sell at the bid. If one trade frequently to narrow down the “true” price, one may lose more in spread costs than one gain from finding the correct value. Given information asymmetry in markets, a more informed market maker might move price against you, forcing more trades to reach a fill. Traders often take smaller position to manage risk, rather than one large binary search bet.

1. Fixed vs. Moving Information

- **Gaming (Fixed):** In a number guessing game, the target number is static. Binary event prices fluctuate constantly based on new information. The 2^n logic works because the “*truth*” is hidden but unchanging. Success comes from the efficiency of the search algorithm itself.
- **Markets (Dynamic):** In binary options or prediction markets, the “*truth*” (e.g., an election result or stock price) is a moving target influenced by global events. If 9 “*guesses*” (trades) were all it took to find the price, the market would be perfectly efficient, and no profit opportunity would exist.

2. Entertainment vs. Economic Utility

- **Gaming (Suspense):** Entertainment thrives on “*suspense and surprise*”. A player might intentionally avoid the optimal 9-guess binary search to prolong the game or experience the “*underdog*” thrill. The value is in the *process (the play)*.
- **Markets (Discovery):** Prediction markets exist to aggregate information for a purpose. Their value is in the *result (the price signal)*. Participants are incentivized to reach the “*correct*” probability as fast as possible to capture “*alpha*” before others do.

3. Strategy: Algorithm vs. Analysis

- **Gaming (Algorithmic):** If one can always win in a set number of moves using a mathematical formula like $2^9 \geq 300$, it is a *mechanical puzzle* or “*gaming*”. There is no “*risk*” in financial sense, only execution of a known optimal strategy.
- **Markets (Analytical):** Trading requires fundamental or technical analysis of external forces (e.g., politics, weather, economics). You are not just “*halving a range*”; you are betting that your estimation of a probability (P_{true}) is more accurate than the crowd's (P_{market}).

The cost for a Designated Contract Market (DCMs), Swap Execution Facility (SEF), or an Options Exchange to implement this *litmus test* is negligible. Writing computer code for the mathematical **powers of two logic** (*binary search*) is next to nothing, given this is open-source and can easily be generated by Artificial Intelligence (AI).

Implementing this algorithmic *litmus test* at the contract listing and surveillance layer is exceptionally cost-effective, requiring an estimated investment of **\$55,000 to \$120,000 for a regulated exchange**. Because the mechanism operates within the event contract listing phase, it completely bypasses the core matching engine, eliminating the need to make any alternation to the Central Limit Order Book (CLOB). Roughly **80% of the budget** in our estimate is directed toward specialized derivatives counsel to draft the formal CFTC Rule 40.2/40.6 filings and quantitative economists to build the data simulations proving the market's dynamic entropy.

For the Commission, the administrative and enforcement cost to implement this litmus test framework is essentially negligible. The CFTC does not need to build, maintain, or purchase new software to police these markets. Instead, the burden of proof is on the Self-Regulatory Organizations (SROs), who must provide automated Information Processing Efficiency (IPE) audit trails alongside their standard product certifications. By requiring SROs to submit these standardized data feeds, division staff can instantly audit order book velocity, transforming what is currently a slow, subjective review process into a highly automated, data-driven compliance check.

The primary benefit of adopting this mathematical threshold is the creation of an **objective regulatory safe harbor** that permanently separates gambling from legitimate trading. By replacing vague, case-by-case “*public interest*” debates with a deterministic test rooted in computational intricacy, the CFTC can immediately filter out recreational

games that rely on artificial friction and prolonged suspense. **For market participants**, this framework ensures that all listed contracts maintain high information velocity and strict commercial utility, protecting the integrity of the derivatives ecosystem while granting innovators a predictable, legally insulated path to launch novel hedging instruments.

C. Other activities constitute as Gaming or NOT

If our suggested [litmus test](#) is adopted in the final rule, it will serve as principled, catch-all framework rather than requiring the Commission to maintain an exhaustive list of prohibited “Gaming” activities. This **objective** threshold eliminates the need for the Commission to continuously update CFTC Regulation Part 40 to address novel event contract structures, providing a future-proof standard that scales seamlessly with market innovation.

D. Reservations regarding Proposed §40.11(a)(6)(iii)(A)(1), (A)(5), and (B)(6) – Presumption Against Pre-Collegiate and Collegiate Events

We strongly object to the Commission’s designation of contracts settling on “pre-collegiate level” or certain “collegiate level” outcomes as “negative public interest factors”. The proposed rule relies on an archaic framework that equates a participant’s institutional academic enrollment with their societal, professional, and economic impact. In the modern global economy, the advancement of AI, decentralized learning, and early-stage professionalization has broken the traditional dependency on higher education for achieving elite professional status. Young individuals are increasingly operating as sophisticated, independent economic actors long before entering – or completely bypassing – the collegiate system.

Furthermore, international professional disciplines – ranging from esports and AI-driven quantitative fields to global motorsports and professional athletics – frequently launch individuals into high-stakes, globally impactful careers at a very young age. Categorically depressing the risk-management and price-discovery mechanisms for these events structurally undermines the measurable achievements of young American leaders.

For instance, Abhimanyu Mishra became the youngest Chess Grandmaster in history at just 12 years and 4 months old in 2021. He routinely outmaneuvers veteran adult masters. At age 16, Kyle (Bugha) Giersdorf won the Fortnite World Cup,⁵ securing a \$3 million grand prize. Similarly, Jaden Ashman became an esports millionaire at just 15. These teens sign lucrative corporate contracts, manage massive personal brands, and command global audiences, all while operating at what the Commission would classify as a “pre-collegiate” age.

By maintaining these arbitrary restrictions, the Commission ignores the real-world economic materiality of youth-led global events, needlessly handicaps the prediction of major socioeconomic indicators, and fails to account for a shifting cultural paradigm where age and institutional enrollment no longer dictate economic or public significance.

⁵ https://en.wikipedia.org/wiki/Fortnite_World_Cup

§ 40.11(a)(6) Public Interest factors applicable to Enumerated Activities

Referring to our July 9 2026 comment letter to the CFTC on identifying CFTC regulatory items, aimed at facilitating innovation and fostering competition in financial products and services for Fintech firms,⁶ we provided a “**Framework for Market Reform and Regulation**.” Among the 3 key objectives we suggested, objective 1(b) – *Delineate private rights and obligations clearly, while minimizing and compensating for any social costs imposed on non-participants*⁷ – is directly relevant to the “**public interest**” determination.

Government interventions, compliance bureaucracies, and administrative enforcement are themselves highly expensive and carry an opportunity cost. Politicians and regulatory agencies are not neutral “*economic eunuchs*” maximizing public welfare. They operate under their own constraints and are heavily influenced by dominant pressure groups, meaning government intervention can easily create worse resource misallocations than the original problem. Therefore, a true “**public interest**” determination must *compare the real-world consequences of an imperfect market against the real-world consequences of an imperfect “government failure”*. The goal should NOT simply be to eliminate the harm to non-participants at all costs. Instead, it must *look at the aggregated balance of all social effects – both positive and negative*. For that, we applaud the Commission’s attempt to weight various positive and negative factors as in §40.11(a)(6)(iii).

A. Positive public interest factors

The mere presence of an uncontracted effect does not mean resources are misallocated. If property rights are clearly defined, private actors can bargain to reach an economically efficient outcome on their own. Therefore, a true “**public interest**” evaluation must first *determine whether the issue is actually a structural lack of property rights, rather than an inherent failure of the market itself*.

In the context of Prediction Markets, traders see a clear outcome but systematically misprice it due to emotional bias, herd behavior, or a speculative bubble. The market fails to find the “*true*” probability despite a flawless contract. The contract’s resolution rules are vaguely worded, or the designated “*oracle*” (the source of truth) fails to provide an indisputable verdict. For example, if an event contract asks “*Will a recession happen in 2026?*” but does not define whether it means GDP contraction, NBER declaration, or a specific treasury yield curve, no clear property right exists to begin with. Policy makers should curb the DCM/ SEF and/or the designated Market Makers’ behavior that alleges gambling, on a legal dispute over the questionable event contract rather than **aggregation information**. We are glad that “**Aggregate Outcome**” is listed as the number one positive weigh-in factor for the *public interest* determination.

However, as mentioned in [earlier section](#), we have reservations regarding the presumption against *Pre-Collegiate* and *Collegiate Events* in proposed §40.11(a)(6)(iii)(A)(1) and (A)(5). Do NOT undermine the measurable achievements of young American leaders.

B. Negative public interest factors

We strongly oppose the Proposed provision –§40.11(a)(6)(iii)(B)(6) regarding the presumption against *Pre-Collegiate* and *Collegiate Events*. We recommend replacing it with a **Presence of Prediction Laundering**⁸ provision adding to the list of negative factors. In prediction markets, information itself is the asset being captured. DCM/ SEF architecture itself intentionally offloads the “*dirty work*” of fact-checking and dispute resolution onto a pseudonymous public that lacks formal participation rights – is considered to be **Presence of Prediction Laundering**. When a platform reaps

⁶ https://www.databoiler.com/index_html_files/DataBoiler%20CFTC%20FinTech%2020260709.pdf

⁷ <https://iea.org.uk/wp-content/uploads/2016/07/THE%20MYTH%20OF%20SOCIAL%20COST.pdf>

⁸ <https://arxiv.org/html/2602.05181v1>

commercial fees for providing a clean probability signal while *failing to assign liability or legal recourse for rigged metrics, the failure stems from a lack of structured institutional rights and clear accountability rules.*

Courts have granted SROs “*absolute regulatory immunity*” from civil lawsuits when they are performing automated regulatory functions, yet SROs as for-profit exchanges can still be liable for their commercial activities, such as the SEC acknowledgement of our 2021 comments when disapproving the Consolidated Audit Trail (CAT) limited liability provisions for SROs.⁹ CFTC regulated DCMs, SEFs, and SEC-regulated securities exchanges as trusted intermediaries, a neutral infrastructure for trade execution and routing of risk (i.e. neither transforming nor absorbing risk) must strive to achieve the highest accountability standards rather than merely satisfy the minimum compliance requirements, see [later section](#) for an elaborated discussion.

C. 90-Day Review Process under §40.11(c)

This is a substantial restructure of the 90-day review process under Regulation 40.11(c). While the Dodd-Frank Rules granted broad authority to the CFTC, there is a statutory limitation under the CEA Special Rule where the CFTC cannot make a mandatory-request to ask the exchanges to halt trading while a review is still underway. For the sake of realpolitik, the Commission may request that an exchange voluntarily suspend trading as a gesture of regulatory cooperation. This in turn warns the DCM trading platform that if they choose to keep trading a contract under review, they must have rules in place to handle the fallout – such as forced unwinds, liquidations, or contract cancellations – if the final 90-day order comes back as a disapproval.

We agree with the hard deadlines and phased milestones as set forth by the proposal:

- **Day 10 (Initiation):** The CFTC must officially commence the review by issuing a written determination within 10 days of a contract's listing. It must establish a reasonable basis to believe the contract involves a prohibited activity and may oppose the public interest.
- **Day 15 (Factual Basis):** The Director of the Division of Market Oversight must provide the prediction market exchange with a written statement detailing the precise factual basis, legal theory, contract terms, and public interest factors under review.
- **Day 30 (Exchange Response):** The targeted prediction market has 30 days from the initiation date to submit a formal response containing supporting data, expert analysis, or contract modifications.
- **Day 90 (Final Order):** The Commission must issue a final approval or disapproval order by day 90. If no order is issued, the contract may legally continue trading. Extensions are forbidden unless explicitly requested or agreed to by the platform.

The proposal clarifies that every review requires a contract-specific, case-by-case public interest determination. It codifies a 2-step test: establishing that an activity is enumerated, and separately proving it actively damages the public interest rather than blanket prohibitions. We believe this is a significant burden on the CFTC Director of the Division of Market Oversight (DMO) and for that, **we are grateful for the DMO's service.** *Nowhere in the world except in the US where authority self-initiate to curb its own discretionary powers, which in turn makes the American markets and legal system more trustworthy than foreign jurisdictions.*

To ease the DMO's burden and streamline administrative workloads, we agree with the proposal to introduce a mechanism allowing the consolidation of reviews for multiple event contracts. If multiple platforms submit contracts

⁹ <https://www.sec.gov/rules/sro/nms/2021/34-93484.pdf>

referencing identical or substantially similar underlying events, the Commission can group them into a single, synchronized 90-day review track.

To further alleviate the immense administrative burden placed on DMO, the Commission should proactively integrate advanced AI and automated text-analytics tools/ semantic database into its supervisory workflow. Utilizing machine learning to parse and screen the rapidly expanding volume of self-certified event contracts would allow the DMO to instantly flag structural ambiguities, ensure compliance with contract geometry standards, and seamlessly identify substantially similar filings to optimize the Commission's proposed review consolidation framework.

D. Other public-interest considerations

We are in agreement with the following list of other public-interest consideration factors stated in the proposal, such as *evidence data provenance* (provable fairness),¹⁰ *publish clear calculation procedures, maintain feed redundancy, surveillance could incorporate model-audit trails and anomaly detection tuned to event-contract microstructure*, etc.

We also agree that *"prediction markets could consider mitigants, such as verified data sources and latency buffers for contested inputs, so settlement remains anchored to objective, verifiable facts."* Instead of instantly locking the market and distributing payouts when a headline breaks, the platform implements a pre-disclosed cooling-off window (e.g., 2 to 24 hours) that would be reasonable. During this buffer period, the input data should explicitly be paused and flagged as *"contested"*, where contracts are resolved via an adjudicative *"resolution layer"*.

Regarding automated quoting or **Automated Market Makers** (AMMs), we are concerned that if AMM may widen spreads to avoid *"pick-off"* rather than continuously providing tight two-sided quotes. When volatility spikes or an *"asymmetric information shock"* hits, an algorithm's code may prioritize protecting its own balance sheet first. True market makers are supposed to fulfill their structural obligations by using their balance sheet strength to absorb risk and maintain orderly markets in **both good times and bad times**. When a platform tolerates a relaxed, content-based framework, it permits an architecture where predatory actors can selectively time the market. Allowing a participant to *flick between acting as an agent for a client versus acting as a proprietary counterparty* – or routing orders for proprietary gain over a **client's best interest** – presents a severe, structural **conflict of interest**.

Instead of merely *"document controls for automated quoting"*, the venue must programmatically demonstrate through algorithmic simulation that its data and routing architecture naturally prevents house-style spread widening, oracle manipulation, and mempool exploitation (automated bots that monitor public transaction queues) in Maximal Extractable Value (MEV)¹¹ by preferred market makers during high-volatility spikes. If the simulation reveals that the platform's vertical loop allows it to run its brokerage arm as a loss-leader to front-run retail order flow, certification should be denied. This replaces formal endorsements from costly law firms with actual, code-governed risk controls.

We strongly oppose the idea of *"news ingestion"*. Per acclaimed author Alain de Botton's book: *The News: A User's Manual*,¹² *"There are multiple versions of truth. The news, while attempting to inform, often selectively highlights certain aspects rather than recording everything in its entirety."* Like AI-generated content that may influence outcomes (e.g., synthetic polling or deep-fakes), not all news can be trusted. *Central curation of news*¹³ **harm**

¹⁰ <https://gamingtec.com/news/provably-fair-explained>

¹¹ <https://chain.link/article/mev-protection-mechanisms> ; <https://a16zcrypto.com/posts/article/mev-explained/> ; <https://owasp.org/www-project-smart-contract-top-10/2023/en/src/SC05-front-running-attacks.html> ; <https://blocksec.com/blog/harvesting-mev-bots-by-exploiting-vulnerabilities-in-flashbots-relay>

¹² <https://www.amazon.com/News-Users-Manual-Alain-Botton/dp/0307379124>

¹³ <https://papers.ssrn.com/sol3/Delivery.cfm/6638721.pdf?abstractid=6638721&mirid=1> ; <https://www.nature.com/nature-index/topics/14/echo-chambers-and-misinformation-dynamics-in-social-media> ; <https://news.northeastern.edu/2025/11/27/social->

independent thinking by creating echo chambers, reducing diverse viewpoints, and **weakening critical analysis**.¹⁴ It drives **addictive** and **compulsive behaviors** to increase engagement and profit.¹⁵ Human cognitive habits shift from active critical evaluation to passive consumption.¹⁶ Empirical research shown it established a direct, causal link proving that platform architecture actively pushes users toward **ideological extremes**.¹⁷ Users accept curated feeds easily instead of checking facts on their own.¹⁸ In turn, public trust drops for independent facts and open debate.¹⁹ News ingestion is a manipulative factor rather than a limit against *spurious price moves*. Arguments like “*real-time market responsiveness*”, “*sentiment and impact analysis*”, or “*journalism integration*” are simply marketing tactics designed to drive trading volume at the expense of market integrity. News ingestion is a **detriment to the neutrality** of prediction markets. Therefore, it must be ban.

E. Metrics and Process to Monitor Prediction Markets

(i) retail-outcomes dashboards (education completion, complaint rates, cohort loss distributions)

All other metrics in the retail-outcomes dashboards are no comparison, or relatively minor, compared to the approach used by the **Whelan Paper**.²⁰ Whelan empirically identified *favorite longshot bias* where retail investors are being harmed. We encourage the CFTC to adopt Whelan’s approach, or the like econometric methods, to effectively conduct periodic assessment of Prediction Markets’ integrity in an objective manner.

(ii) integrity and influence indicators (insider-risk detections, event-adjacent incident referrals, influence-risk assessments for narrow outcomes)

Insider-risk detection should rightfully be a critical baseline metric among all other indicators. Yet, we have reservations about requiring the DCMs and SEFs to obtain and maintain occupation and employer information for participants under section 16.03(g) of the separate Data Reporting proposal (RIN 3038-AF73).²¹

DCMs and SEFs are execution venues, not relationship managers. They are structurally insulated from the end-customer. FCMs are the entities that directly onboard clients, manage margin accounts, and execute comprehensive Know Your Customer (KYC) and Anti-Money Laundering (AML) checks. Requiring an exchange to independently collect, verify, and maintain sensitive employer and occupation data is highly duplicative. Unnecessary *data-in-motion* should be avoided.²² CAT has set a bad precedent with significant privacy and security issues,²³ as well as

[media-political-polarization-research/](#) Algorithmic filtering of what content is prioritized where the system controls the pathway of information, deliberately accelerating the spread of high-performing content causing selective diffusion.

¹⁴ <https://www.pnas.org/doi/10.1073/pnas.2023301118> ; <https://www.nature.com/nature-index/topics/l4/echo-chambers-and-misinformation-dynamics-in-social-media> ; <https://www.brookings.edu/articles/how-tech-platforms-fuel-u-s-political-polarization-and-what-government-can-do-about-it/> ; https://en.wikipedia.org/wiki/K.G.M._v._Meta_et_al.

¹⁵ <https://pmc.ncbi.nlm.nih.gov/articles/PMC11804976/>

¹⁶ https://www.researchgate.net/publication/403327028_ALGORITHMIC_BIAS_AND_POLITICAL_POLARIZATION_CHALLENGES_FOR_DEMOCRACY

¹⁷ <https://news.northeastern.edu/2025/11/27/social-media-political-polarization-research/>

¹⁸ https://www.researchgate.net/publication/366713893_Why_do_people_fall_for_fake_news_Patterns_in_news_consumption_and_decision-making

¹⁹ <https://climber.uml.edu.ni/index.jsp/fulldisplay/M3a724/TheSmearHowShadyPoliticalOperativesAndFakeNewsControlWhatYouSeeWhatYouThinkAndHowYouVote.pdf>

²⁰ <https://www.karlwhelan.com/Papers/Kalshi.pdf>

²¹ <https://www.federalregister.gov/documents/2026/07/01/2026-13239/data-reporting-requirements-for-certain-event-contracts>

²² <https://www.databoiler.com/index.htm/files/DataBoilerInMotion.pdf> ; When data is “at-rest” rather than “in-use,” it serves no value other than one must pay for storage of the data. As data is redundantly stored on original data sources, then filter through broker-dealers’ systems and at the CAT system and then is regurgitated in bulk to CAT users’ systems, causing significant wastages.

²³ <https://www.linkedin.com/pulse/cat-through-z-security-privacy-requirements-kelvin-to/>

civic concerns about Massive Government Surveillance.²⁴ We strongly recommend analysis of data at the original sources.²⁵

We also are concerned that broadly applying proposed §16.03(g) to DCMs and SEFs would turn these venues into cybersecurity honeypots for hackers seeking corporate credentials. Leaving this data in the hands of heavily regulated FCMs – who are already built to safeguard sensitive financial information under strict banking-grade privacy laws – minimizes the surface area for devastating corporate data breaches.

Forcing firms to wrap and transmit petabytes of retrospective “*data-in-motion*” logs to a data repository does absolutely nothing to prevent a flash-loan manipulation or a code exploit from freezing the pipeline in real time. It simply creates an expensive data-processing tax that forces fintech innovators to spend millions on law and consulting firms just to achieve “*bare-minimum compliance*,” while leaving the actual financial plumbing exposed to catastrophic freezes.

Nevertheless, large trader reporting obligations under Parts 15-18 fall squarely on FCMs and clearing members, who report positions to the Commission via Form 102. Proposing that the exchange (DCM) handles this specialized insider screening breaks the established futures regulatory design and creates an inconsistent, fragmented compliance workflow.

Regarding **event-adjacent incident referrals**, we do support formal notifications or investigative reports generated by exchange surveillance systems, third-party integrity monitors (e.g. US Integrity), event related governing bodies and league compliance units, law enforcement agencies, and/or whistleblowers and public informants to curb Intentional *Match-Fixing* (Conduct Alteration), *Interferences* (e.g., distributed denial of service (DDoS) to a website to delay an earnings report),²⁶ and other exploitation of Oracle and source-data vulnerabilities.

We agree that DCMs and SEFs should be obligated to provide **influence-risk assessments for narrow outcomes** submitting to the CFTC DMO in accordance with the proposed Rule 40.11(c) review framework.

(iii) **migration monitoring (cross-venue traffic or listings on offshore platforms for prohibited/borderline products)**

We see this as a shared responsibility among the DCMs, SEFs, and the Commission DMO. We further recommend that Derivatives Clearing Organizations (DCOs) should act as the centralized back-end data validators. Because DCOs clear all domestic volume, they are the only entity that can see if a massive block of capital is entirely withdrawn from the US clearing ecosystem simultaneously. Requiring silo exchanges to guess where capital is migrating is inefficient. The CFTC should instead mandate that DCOs provide macro-level asset flow data to the DMO to verify if capital is fleeing offshore. The collective approach should integrate with our 3-Tier Distributed Agentic Alternative to CAT as mentioned in Annex 2 of our CAT comment letter to the SEC²⁵ for cross-agencies collaborations.

(iv) **technology quality measures (feed uptime, revision history, model auditability, anomaly alerts).**

We agree with these basic technology quality measures, while we further recommend that the trading venue must programmatically demonstrate through algorithmic simulation that its data and routing architecture naturally prevents house-style spread widening, oracle manipulation, and mempool exploitation in MEV by preferred market makers during high-volatility spikes. If the simulation reveals that the platform's vertical loop allows it to run its brokerage arm as a loss-leader to front-run retail order flow, certification should be denied. This replaces formal endorsements from costly law firms with actual, code-governed risk controls.

²⁴ <https://cs.stanford.edu/people/eroberts/cs181/projects/ethics-of-surveillance/ethics.html>

²⁵ <https://www.databoiler.com/index.htm/files/DataBoiler%20SEC%20CAT%2020260622.pdf>

²⁶ <https://www.youtube.com/watch?v=bWr6uirJ340>

Market Integrity

Market Makers are bound by clear exchange rules and DCM Core Principle 9 to *maintain a competitive, open, and efficient market that protects the price discovery process*. A DCM/ SEF that allows preferred market makers to abandon their posting obligations when volatility spikes should be considered as one of the negative public interest factors. High-bar venues should be rewarded and low-bar venues should be penalized, to promote **market integrity** and against “*Gresham’s Law of Microstructure*”. Therefore, alongside the CFTC DMO assessment review, the Office of the Chief Economist and DMO should jointly conduct a Concept Release that includes an *evaluation of costs of transacting* or **Friction Test** annually.

The empirical **Whelan Paper**²⁰ identified a number of issues that is applicable to any Prediction Markets, binary options, event contracts or the like operations. In particular, the “*friction*” of high fee-to-contract-value ratio, where for example:

if a contract is mispriced by 3%, but the taker fee is 2% and the maker spread is 2%, the total **friction** is 4%. A “*rational informed trader*” sees a 3% profit opportunity but a 4% cost, so they stay home. This leaves the “*noise traders*” (the *Takers*) to trade against each other at “*wrong*” prices.

The **Whelan Paper** found that Kalshi’s fee structure created a *friction* or “**Limit to Arbitrage**.” Because the fees were high relative to the mispricing, the “*wrong*” prices (the *favorite-longshot bias*) persisted. The cost of trading (fees + bid-ask spread) is greater than the potential profit from correcting the price. Consequently, the “*Takers*” (often retail hobbyists) keep buying overpriced “*lottery ticket*” contracts, and no one “*arbitrages*” them away because the fees eat the profit. The “*Takers*” are essentially paying a “*stupid tax*” that is split between the **Makers** and the operator of Prediction Market (the **exchange**) via fees. The market stayed “*inaccurate*” because it was too expensive for smart traders to fix it.

Our suggested **Friction Test** aims at continuous improvements of DCMs/ SEFs’ **Market Designs** in ensuring tight bid-ask spreads and ample natural liquidity, minimizing adverse selection, and avoid excessive platform trading fees. This test encompasses components and process such as:

- **Check the Clarity of the Resolution Asset**
- **Identify the Presence of Prediction Laundering**⁸
- **Evaluate the Costs of Transacting** (see below table)
- **Analyze the Reciprocity of Harm**⁷

One cannot evaluate a negative externality without aggregating the beneficial ones (e.g., the market providing a highly accurate, public, non-polluted warning signal that alerts public to policy failures).

If the symptom is ...	...It is an Inherent Market Failure if:	...It is a Lack of Property Rights if:
Volatile, erratic pricing	Traders are behaving irrationally or succumbing to speculative mania; Volatility Interruption Mechanism failed to restore the orderly function of a market.	The rules of contract resolution are deeply ambiguous or lack a reliable oracle.
Severe liquidity droughts	Participants genuinely lack any consensus or interest in the underlying event.	Regulatory intervention forbids proper netting, preventing a free flow of credit.
Price distortion / Manipulation	Insiders with asymmetrical information trade unchecked by market forces.	The platform systematically isolates itself from legal accountability or dispute liabilities.

We applaud the CFTC – DMO for the recent notice 26-22 (Release Number 9273-26)²⁷ in advising DCMs that “*an event contact series certification should be filed pursuant to § 40.2(d) or § 40.3; and to qualify for a § 40.2(d) class certification of*

²⁷ <https://www.cftc.gov/PressRoom/PressReleases/9273-26>

swaps, an event contract series must reference a prior, specific contract certified pursuant to § 40.2(a) or approved pursuant to § 40.3 (i.e., not a prior Broad Contract Template) that shares identical pricing sources, formulas, procedures, and methodologies for calculating reference prices and payment obligations.”

Meanwhile, we urge the Commission to beware of structural rigidity that invalidates the CFTC’s approach to draft rules by assuming that an intermediary is a standalone, human-operated utility that can be regulated via retrospective reporting (Part 45) and periodic audits to the regulating technology. “*False-Beard*” platforms²⁸ can manufacture hidden, toxic leverage wrappers under the guise of financial innovation.

DeFi degrades the reliability of routing because decentralized exchanges or AMMs are completely dependent on the integrity of their underlying code and price oracles. If a software protocol suffers a smart contract exploit (e.g. attackers can execute a transaction that drains the underlying liquidity pool or locks up the routing ledger if they discover a vulnerability – logical flaw in the code of a smart contract, such as a reentrancy bug, a math overflow error, or an access-control vulnerability),²⁹ or if an oracle feed is manipulated by an external flash loan,³⁰ the entire routing pipeline freezes instantly.³¹ Unlike traditional infrastructure that utilizes human discretion to maintain orderly function during extreme market anomalies, DeFi routing lacks an adaptive fallback mechanism, risking sudden, catastrophic execution halts.

[Vertical integration](#) and the overuse of leverage could be a danger to the health of financial markets if the market for a “*cause*” may become an outsized risk in itself. Illicit digital asset activity,³² coupled with weakened CFTC-SEC derivatives guardrails, could collectively overwhelm the default waterfall model.³³ Therefore, all five Dodd-Frank regulatory agencies (SEC, CFTC, OCC, FRB, FDIC) must break down silos and work in unison to safeguard US financial stability.

Impact on Small Entities, FinTech Innovation and Competition

The Data Reporting Burden – CFTC Parts 43 and 45: These frameworks force partnerships to rely on heavy, expensive “*data-in-motion*” compliance pipelines. Both entities must devote massive data-processing resources to constantly wrap, transform, and stream high-velocity data packets into centralized silos. This creates a massive compliance tax that blocks small FinTech innovators while generating an un-encrypted, centralized cybersecurity honeypot that exposes the US financial plumbing to foreign intelligence harvesting.

The separate Data Reporting proposal (RIN 3038-AF73) would permanently transition to reporting transaction-level data directly to the CFTC under the futures and options framework (Parts 15–18), automatically sunseting the temporary no-action letter on the future final compliance date – **stay tuned for our upcoming comment submission**.²¹ Reference to our [earlier discussion](#), we have reservations about requiring the DCMs and SEFs to obtain and maintain occupation and employer information for participants under the proposed §16.03(g).

By removing the independent broker layer, the CFTC forces the exchange architecture to serve as its own compliance firewall. The Commission leverages its **Large Trader Reporting System (LTRS)**³⁴ to maintain market transparency. The

²⁸ https://digitalcommons.chapman.edu/cgi/viewcontent.cgi?article=1031&context=philosophy_articles ; https://www.econ.uzh.ch/dam/jcr:ffffffffff-9758-127f-ffff-ffffcd18b65/Fehr_Fiba_in_Analyse_Kritik_73-84.pdf

²⁹ <https://balancer.fi/risks>

³⁰ <https://www.fraud.net/glossary/flash-loan-attacks>

³¹ <https://www.tradingview.com/news/invezz:57c0e46c0094b:0-bitcoin-crashes-to-0-on-paradex-in-sudden-flash-event-here-s-what-happened/>

³² https://www.databoiler.com/index.htm_files/DataBoiler%20USDT%2020251017.pdf

³³ <https://globalriskinstitute.org/publication/incentives-behind-clearinghouse-default-waterfalls/>

³⁴ <https://www.cftc.gov/IndustryOversight/MarketSurveillance/LargeTraderReportingProgram/index.htm>

proposed revisions to Part 15 establish an event-contract reporting trigger at 125,000 contracts to account for the micro-sized nature of retail binary options.³⁵ Platforms should use automated pattern-recognition to detect “slicing” (fracturing macro-orders into tiny pieces), where they will enforce mandatory **Beneficial Ownership Rules (Rule 18.01)** to aggregate interconnected accounts back into a single exposure.³⁶ How those platforms would ensure that they would not utilize internal liquidity bots to artificially circulate volume is one of the questions. We are not sure how the CFTC would stream unedited platform data into its internal surveillance systems, filtering for trades with **No Change in Beneficial Ownership (NCBO)** for anti-Wash Trading audits.³⁷ Amid the proposed changes are only applicable to covered event contracts where the CFTC permitted the *direct-to-consumer* model because these specific platforms use a **fully collateralized framework**, below further deciphers various phenomena, where **small entities are caught in the crossfire between different groups**.

Retail event contract platforms like Kalshi Klear and MIAxdx bypass traditional intermediated brokerage frameworks. [Vertically integrated](#) platforms and their *direct-to-consumer* approach raised multiple issues across the regulatory, operational, legal, and systemic dimensions. It is currently a gridlock between legacy frameworks and native technological architectures. The National Futures Association (NFA) and traditional market participants advocate for a mandatory corporate separation, requiring platforms to **spin off retail operations** into standalone Introducing Brokers (IBs) or Futures Commission Merchants (FCMs).³⁸

The Intermediated Argument for Separation

- **Operational Insulation:** Separating the broker interface from the exchange engine ensures a cyber-exploit or software glitch does not paralyze the clearinghouse.
- **Conduct and Suitability:** Independent brokers utilize human compliance teams to perform qualitative risk profiling, closing the gap left by fully automated retail onboarding.
- **Bankruptcy Clarity:** An FCM buffer funnels client assets into traditional **Part 190 Customer Omnibus Accounts**, insulating retail users from clearinghouse defaults.³⁹

The Technological and Commercial Roadblocks

Direct-clearing platforms counter that forcing a traditional brokerage spin-off creates legal redundancies and economic deadlocks, such as the **Pre-Funding Redundancy** and the **Operational Cost Wall**. Traditional FCM and DCO rulebooks (**Part 39**) are designed for leveraged default risks. Because retail event contracts are **100% pre-funded**, the risk of dynamic margin default is mathematically zero. Forcing an FCM to participate in a DCO mutualized default waterfall (Rule 39.11) is structurally redundant.⁴⁰ Standalone FCM compliance overhead destroys the economic viability of micro-transactions, pricing out retail users trading small contract sizes.

³⁵ Per Section VIII of this [CFTC proposal](#), “the old legacy threshold of 25 contracts would have mistakenly swept over one million retail accounts into the “Special Account” tracking system. Raising the trigger to 125,000 contracts successfully filters out the everyday retail participants, scaling the pool down to an actionable 300 to 400 institutional-sized accounts.”

³⁶ <https://www.law.cornell.edu/cfr/text/17/18.01> ; <https://www.federalregister.gov/documents/2015/09/29/2015-24596/aggregation-of-positions> ; <https://www.cftc.gov/PressRoom/PressReleases/9110-25>

³⁷ <https://financialmarkets.law/foundations/futures-fx-trading-conduct/> ; <https://www.steel-eye.com/news/market-abuse-detection-how-to-identify-wash-trading> ; <https://www.cftc.gov/filings/orgrules/rules03172641077.pdf>

³⁸ <https://www.nfa.futures.org/news/newsComment.asp?ArticleID=5795>

³⁹ <https://www.willkie.com/publications/2025/03/cftc-permits-separate-account-treatment> ; <https://www.ecfr.gov/current/title-17/chapter-I/part-190> ; <https://www.cmegroup.com/articles/brochures-and-handbooks/101-overview-default-management.html>

⁴⁰ <https://www.govinfo.gov/content/pkg/FR-2023-08-08/pdf/2023-16591.pdf> ; <https://www.govinfo.gov/content/pkg/CHRG-117hhrg48754/html/CHRG-117hhrg48754.htm> ; <https://www.fia.org/sites/default/files/2022-05/FIA%20FTX%20Request%20for%20Amended%20DCO%20Registration%20Order%205.11.22.pdf>

Risk Transformation and Portfolio Compression

When platforms deploy advanced risk-mitigation techniques like **portfolio compression** to reduce gross notional exposures, it complicates oversight:

The Anti-Masking Rule: Under modified Part 39 and Part 45 reporting, a compression cycle is only exempt from real-time reporting if its *sole purpose* is risk reduction with zero change in net market position between identical counterparties. If it transforms the underlying delta or risk profile, it is treated as a brand-new swap.

The Part 190 Bankruptcy Gridlock: If a platform defaults post-compression, the bankruptcy trustee must evaluate net open positions at the moment of filing. Because compression strips away the individual transaction identities of which retail client owned which exact leg, individual cash balances risk being pulled into a massive pro-rata loss pool to cover institutional shortfalls.⁴¹

Global Models and the Systemic Stalemate

Unlike the US Commodity Exchange Act (CEA), Europe's **MiFID II / EMIR** framework utilizes an integrated **Multilateral Trading Facility (MTF)** model. The European approach permits a single entity to execute, clear, and hold custody of asset pools while granting **Direct Electronic Access (DEA)** to retail participants who are vetted via native, platform-level KYC. While we support a strategic response to [preserve US's prominent market position](#) and lure foreign FinTech to do business in the US, we also recognize the importance of **Market Integrity**. The US separating functions into a DCM (neutral intermediary), a DCO (market risk absorber), and an FCM (customer exposure) is a critical **financial stability** mechanism to achieve [resiliency, value-chain efficiency, low transaction costs, and US structural advantage over other jurisdictions](#).

The Strategic Incentive Impasse

Small domestic US FinTech get caught in the crossfire. The existing regulatory framework focus on *what* is traded rather than *how* it is executed. It sparks a "**Gresham's Law of Microstructure**" and fuels a race to the bottom.⁴² For examples:

1. Codifying a "Micro-FCM" or "Retail DCO" Registration Category⁴³

Congress and the CFTC to establish a streamlined, low-overhead registration tier to allow a single corporate entity to combine exchange execution and direct retail clearing, provided it operates under a strict, alternative rulebook:

- **Exemption from Credit-Risk Rules:** Platforms are statutorily exempt from legacy Part 39 default waterfall contributions, institutional stress testing, and mutualized default insurance.
- **Mandatory Operational Capital:** Instead of holding capital reserves against trading defaults, the platform must maintain a liquid financial buffer scaled strictly to its **cybersecurity exposure and operational overhead**.

2. The Technological Compromise: "Embedded" Broker Modules⁴⁴

Instead of a physically and legally spun-off corporate broker subsidiary that routes orders via slow external APIs, the platform isolates its client-facing duties using **isolated software code modules** within its unified tech stack:

- **The Compliance Ledger:** The platform runs an integrated, automated KYC/AML and suitability engine at the point of user onboarding, satisfying the NFA's customer protection mandate.

⁴¹ <https://www.cliffordchance.com/content/dam/cliffordchance/briefings/2020/05/CFTC-Proposes-Reforms-to-Bankruptcy-Rules-for-Futures-Brokers-and-Clearinghouses.pdf>

⁴² https://en.wikipedia.org/wiki/Gresham%27s_law ; https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3236030

⁴³ <https://www.fia.org/sites/default/files/2026-02/FIA%20Response%20to%20CFTC%20on%20Direct%20Clearing%20of%20Derivatives%20by%20Retail%20Investors.pdf>

⁴⁴ <https://comments.cftc.gov/Handlers/PdfHandler.ashx?id=35787>

- **Frictionless Direct Execution:** Once a user is verified, their orders face the matching engine natively on a single ledger, preserving the millisecond transaction speed and low fee structure vital to micro-sized event contracts.

3. Resolving the Bankruptcy & Compression Gridlock⁴⁵

To satisfy the strict consumer safety requirements of Part 190 without destroying the efficiencies of portfolio compression, the compromise mandates a **Direct-to-Consumer Property Shield**:

- **The Traceable Sub-Ledger:** DCOs utilizing compression are required to maintain automated, real-time cryptographic tracking or secondary sub-ledgers that map the original beneficial owner of every compressed leg.
- **Bankruptcy Super-Priority:** If a platform suffers an operational collapse, Part 190 rules are adjusted to recognize this unique account class. Retail funds are legally classified as **isolated customer property** that cannot be frozen, netted, or dragged into pro-rata loss distributions to pay off institutional clearing house creditors.

4. The Funding and Oversight Compromise

To lift the direct surveillance burden off the CFTC's internal PERT system, platforms operating under this new tier must become **specialized members of the NFA**:

- **The Transaction Assessment Fee:** The platform pays a micro-fee per contract directly to the NFA. ⁴⁶
- **Independent Tech Auditing:** The NFA uses this new revenue stream to fund specialized, tech-focused compliance teams that conduct automated algorithmic audits and verify that the platform's internal matching bots are not engaging in wash trading or front-running retail users.

Our Recommendation: Spin-off + No-Insurance / No-Coverage

Sadly, adopting a unified model or achieving a compromise in the US such as the four choices mentioned above remains blocked by self-serving behaviors across all corners of the market. **Politicians** focus heavily on preserving the jurisdictional boundaries between the CFTC and SEC committees to maintain political leverage and campaign donation streams.

Regulators (CFTC) may choose administrative insulation over market speed, building massive, overlapping data reporting layers to protect the agency from political blame if an un-insured platform exploit occurs. **Vertically Integrated Platforms** fiercely defend their direct-clearing monopolies to choke out third-party brokers and retain absolute control over transaction fees across the entire value chain. **Retail Users** leverage the rhetoric of “*financial democratization*” to demand direct, low-cost exchange access, yet immediately protest and expect institutional-grade state bailouts and bankruptcy protections the moment an operational failure or code exploit occurs.

Independent micro-microstructure fixes by a single DCM are mathematically and commercially impossible in the current regulatory and clearing environment. A responsible DCM cannot survive alone because the independent DCO will dilute its standards, and the **vertically integrated** DCMs will out-compete by generating volume driven by inherent conflicts of interest, see our July 9 2026 comment letter⁶ and the [next section](#) for an elaborated discussion.

To balance market integrity, FinTech innovation, and the U.S.'s prominent market position, we recommend requiring **vertically integrated platforms** to **mandatorily spin off** their retail business units. Under this framework, these spun-off retail units would be **exempt from mutualized insurance requirements**, operating under an “*opt-in risk*” regime where users are explicitly not covered by the collective safety net in the event of a platform loss.

⁴⁵ <https://www.cftc.gov/LawRegulation/FederalRegister/finalrules/2022-17736.html> ; <https://www.fia.org/sites/default/files/2019-05/FINAL-FIA-Europe-response-to-the-EMIR-Review.pdf>

⁴⁶ <https://www.nfa.futures.org/members/ib/regulatory-obligations/digital-asset-commodities.html>

Vertical Integration and Antitrust Concerns

We reiterate our already raised concerns in our response to the CFTC Advance Notice of Proposed Rulemaking to regulate Prediction Market,³ about conflating respective functions of DCM, DCO, and FCM in a vertically integrated model and other anti-competitive behaviors.

It is a slippery slope when the CFTC in 2024/2025 updated its No-Action Relief⁴⁷ to grant Derivatives Clearing Organization (DCO) platforms (Kalshi Klear and MIAxdx) relief Part 45 reporting requirement to Swap Data Repositories (SDRs) for fully collateralized binary options,⁴⁸ citing *“these contracts are fully collateralized, they lack significant counterparty credit risk and have minimal impact on systemic risk, rendering Part 45 reporting less critical.”* Kinetic Markets LLC – a Futures Commission Merchant (FCM) affiliated with Kalshi, secured a license from CFTC (through the [NFA](#)) on March 24, 2026 to offer margin trading that lets users open positions without putting up full capital.

Checks and balances between DCM – the venue (KalshiEx), DCO – the Guarantor (Kalshi Clear), and FCM – the brokerage arm (Kinetic) are key to preserve US derivatives market’s integrity (preventing market manipulation, minimizing operational risks, and mitigating conflicts of interest). The DCM maintains fair and orderly markets and ensures open access. The DCO sets the minimum margin requirements for the exchange to ensure there is enough *skin in the game* to cover potential losses and eliminates bilateral counterparty risk. The FCM safeguards customer assets.

Separation of duties prevents a DCO from using one customer's funds to cover another's or the house's obligations. Integration can lead to an entity using its FCM as a *loss-leader*, reducing customer choices. Conflating respective functions of DCM, DCO, and FCM in a **vertically integrated model** poses significant threat to financial stability. E.g., the failure of an affiliated FCM could trigger a *run* on the DCO, potentially leading to a catastrophic collapse of the entire clearing system.

Even though Kinetic Markets’ new FCM product will only be available to institutions initially and a Bloomberg news piece suggests that *“the prediction market is not expected to launch margin on event contracts immediately,”*⁴⁹ we have reservations. Under normal Dodd-Frank and CFTC rules, an intermediary must maintain an arm's-length separation to ensure fair execution. In a vertically integrated loop, the affiliated FCM ★ is highly incentivized to push customer order flow directly to its own exchange matching engine or its preferred market-making partners.

The current and proposed review process if adopted as-is, is blind to data architecture and contract mechanics. It allows vertically integrated retail platforms to secure an exchange designation (DCM) and clearing license (DCO) to list event contracts while running a closed corporate loop. These platforms exploit their economies of scale to gamify execution, using a *“False-Beard”* veneer of retail democratization to drive unhedged momentum upstream. This triggers severe **favorite-longshot bias** (where retail systematically overvalues low-probability outcomes) and oracle distortions, passing massive, uncompensated social costs onto non-participants.

Again, vertical integration and the overuse of leverage could be a danger to the health of financial markets if the market for a *“cause”* may become an outsized risk in itself. ***This proposal has yet to address the above anti-competitive concerns.*** The CFTC may refer to this article for additional thoughts about Antitrust Principles for Prediction Markets.⁵⁰

⁴⁷ The exemption would become permanent if the proposed §16.03(a) under [91FR40102 \(RIN 3038-AF73\)](#) is adopted. The platforms would then report event contract transaction data directly to the CFTC under parts 15-18 (futures and options reporting framework).

⁴⁸ <https://content.next.westlaw.com/practical-law/document/11a77f71fadbb11ebbea4f0dc9fb69570/Updated-CFTC-Grants-No-Action-Relief-for-Certain-Binary-Option-Transactions> ; <https://www.cftc.gov/csl/25-02/download>

⁴⁹ <https://www.bloomberg.com/news/articles/2026-03-27/kalshi-approved-for-margin-trading-as-it-lures-wall-street-pros>

⁵⁰ <https://jolt.law.harvard.edu/digest/antitrust-principles-for-prediction-markets>



The Commission should transition to an objective, code-governed framework for prediction markets that prioritizes structural integrity, rigorous friction assessments for retail protection, and the policing of conflicts in vertically integrated models. By adopting these modern, data-driven safeguards over subjective public interest debates, the CFTC can ensure market resilience and genuine economic utility. Feel free to contact us with any questions and please keep us posted where our expertise might be helpful.

Sincerely,

Kelvin To

Founder and President

Data Boiler Technologies, LLC

This letter is also available at: https://www.DataBoiler.com/index_html_files/DataBoiler%20CFTC%20PMPublic%2020260727.pdf

CC: The Honorable Michael S. Selig, Chairman
 Mr. Duncan Henes, Director, Market Participants Division / Acting Director, Division of Market Oversight
 Mr. Stephen Andrews, Deputy General Counsel for Regulation
 Mr. Mark Fajfar, Senior Assistant General Counsel