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April 30, 2026

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

**RE: Prediction Markets Advance Notice of Proposed Rulemaking Request for Comments
RIN 3038-AF65**

Dear Mr. Kirkpatrick:

Just because the government may be able to do something, does not mean it should do something.

The Pennsylvania Gaming Control Board (“PGCB” or “Board”) writes to express its profound opposition to the Commodity Futures Trading Commission (“CFTC”) doing a "complete 180" on what it historically deemed appropriate for prediction markets. By allowing Designated Contract Markets (“DCMs”) to masquerade as unregulated sportsbooks, the Commission has abandoned its historical mandate, ignored its own regulations, and actively endangered a highly vulnerable demographic of young adults.

On July 15, 2010, Senator Blanche Lincoln of Arkansas explicitly warned of this exact scenario:

“(T)he (Commodity Futures Trading) Commission has the power to prevent the creation of futures and swaps markets that would allow citizens to profit from devastating events and also prevent gambling through futures markets and strengthen the government’s ability to protect the public interest against gaming contracts and other event contracts. . . .The Commission needs the power to, and should, prevent derivatives contracts that are contrary to the public interest because they exist predominantly to enable gambling through supposed “event contracts.” It would be quite easy to construct an “event contract” around sporting events such as the Super Bowl, the Kentucky Derby, and Masters Golf Tournament. These types of contracts would not serve any real commercial purpose. Rather, they would be used solely for gambling.” 156 Congressional Record S5906-5907(2010) (emphasis added)¹

¹ Senator Lincoln was speaking in support of The Dodd-Frank Wall Street Reform and Consumer Protection Act (“Act”), Pub. L. No. 111-203, 124 Stat. 1737 (2010), passed by Congress in response to the 2008 financial crisis. One goal of the Act was to provide transparency and accountability to the derivatives markets, primarily through regulation by the Commodity Futures Trading Commission.

For more than 14½ years, the CFTC acted in a manner which addressed Senator Lincoln’s concerns. The agency went so far as to promulgate a regulation (which remains in place today) outlining a prohibition on certain prediction markets:

“(a) registered entity **shall not** list for trading (a) swap based upon an excluded commodity (that) involves, relates to, or references . . . terrorism, assassination, war, gaming, or an activity that is unlawful under any State or Federal law.” 17 CFR §40.11(emphasis added)²

Today, the landscape has deteriorated. One cannot only wager upon the sporting events Senator Lincoln expressly warned, but also on pop-culture and political novelties such as whether a particular person will appear at the Met Gala, who will win *Survivor – Season 50*, and whether President Trump will utter the phrase “Make Iran Great Again” during the month of April 2026 on Kalshi. [Kalshi - Prediction Market for Trading the Future](#).

However, it does not end there. Much has been written about the distasteful markets that CFTC-approved DCMs have been allowed to post. Recent public scrutiny highlights several alarming issues:

- The resurgence of distasteful prediction markets surrounding the Iran war. [Iran war puts prediction markets back in the spotlight | PBS News](#) (April 12, 2026);
- The ease with which these markets can be manipulated, prompting the NFL to formally ask prediction markets to stop manipulable trading. [NFL asks prediction markets to stop manipulable trading - ESPN](#) (March 30, 2026); and,
- Rampant insider trading concerns, evidenced by the White House warning staff not to engage in insider trading amid the conflict with Iran, and a US special forces soldier utilizing secret intel to win a \$400,000 Polymarket bet on Maduro's capture. [White House Warned Staff Not to Engage in Insider Trading Amid War With Iran - The New York Times](#) (April 9, 2026).

Even President Trump has signaled his displeasure with these developments, recently stating, “*The whole world, unfortunately, has become somewhat of a casino . . . I was never much in favor of it, I don’t like it conceptually.*” [US special forces soldier used secret intel for \\$400K winning Polymarket bet on Maduro's capture](#), New York Post (April 23, 2026).

The PGCB shares the concerns expressed by the President. However, given the Board's role as the regulator of sports wagering occurring within the Commonwealth of Pennsylvania, our comments focus specifically on that activity and the broader, negative societal implications of making online wagering widely available to teenagers and those with admitted gambling addictions.

To be clear, the PGCB believes that prediction markets offering the ability to purchase a contract on the outcome of a sporting event is sports wagering. The Board further believes a DCM dressing these wagers up as financial instruments does not preempt state gaming or criminal law.

In fact, certain DCMs registered with the CFTC freely advertise themselves as operating sports betting sites. A dissenting opinion in *KalshiEx, LLC v. Flaherty, et. al.* 3rd Cir., 25-1922, highlighted an advertisement stating “Sports Betting Legal in all 50 States on Kalshi.” This fact was not contested by Kalshi’s counsel during a

² To be clear, a market by which patrons can take opposite positions on the outcome of a sporting related event is “exchange wagering” under the Pennsylvania Race Horse Development and Gaming Act, 4 Pa.C.S. §13C01, which is unlawful under Pennsylvania law if done without appropriate licensure by the Pennsylvania Gaming Control Board. 4 Pa.C.S. §13C04. Moreover, 18 Pa.C.S. §5514 (Pool Selling and Bookmaking), establishes a state criminal offense for anyone that “receives, records, registers, forwards . . . to another, any bet or wager upon the result of any political nomination, appointment or election, or upon any contest of any nature.” *Id* at (3).

recent appellate argument, who stated only that “there are always marketing people that make lawyers a little bit uncomfortable.” See *9th Circ. Judge Rips 'Sophistry' By Online Prediction Markets*, Law360 (April 16, 2026).

Since the Commission has now taken an active role in both the courts and the press arguing that all state laws in this area are preempted, the Board will not focus on those arguments in this letter given the unlikely chance of changing the Commission's position. Rather, the Board comments here on whether the Commission *should* be authorizing certain prediction markets, even if the courts rule it *can*.

To the casual observer, sports wagering with a licensed and regulated sportsbook and purchasing a contract predicting the outcome of a sporting event may appear largely indistinguishable and nonproblematic. After all, in 2026, wagering on sports is ubiquitous in American society. The reality, however, and the distinction between the two forms of gaming is stark and dangerously flawed.

To place a wager with a PGCB-regulated sportsbook in Pennsylvania (and the vast majority of other gaming jurisdictions), an individual must be 21 years old. 4 Pa.C.S. §13C11(a)(ii). In stark contrast, the majority, if not all, DCMs make what is essentially the same activity available to anyone 18 years of age or older.

The line established by state legislatures across this country for betting on sports is not arbitrary, and the impact of this distinction cannot be discounted. For example:

- Among college students, approximately 6% meet established criteria for pathological gambling, and an additional 10% exhibit problem gambling behaviors, according to recent clinical surveys;
- Alarming, these rates are higher than those observed in older adult populations based on comparative studies;
- Longitudinal studies show sports gambling is linked with subsequent alcohol-related problems, indicating the overlap with behavioral and substance addictions; and,
- Gambling in young adults is associated with academic impairment, monetary difficulties, strained interpersonal relationships, depression, anxiety, higher rates of suicidal ideation, and substance use disorders. <https://www.psychologytoday.com/us/blog/addiction-outlook/202604/march-madness-and-the-rise-of-gen-z-sports-gambling>, Psychology Today (April 3, 2026).

Joshua Shuart, a professor and chair of the Sport Management Program at Sacred Heart University, described the trend of young, mostly male gamblers betting on everything as “frightening”. He noted, “*The fact that you can predict and wager upon just about everything could be both exciting and horrifying,*” he noted. “*Most think they have expertise in some area, whether it is sports or not, and this caters to those beliefs. The results of our new SHU National Poll on sports gambling strongly reinforce that the gap between younger and older bettors is a significant one.*” [Prediction markets are luring teenage gamblers in 2026](#), Quartz (March 8, 2026).

Just as nefarious is the fact that prediction markets have perfected a wildly addictive formula specifically effective among young, inexperienced bettors. Part of the appeal is platforms claiming users are betting against other players, rather than the house. The mechanics are deceptively simpler: either the thing happens, or it doesn't. Furthermore, these markets project artificial credibility through partnerships with major news organizations like CNN. [Prediction Markets Are Sucking Huge Numbers of Young People Into Gambling](#), Futurism (February 16, 2026).

Data from HoldCrunch, founded by a former FanDuel executive, shows prediction platform Kalshi takes more trades on college football than on the NFL and NBA. While non-college students can wager on college results, this trend offers a strong clue into the demographics fueling the boom. [Prediction markets: College students, teens could be fueling the boom](#), CNBC (January 15, 2026).

These youth demographics are uniquely vulnerable:

- Young people are at risk due to cognitive immaturities, such as illusions of control over outcomes (Chambers and Potenza [2003](#)), and poor understanding of statistical probability (Delfabbro et al. [2006](#)), leading to chasing losses;
- Incomplete executive function development in adolescence increases impulsivity and risk-taking behaviors. This immaturity in self-regulation can increase the frequency of impulsive bets, especially in-game sports betting. (Blakemore and Choudhury [2006](#)); and,
- Youth may also have heightened susceptibility to environmental factors, including family and peer influences (Langhinrichsen-Rohling et al. [2004](#)), and, and marketing campaigns that distort the social and financial rewards from gambling. (Derevensky et al. [2010](#)).” [Gambling in Young Adults Aged 17–24 Years: A Population-Based Study - PMC](#) (2020).

This is not speculation; these comments and statistical findings are grounded in facts and science that can’t be ignored, though some representatives of the prediction market industry would prefer to do just that. By way of example, one attorney representing DCMs publicly stated, “*People are adults, and they’re allowed to spend their money however they want it, and if they lose their shirt, that’s on them.*” [Kalshi Counsel Questions the Need for Responsible Gambling](#), SBCAmericas (July 11, 2025).

Addiction is real and should not be ignored. Unfortunately, it is far more prevalent in younger populations, and it is the government’s role to protect these people as best it can. Inapposite of the above findings and the 21-year-old minimum age requirement for state-regulated sports betting, DCMs allowing 18-year-olds to purchase contracts is not the result of scientific study. Instead, it is a holdover from an era when their constituencies were professional businessmen and institutional investors hedging risk exposure to broad economic outcomes.

The CFTC is simply not built to adequately monitor retail transactions valued at \$100 or less and entered into by a teenager.³ One need look no further than the Commission’s [Advance Notice of Proposed Rulemaking seeking public comment](#), to be reminded of this fact. While the 18-to-21-year-old demographic now makes up a significant portion of any given DCM’s customer base, the Federal Register’s request for “**public comment**” (8 single-spaced, 3-column pages posing well over 100 separate questions) highlights a severe disconnect. The Commission seeks comments on complex topics, such as:

- “How would or does prediction market trading on DCMs and SEFs impact liquidity in both types of exchanges?”
- “Are there any elements of the former ‘economic purpose’ test that should or should not be applied in the Commission’s public interest determination under CEA section 5c(c)(5)(C)?”
- “What aspects of prediction markets are relevant to whether event contracts should, or should not appropriately be classified as swaps?”

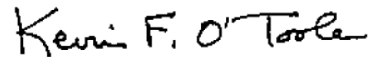
These questions may very well be appropriate for an economist or someone with an advanced degree in finance. They are not at all appropriate for a teenager who wants to buy a \$50.00 contract that the Philadelphia Phillies will win a baseball game.

³The average trade on Polymarket is \$89, and 80% of traders never place a bet larger than \$500 on average. Additionally, [Research published in April 2026 by analyst Andrey Sergeenkov](#) found that 84.1% of Polymarket traders have not made a profit. That means fewer than one in six users is actually in the green. Two years ago, around 40% of traders were profitable. The sharp drop, according to Sergeenkov, is tied to a flood of new and inexperienced users . . . “Less experienced users tend to trade less successfully,” he noted. [Prediction markets exposed as a system where majority of participants lose - Cryptopolitan](#) (April 17, 2026)

At the end of the day, the Board recognizes that DCMs are in business to make money, and it is in their best interest to broaden the scope of the prediction markets they may offer. However, what is equally true is it is the responsibility of a regulator to evaluate various wager offerings for prudence. With that said, and leaving aside questions involving the definition of a “swap” and whether preemption applies, even if the CFTC *can* authorize these markets, it is not necessarily in the best interest of the citizens of this great Country to do so. This is particularly true when a significant proportion of the market participants are at risk and there are no barriers to their entry into the marketplace.

Just because the Commission may be able to authorize DCMs offering these markets, doesn't mean it should.

Sincerely,



Kevin F. O'Toole
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Pennsylvania Gaming Control Board

cc: Pennsylvania Congressional Delegation
Stephen S. Cook, Chief Counsel, PGCB
Max Flessner, Director of Legislative Affairs, PGCB