

United States Senate

September 30, 2025

Acting Chair Caroline Pham
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Dear Acting Chair Pham,

We write to express our concern that the Commodity Futures Trading Commission (CFTC) is implicitly permitting sports gaming products that are regulated by states and tribes, not the CFTC. The CFTC must not override state and tribal law allowing sports betting in all 50 states by permitting some companies to categorize their sports betting activities as “event contracts.”

The CFTC is expressly prohibited from allowing event contracts that involve gaming, are unlawful under federal or state law or are contrary to the public interest. Despite this prohibition, the CFTC is permitting sportsbook gaming to inappropriately designate themselves as “event contracts” with oversight by the CFTC. For example, some companies are claiming to allow legal sports betting in all 50 states. This action – and the CFTC’s unwillingness to stop it – contradicts both the letter and the intent of the law. The Commission cannot sidestep its statutory obligations by declining to enforce the prohibitions that Congress enacted. Doing so undermines the sovereign authority of states and tribes to regulate gambling within their jurisdictions and risks federalizing an area of law that the Supreme Court has held is reserved to the states.¹

Since 1961, the Federal Wire Act has prohibited the transmission of bets or wagers through interstate commerce (18 U.S.C. § 1084), and the CFTC’s own regulation (17 C.F.R. § 40.11(a)(1)) prohibits the offering of event contracts involving or relating to “gaming.” The CFTC unanimously adopted this rule in 2011 following the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) that amended the Commodity Exchange Act. This law gave the Commission the authority to determine which event contracts could be prohibited if the Commission determines the event contract to be gaming. In the CFTC’s final rule promulgating Dodd-Frank’s statutory language, the CFTC wrote that “its prohibition of certain ‘gaming’ contracts is consistent with Congress’s intent to ‘prevent gambling through the futures markets’ and to ‘protect the public interest from gaming.’”²

A number of states, including Nevada, New Jersey, Maryland, Montana, Ohio, Illinois, and Arizona, have sent cease-and-desist letters in an attempt to prohibit these CFTC-regulated

¹ Murphy v. NCAA, 584 U.S. 453 (2018).

² 2011 Federal Register. 76 FR 44776 <https://www.federalregister.gov/documents/2011/07/27/2011-18661/provisions-common-to-registered-entities>

entities from offering illegal sports event contracts in their states. Furthermore, a bipartisan group of 36 state attorneys general joined an amicus brief³ reaffirming states' jurisdiction over sports gaming and warning that "eliminating the States' ability to regulate online sports betting would pose very serious risks to the States' citizens." Some of the states that have attempted to assert their rightful authority over sports gaming regulation have been met with lawsuits from event contract issuers that have resulted in the continued availability of sports event contracts in states regardless of each state's rules and regulations.

The continued availability of illegal sport event contracts in all 50 states further reaffirms the need for the CFTC to enforce its own regulations mandated by Congress. Moreover, by claiming to be federally regulated by the CFTC, issuers of sports event contracts can avoid myriad state laws, including licensing and background investigations, minimum age requirements, federal anti-money laundering rules, and consumer protections such as addiction warnings and integrity monitoring. These rigorous standards are required by state and tribal licensed entities which the CFTC does not have the authority or the capacity to replicate.

As such, we respectfully request answers to the following questions:

1. Why is the CFTC not enforcing its clear regulatory mandate promulgated under Regulation 40.11?
2. When will the CFTC resume enforcement under Regulation 40.11 to prevent illegal event contracts involving sports gaming activities?
3. How many designated contract markets have filed a self-certification with the CFTC for an event contract related to what has historically been sports gaming activities? How is the CFTC advising firms that seek approval of sports gaming activities as event contracts?
4. If the CFTC believes that all sports event contracts listed are outside the scope of prohibitions in the Commodity Exchange Act, how is the CFTC advising contract market firms seeking this authority on how they must comply with state laws including states where sports gaming is banned?
5. If the CFTC believes that all sports event contracts listed are outside the scope of prohibitions in the Commodity Exchange Act, how is the CFTC advising sportsbook and other contract market firms seeking this authority on how they must comply with state and tribal laws requiring age limits and access controls?
6. If the CFTC believes that all event contracts listed are outside the scope of prohibitions in the Commodity Exchange Act, how is the CFTC advising sportsbook and self-styled contract market firms seeking this authority on how they must comply with state and

³ *KalshiEX LLC v. Mary Jo Flaherty, et al.* Brief of Amici Curiae of Nevada, Ohio, 32 Other States, District of Columbia, and Northern Mariana Islands Supporting Appellants. June 17, 2025.
<https://www.ohioattorneygeneral.gov/Files/Briefing-Room/News-Releases/2025-6-17-NJ-Amicus.aspx>

tribal laws regarding time limits, budget setting, trained professional assistance and gambling addiction resources?

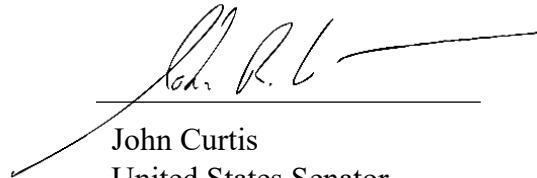
7. How will the CFTC ensure self-styled sports contract market firms are prohibited from gaming as federal, state, and tribal regulations require?
8. How is the CFTC ensuring that athletes, referees, team employees, and others do not manipulate outcomes? How does the CFTC enforce the anti-manipulation requirements of sports event contract marketplaces? How often does the CFTC examine against those requirements?
9. How is the CFTC ensuring that sportsbook companies comply with the Federal Wire Act when using geolocation data, anti-money laundering standards such as Know Your Customer, gambling addiction warnings and other requirements?
10. How is the CFTC advising sports contract market firms seeking this authority that they must comply with tribal sovereignty in areas where tribes have exclusive agreements?
11. Does the CFTC see sports betting as entertainment or investment products for financial gain?

We ask that you provide responses to our questions no later than October 30, 2025. Thank you for your attention to this matter.

Sincerely,



Catherine Cortez Masto
United States Senator



John Curtis
United States Senator



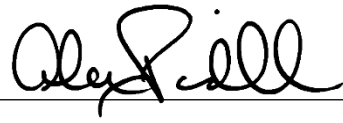
Ruben Gallego
United States Senator



Elissa Slotkin
United States Senator

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Adam Schiff
United States Senator

A handwritten signature in black ink, reading "Alex Padilla", positioned above a horizontal line.

Alex Padilla
United States Senator

A handwritten signature in blue ink, reading "Jacky Rosen", positioned above a horizontal line.

Jacky Rosen
United States Senator