

## United States: Event Contracts and Prediction Markets

Regulatory roadmap, enforcement signals, and practical risks for market participants

Prediction markets are surging as the CFTC resets its approach, highlighting enforcement signals, settlement risks, and compliance steps.

### Executive summary

Prediction markets and “event contracts” have entered a new phase: rapid growth, expanding product scope, and sharply increased regulatory attention. Trading volumes on leading platforms are now measured in the billions of dollars per month, and market data providers track these markets in a way increasingly analogous to traditional asset classes.

At the same time, the Commodity Futures Trading Commission (CFTC) has abandoned its prior blanket opposition to event contracts and is instead moving to clarify the rules of the road while asserting exclusive federal jurisdiction and emphasizing that traditional anti-fraud, anti-manipulation, and insider-trading principles apply.

For institutional participants — including hedge funds, asset managers, proprietary trading firms, and corporates using event contracts as signals or hedges — two practical risk categories have become increasingly salient:

1. **Settlement risk/contract interpretation risk**, highlighted by recent disputes over the terms governing the outcome or resolution of certain event contracts.
2. **Source/information-integrity risk**, highlighted by recent incidents where financial incentives reportedly led to pressure campaigns aimed at influencing reporting that could determine contract resolution.

These practical risks in turn trigger regulatory compliance obligations applicable to derivatives and swaps.

As part of Baker McKenzie’s series on predictive markets, this article provides a roadmap of key statutory and regulatory provisions along with recent CFTC notices relevant to predictive markets, explains why they matter to investment managers, proprietary trading firms and other institutions that are considering trading in events contracts, and provides a practical checklist for their compliance and risk management programs.

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### 1. Why event contracts are on institutional radar

Prediction markets are increasingly used to express views on macro outcomes, geopolitical developments, corporate events, and sports — with growing liquidity and visibility. Public market data and platform disclosures now provide daily and monthly volume metrics, reflecting a level of market monitoring that resembles more traditional trading venues.

Institutional interest remains selective and uneven, but the market’s growth has pushed event contracts into the compliance and governance perimeter for many firms — especially where funds trade directly, provide liquidity, or incorporate prediction market signals into investment processes.

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### 2. Legal and regulatory framework

#### 2.1. Core statutory framework

Event contracts are generally analyzed under the Commodity Exchange Act (CEA) and the CFTC’s implementing regulations. The CEA contains a “special rule” that authorizes the CFTC to determine that certain event contracts are

contrary to the public interest where they involve enumerated categories (e.g., war, terrorism, assassination, gaming, unlawful activity), and prohibits listing/clearing of contracts so determined.<sup>1</sup>

## **2.2. CFTC Rule 40.11 (event contracts; review; prohibited categories)**

CFTC Rule 40.11 implements this framework by prohibiting registered entities from listing or clearing certain event contracts referencing specified categories and provides for a 90-day review mechanism in appropriate cases.<sup>2</sup>

## **2.3. Anti-fraud/anti-manipulation baseline: CFTC Rule 180.1**

Separately, CFTC Rule 180.1 broadly prohibits manipulative and deceptive devices “in connection with any swap” or any contract “on or subject to the rules of any registered entity,” including fraud, material misstatements/omissions, and fraudulent schemes.<sup>3</sup>

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## **3. The CFTC’s recent ‘reset’ on event contracts**

Over the last two years, the CFTC’s posture has shifted materially — moving away from an attempted categorical approach and toward a more principles-based framework paired with enforcement signaling and jurisdictional defense.

### **3.1. The 2024 NPRM (now withdrawn): proposed categorical prohibitions**

In May 2024, the CFTC issued a Notice of Proposed Rulemaking (“**2024 NPRM**”) that sought to amend Rule 40.11 to further specify event contracts that would be treated as contrary to the public interest and thereby prohibited, including by defining “gaming” in a manner that would have captured event contracts involving political contests, awards contests, and athletic events.<sup>4</sup>

### **3.2. February 2026 withdrawal of the 2024 NPRM and a 2025 staff advisory**

On February 4, 2026, the CFTC announced it withdrew the 2024 NPRM and also withdrew a 2025 staff advisory relating to sports event contracts that cautioned the market on the facilitating of trading and clearing of such contracts.<sup>5</sup> The Commission stated it did not intend to finalize the proposed rules and would instead pursue new rulemaking grounded in a “rational and coherent interpretation” of the CEA.<sup>6</sup>

CFTC Chairman Michael S. Selig characterized the 2024 NPRM as a “frolic into merit regulation,” and said the 2025 staff advisory had created “confusion and uncertainty.”<sup>7</sup>

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## **4. Chairman Selig’s ‘minimum effective dose’ approach (and what it signals)**

In March 2026 remarks delivered at the FIA Global Cleared Markets Conference, Chairman Selig stated:

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<sup>1</sup> See Section 5c(c)(5)(C) of the CEA; 7 USC § 7a-2(c)(5)(C).

<sup>2</sup> See 17 CFR § 40.11.

<sup>3</sup> See 17 CFR § 180.1.

<sup>4</sup> See Notice of Proposed Rulemaking, 89 FR 48968 (June 10, 2024).

<sup>5</sup> See CFTC Press Release No. 9179-26, CFTC Withdraws Event Contracts Rule Proposal and Staff Sports Event Contracts Advisory (Feb. 4, 2026), available at: <https://www.cftc.gov/PressRoom/PressReleases/9179-26>.

<sup>6</sup> Id.

<sup>7</sup> Id.

**My regulating philosophy is simple. Like the practice of medicine, our focus should be on finding and then administering the minimum effective dose. Regulate too little — and markets lose integrity. Regulate too much, markets atrophy; innovation is exiled offshore.<sup>8</sup>**

For institutional market participants, this is an important signal: the current CFTC leadership is positioning event contracts as part of the “new frontier of finance” that should be supported through principles-based oversight, while emphasizing market integrity.

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## **5. Jurisdictional ‘turf war’: CFTC amicus in the Ninth Circuit**

On February 17, 2026, the CFTC filed an amicus brief in the U.S. Court of Appeals for the Ninth Circuit asserting the CFTC’s exclusive jurisdiction over prediction markets listed on CFTC-regulated venues and opposing state regulation that would treat such contracts as gambling. In the related CFTC press release, Chairman Selig stated that these products are “commodity derivatives” within the CFTC’s remit and that the agency would defend its jurisdiction.<sup>9</sup>

Additionally, on April 2, 2026, the CFTC announced that it had filed lawsuits challenging the actions of Arizona, Connecticut, and Illinois against CFTC-registered designated contract markets, noting that “[d]espite the CFTC’s clear and longstanding exclusive jurisdiction to regulate event contracts under the [CEA], various states have attempted to outlaw, regulate, or otherwise restrain the activities of [CFTC-registered designated contract markets] that facilitate trading in lawful event contracts.”<sup>10</sup>

A judicial narrowing of federal preemption could introduce state-by-state fragmentation, creating risks of trading halts, access restrictions, and contract enforceability uncertainty — particularly for contracts that states may characterize as wagering.

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## **6. Two CFTC advisories (Feb. 25 and Mar. 12, 2026): What they did and why they matter**

### **6.1. Feb. 25, 2026 — CFTC Division of Enforcement advisory (misuse of nonpublic information; fraud)**

On February 25, 2026, the CFTC’s Division of Enforcement issued an advisory following enforcement matters involving misuse of nonpublic information and fraud in event contracts traded on a CFTC-registered designated contract market (DCM). The advisory emphasized that the CFTC has authority to police illegal trading practices on DCMs, including misconduct that exchanges may initially detect and address.<sup>11</sup>

The advisory highlighted “insider trading” concepts through a misappropriation lens, citing CEA §6(c)(1) and CFTC Rule 180.1 as the relevant anti-fraud authority. The CFTC’s focus on insider trading was further emphasized in the inaugural speech by the CFTC’s newly appointed Director of Enforcement.<sup>12</sup>

Thus, even where exchanges act as front-line regulators, institutional firms should assume that event-contract trading is subject to the same core market-abuse frameworks applied elsewhere in derivatives markets.

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<sup>8</sup>Chairman Michael S. Selig, Remarks at FIA Global Cleared Markets Conference (March 9, 2026), available at: [https://www.cftc.gov/PressRoom/SpeechesTestimony/opaselig2?utm\\_source=govdelivery](https://www.cftc.gov/PressRoom/SpeechesTestimony/opaselig2?utm_source=govdelivery).

<sup>9</sup> CFTC Press Release No. 9183-26, CFTC Reaffirms Exclusive Jurisdiction over Prediction Markets in U.S. Circuit Court Filing (Feb. 17, 2026), available at: <https://www.cftc.gov/PressRoom/PressReleases/9183-26>.

<sup>10</sup> CFTC Press Release No. 9206-26, CFTC Sues Trio of States to Reaffirm its Exclusive Jurisdiction Over Prediction Markets (April 2, 2026), available at: <https://www.cftc.gov/PressRoom/PressReleases/9206-26>.

<sup>11</sup> See CFTC Press Release No. 9185-26, CFTC Enforcement Division Issues Prediction Markets Advisory (Feb. 25, 2026), available at: <https://www.cftc.gov/PressRoom/PressReleases/9185-26>.

<sup>12</sup> [Remarks at NYU Law School – CFTC Enforcement Priorities, Insider Trading in the Prediction Markets, and Cooperation with the CFTC | CFTC](#).

## 6.2. March 12, 2026 — DMO staff advisory letter 26-08 (product design; surveillance; settlement integrity)

On March 12, 2026, the CFTC’s Division of Market Oversight issued a staff advisory aimed at DCMs listing event contracts. The advisory states it is intended to encourage innovation and growth “within the federal oversight framework” while reminding DCMs of their regulatory obligations.<sup>13</sup>

The staff advisory underscores:

- The role of DCMs as “front-line regulators” with self-regulatory obligations
- Core principle expectations, including contract design and the requirement that listed contracts not be readily susceptible to manipulation
- And the importance of robust, reliable settlement sources — recognizing that cash-settled products can create incentives to influence the underlying data used for settlement

Notably, the staff advisory expressly states that while some discussion focuses on sports, the compliance and listing requirements apply equally to other categories of event contracts — and to derivative products more generally.

The staff advisory provides a regulator’s roadmap for identifying contracts that may present heightened risk — particularly those where settlement depends on narrow sources, subjective determinations, or actors that are easy to influence.

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## 7. March 12, 2026 ANPRM: A formal rulemaking track begins

Also on March 12, 2026, the CFTC issued an Advanced Notice of Proposed Rulemaking (ANPRM) seeking comment on whether to amend or issue new regulations governing event contracts traded on prediction markets.<sup>14</sup>

Chairman Selig described the ANPRM as an important step toward “responsible innovation” and a “rational and coherent interpretation” of the CEA, while “reassuring” the public that the CFTC will exercise its claimed exclusive jurisdiction.<sup>15</sup>

The ANPRM focuses on, among other things:

- Application of statutory core principles and CFTC regulations to prediction markets
- Categories of contracts that may be prohibited as contrary to public interest
- Cost-benefit considerations and other market structure issues

Thus, even before final rules, the ANPRM signals the policy topics regulators will likely scrutinize most — settlement integrity, manipulation susceptibility, and the boundaries of permissible event underlyings.

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## 8. Key risks highlighted by recent events

### 8.1. Settlement risk/contract interpretation risk (Khamenei ‘out as Supreme Leader’ dispute)

Recent reporting describes significant controversy and litigation risk following disputes about how certain contracts should settle when there is ambiguity with respect to the contract’s terms. In the case involving an event contract based on whether Khamenei would be “out as Supreme Leader” by a specified date, users expected a binary “yes” payout if Khamenei was no longer Supreme Leader for any reason, but the platform reportedly applied a “death

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<sup>13</sup> CFTC Letter No. 26-08 (March 12, 2026).

<sup>14</sup> See Advance Notice of Proposed Rulemaking, 91 FR 12516 (March 16, 2026).

<sup>15</sup> CFTC Press Release No. 9194-26, CFTC Seeks Public Comment on Advanced Notice of Proposed Rulemaking Relating to Prediction Markets (March 12, 2026), available at: <https://www.cftc.gov/PressRoom/PressReleases/9194-26>.

carve-out” mechanism and settled at a last-traded price reference, prompting lawsuits and heightened scrutiny of rulebook drafting and disclosure.

This episode underscores an institutional lesson: event contracts may look “simple,” but definitions, evidence standards, and discretionary resolution mechanics can determine outcomes — creating risk akin to bespoke confirmation drafting and valuation disputes in traditional derivatives.

## **8.2. Source/information-integrity risk (pressure on reporting tied to settlement)**

Reporting in March 2026 described an incident in which an Israeli military correspondent alleged he faced threats and pressure to revise reporting concerning whether a missile strike “counted” under a prediction market’s resolution criteria.

This illustrates a novel risk vector for event contracts: participants may attempt to influence the information pipeline (journalists, official sources, or other data inputs) that determines settlement.

This risk aligns with the CFTC’s March 12<sup>th</sup> staff advisory emphasis on settlement-source integrity and the potential incentive to influence the data used for cash settlement.

## **8.3. Market abuse/MNPI/‘influence over outcome’ risk**

The CFTC’s February 25<sup>th</sup> enforcement advisory expressly highlighted scenarios involving trading where a trader may have access to nonpublic information or influence over the outcome, grounding the analysis in CEA §6(c)(1) and Rule 180.1.

Institutional compliance programs designed around securities trading may not automatically map cleanly to event contracts; firms should assume that regulators will apply familiar market-abuse concepts to event contracts as liquidity and institutional participation grows.

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# **9. Practical guidance: What institutional firms should do now**

Below is a practical checklist for buy-side institutions that trade, provide liquidity in, or use signals from event contracts.

## **9.1. Update internal compliance policies (explicitly include event contracts)**

### **Action items**

- Update MNPI and market-abuse policies to expressly cover event contracts/prediction markets, including misappropriation theory and “influence over outcome” restrictions.
- Extend personal trading policies and pre-clearance requirements (where appropriate) to employee trading in event contracts, especially for personnel with government-adjacent exposure, issuer contacts, or sensitive operational information.

## **9.2. Implement pre-trade diligence for settlement and dispute mechanics**

### **Action items**

- Treat event contract terms like an ISDA confirmation - require a standardized internal review addressing:
  - Settlement sources and reliability
  - Resolution criteria
  - Dispute resolution governance
  - Timing triggers
  - Discretionary authority
- Treat “source risk” as a first-order trading and conduct risk -pay special attention to contracts where settlement depends on subjective characterization or limited sources — these are the contracts most likely to trigger “source risk” and settlement disputes.

## **9.3. Consider fund disclosures (PPMs/RFPs/risk factors)**

For private funds and registered products, consider adding or updating risk factors addressing:

- Settlement methodology and dispute risk (including non-binary outcomes in edge cases)

- Information-integrity/source risk (settlement hinges on how events are characterized)
- Regulatory and jurisdictional change risk (including ongoing state challenges and potential trading halts)

#### **9.4. Build governance around ‘no-trade/heightened review’ categories**

Given reputational and regulatory sensitivities, many institutions may choose to define categories requiring heightened review (or no-trade) for contracts closely tied to war, death, terrorism, or other controversial underlyings — consistent with the public interest framework embedded in Rule 40.11 and the CEA.

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### **10. Looking ahead**

The CFTC’s combined posture — withdrawal of the 2024 NPRM, issuance of dual advisories, pursuit of formal rulemaking via the ANPRM, and active litigation participation — suggests event contracts will remain a major policy focus through 2026.

For institutional market participants, the key is to approach event contracts with the same discipline applied to other derivatives: robust governance, clear internal controls, and a careful understanding of how settlement is determined — particularly as markets expand into sensitive topics and as regulators increase scrutiny of market integrity risks.

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