United States Senate

WASHINGTON, DC 20510

November 16, 2026

The Honorable Michael Selig
Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Dear Chairman Selig:

We write to express our opposition to the Commodity Futures Trading Commission's November 5 interpretation ordering Designated Contract Markets (DCMs) to end access criteria that restrict access to certain event contract markets based on prospective traders' location or residence (e.g., geofencing) within 30 days.[1] Your unilateral decision directly conflicts with active court orders, undermines state and tribal law, and must be reversed.

Numerous courts have held that sports-related event contracts are not swaps and instead are indistinguishable from sports bets subject to state and tribal gaming laws. Your novel interpretation of the impartial access requirements effectively requires DCMs to offer improperly regulated gambling products in all fifty states without regard to state and tribal gaming laws and these state and federal court decisions. There is no basis or precedent under 17 CFR 38.151(b)'s impartial access requirements for this interpretation and indeed this argument has been made in several of the active cases—and rejected.

The Sixth[2] and Ninth Circuits[3] have ruled that states retain the authority to apply state gaming laws to prediction markets. The Ninth Circuit has also ruled that sports event contracts on Tribal lands constitute unauthorized Class III gaming under the Indian Gaming Regulatory Act in the preliminary-injunction context[4]. The courts have ordered platforms to cease offering various prediction contracts in Michigan, Nevada, and Washington, and on the land of two California tribes, and imposed geofencing requirements. The Commission now appears to be encouraging prediction markets to offer prohibited contracts in contempt of these court orders during active litigation.

We are particularly troubled that this action came just hours after the Northern District of California issued its latest court order in *Blue Lake Rancheria v. Kalshi* requiring Kalshi to geofence around the plaintiff's tribal lands. This interpretation raises concerns that the Commission may be coordinating with platforms currently engaged in litigation and encouraging them to violate state and tribal gaming laws.

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[1] Release Number 9323-26

[2] https://www.opn.ca6.uscourts.gov/opinions.pdf/26a0272p-06.pdf

[3] https://cdn.ca9.uscourts.gov/datastore/opinions/2026/08/28/25-7516.pdf

[4] https://cdn.ca9.uscourts.gov/datastore/opinions/2026/09/16/25-7504.pdf

The Commission must withdraw the interpretation or freeze all efforts to implement until litigation is resolved. At minimum, the Commission must expressly state that the following do not violate Regulation 38.151(b): geographic restrictions imposed by court order, those adopted to comply with the Indian Gaming Regulatory Act or tribal-state compacts, and those an exchange adopts voluntarily.

We further request that the Commission preserve all records and communications relating to the topics addressed in this letter, from January 1, 2025, to the present and continue preserving existing and future materials on an ongoing basis. This preservation hold applies to all relevant records within the Commission's possession and any person or entity representing or purporting to be acting on its behalf. This includes, but is not limited to, records and communications via email, whether official or personal; mobile devices; encrypted or disappearing messaging applications; social media; calendar entries; meeting notes; and voicemail and text messages. To the extent that the Commission uses any auto-delete functions, it should immediately suspend auto-delete functions and notify persons with control over potentially relevant records of similar preservation obligations.

Thank you for your attention to this matter. We look forward to your prompt response by November 23, 2026, including a written confirmation that the Commission is preserving all records related to this Congressional inquiry.

Sincerely,

Adam B. Schiff
United States Senator

Catherine Cortez Masto
United States Senator

Amy Klobuchar
United States Senator
Ranking Member, Committee on Agriculture, Nutrition, and Forestry

Jacky Rosen
United States Senator

United States Senate

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Maria Cantwell
United States Senator

Alex Padilla
United States Senator

Elissa Slotkin
United States Senator

Patty Murray
United States Senator

Gary C. Peters
United States Senator