

It's Time for a Prediction Markets MNPI Policy

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The CFTC's Mounting Scrutiny of Prediction Markets. Prediction markets are platforms on which users buy or sell so-called “event contracts” tied to the occurrence or non-occurrence of future events. Once a niche corner of the market, prediction market platforms now offer event contracts based on elections, weather, sports, commodity prices, economic data releases and similar events.

Since the start of 2026, the CFTC—which has described prediction markets platforms as a rapidly growing financial “asset class”¹—has asserted its exclusive jurisdiction and rapidly intensified its scrutiny of these markets. Although trades on prediction markets are colloquially described as “bets,” in February 2026, CFTC Chairman Michael Selig confirmed the agency’s view that these event contracts are in fact swaps,² subjecting transactions in these instruments to the CFTC’s jurisdiction and broad antifraud and antimanipulation authority under CFTC Rule 180.1.

The CFTC has taken several steps to assert its authority over prediction markets. First, the CFTC’s Division of Market Oversight issued an advisory to prediction market platforms, known as Designated Contracts Markets (“DCMs”), outlining the staff’s views on regulatory requirements for the listing and trading of event contracts.³ Second, the CFTC withdrew rules originally proposed in 2024 concerning event contracts and a 2025 staff advisory addressing sports events contracts, both in anticipation of further rulemaking.⁴ Finally, the CFTC issued two enforcement advisories addressing prediction markets trading. The [first advisory](#) noted that Kalshi—a prominent prediction markets platform—internally sanctioned two of its users for conduct potentially in violation of CFTC Rule 180.1 and § 6(c)(1) of the Commodity Exchange Act and reminded

¹ Michael S. Selig, Opinion, America’s Financial Markets Are Ready for a Golden Age, Wash. Post (Jan. 20, 2026), <https://www.washingtonpost.com/opinions/2026/01/20/cftc-trump-administration-markets-regulation/>.

² Michael S. Selig, WSJ Op-Ed | States Encroach on Prediction Markets, CFTC (Feb. 17, 2026), <https://www.cftc.gov/PressRoom/SpeechesTestimony/seligstatement021726>.

³ Commodity Futures Trading Comm’n, CFTC Letter No. 26-08, DMO Staff Advisory Regarding Prediction Markets Policy (Mar. 12, 2026), <https://www.cftc.gov/csl/26-08/download>.

⁴ Press Release, Commodity Futures Trading Comm’n, CFTC Withdraws Event Contracts Rule Proposal and Staff Sports Event Contracts Advisory, Release No. 9179-26 (Feb. 4, 2026), <https://www.cftc.gov/PressRoom/PressReleases/9179-26>.

participants that the CFTC has the power to police these platforms. The [second advisory](#) reminded prediction markets platforms of their regulatory obligations pursuant to the Commodity Exchange Act and CFTC regulations. The agency also filed an amicus brief in litigation between a state gambling authority and a prediction market arguing that it has exclusive jurisdiction over DCMs.⁵

In March 2026, the CFTC issued an Advance Notice of Proposed Rulemaking seeking public comment regarding event contract derivatives traded on prediction markets.⁶ Shortly thereafter, in his first official speech as Director of the CFTC's Division of Enforcement, David Miller declared that "[i]nsider trading in the prediction markets—where there is misappropriated information—is precisely the kind of serious violation that we are going after vigorously."⁷ While acknowledging that prediction markets are inherently "price-discovery markets," and "[m]arket participants are entitled to use their own knowledge and information to make trading decisions," he cautioned that the Division of Enforcement "[w]ill aggressively detect, investigate, and, where appropriate, prosecute insider trading in the prediction markets."⁸

The CFTC Can Charge Insider Trading on Prediction Markets. The CFTC has successfully pursued insider trading charges involving derivatives under Rule 180.1, its broad antifraud and antimanipulation rule, and such cases provide a ready template for the agency to investigate and charge insider trading cases in the prediction markets.⁹

Considerations for Adopting a Prediction Markets MNPI Policy. The misuse of material nonpublic information ("MNPI") in connection with prediction markets trading poses an emerging compliance risk for asset managers, broker-dealers and public companies, which may need to supplement existing policies and procedures to address this risk.

⁵ Amicus Brief of Commodity Futures Trading Commission, a Federal Government Agency, in Support of Appellant and in Support of Reversal, *N. Am. Derivatives Exch., Inc. v. State of Nev. et al.*, No. 25-7187 (9th Cir. filed Feb. 17, 2026), https://www.cftc.gov/media/13261/amicusbrief_02172026/download.

⁶ Prediction Markets, 91 Fed. Reg. 12516 (proposed Mar. 16, 2026).

⁷ Commodity Futures Trading Comm'n, Remarks of David I. Miller at NYU Law School - CFTC Enforcement Priorities, Insider Trading in the Prediction Markets, and Cooperation with the CFTC (Mar. 31, 2026), <https://www.cftc.gov/PressRoom/SpeechesTestimony/opamiller1>.

⁸ *Id.*

⁹ See, e.g., *CFTC v. Clark*, No. 4:22-cv-00365, 2026 WL 294949 (S.D. Tex. Jan. 29, 2026) (consent order relating to claims of misappropriation of confidential information and directing business in exchange for illegal kickbacks); *In the Matter of Freepoint Commodities LLC*, CFTC Docket No. 24-02, (Dec. 14, 2023) (settled order finding improper trading on the basis of MNPI obtained through bribery of foreign officials); *In the Matter of Classic Energy and Matthew D. Webb*, CFTC Docket No. 19-50 (Sept. 30, 2019) (settled order finding block trades in natural gas futures had been improperly made on the basis of MNPI).

As a threshold matter, prediction markets trading poses challenges for personal trading compliance systems. While registrants typically maintain sophisticated controls for brokerage accounts, securities preclearance and restricted lists, event contract accounts may sit outside those surveillance systems, creating risk that is squarely within the CFTC’s highest-priority area of focus.

For these reasons, updating policies and procedures to address the misuse of MNPI in connection with prediction markets trading is increasingly important. Accordingly, policies and procedures that prohibit the misuse of MNPI solely in connection with “securities” trading should be expanded to address the use of MNPI in connection with all event contracts, with an explicit reference to prediction markets and other trading platforms.

Because prediction markets do not involve “securities,” a company’s MNPI policy or insider trading policy may not, on its own, be the most effective policy for addressing these risks. Moreover, insider trading policies are often limited in scope to directors, officers and certain employees likely to receive traditional MNPI, whereas the breadth of prediction markets may create scenarios in which a wider range of employees could potentially misuse information. Companies should therefore consider revising their codes of conduct—which typically apply firmwide rather than only to designated “covered persons”—to prohibit misuse of company confidential information (trading on the basis of MNPI or disclosing such MNPI to another who then uses it to trade, regardless of the market or type of instrument used to monetize that information).

Asset managers or broker-dealers that seek to use prediction markets data in connection with trading strategies—for example, by mining public signals on prediction markets to inform securities and other trades—may also wish to enhance their policies and procedures governing the documentation of trading decisions.

When revising policies—whether part of an existing MNPI policy, insider trading policy or code of conduct—companies should consider including the following elements:

- **Define the terms.** Clearly define “prediction markets” and “event contracts,” and consider including examples.
- **Define the controls framework.** Consider requiring disclosure of personal prediction markets accounts and account statements (including consideration of technological or other limitations and potential compliance burdens of requiring such disclosure) and whether to permit personal prediction markets trading with pre-clearance, to prohibit only certain types of prediction markets activity involving certain types of event contracts or to prohibit it altogether.

- **Prohibit the misuse of MNPI.** Prohibit employees from misusing confidential, proprietary or material nonpublic information relating to the company or obtained through the course of their employment or affiliation with the company in connection with prediction markets trading. The policy should explicitly address communications with, or trading in concert with, individuals known or reasonably believed to possess MNPI, as well as disclosing MNPI to another person who then trades in prediction markets.
- **Public company considerations.** Consider whether the existing blackout periods and pre-clearance requirements should apply to trades on prediction markets or whether heightened restrictions or prohibitions for prediction markets should apply to employees with access to earnings information, M&A intelligence, policy information, operational incident data or any other advance knowledge that could move an event market.
- **Reevaluate trading policies holistically.** Clients may also wish to simultaneously reevaluate broader policies and procedures relating to trading in other non-securities contracts that are otherwise regulated by the CFTC and contracts with values that are derivative of securities valuations.
- **Training and Certifications.** Update employee MNPI training and certification processes to address prediction markets-related policies and procedures.

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Please do not hesitate to contact us with any questions.



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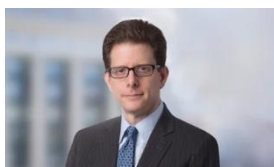
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