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FACT SHEET

Gambling on Elections & Event Contracts

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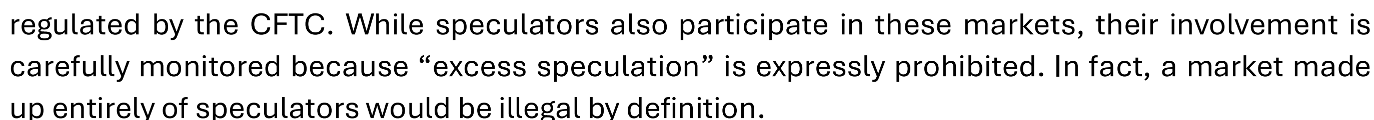
Imagine a scenario where your favorite political candidate loses an election, not because of flawed policies or poor leadership, but because a group of internet users orchestrated a disinformation campaign fueled by deepfake videos. Why? Because these users stood to gain thousands, if not millions, of dollars if your candidate lost, turning the election into a profitable bet. Or picture yourself running for office, only to discover that bettors are incentivized to manipulate outcomes—because your loss would mean a bigger payout for them. Now imagine commercials flooding national and local TV stations, encouraging the public to place bets on election outcomes similar to massive media campaigns currently trying to get as many Americans as possible to bet on football. This would turn the democratic process into a Las Vegas casino, undermining a cornerstone of American governance and democracy.

This alarming vision of elections being monetized is not far-fetched. The recent federal court decision in Kalshi v. CFTC, where a regulated prediction market successfully sued the Commodity Futures Trading Commission (CFTC) after the agency barred them from listing contracts allowing bets on which political party would control Congress, added gasoline to the already heated debates surrounding political event contracts. The court ruling in Kalshi's favor now paves the way for these markets to become part of the U.S. political landscape, underscoring the urgent need for regulatory action.

If political event contracts are allowed, we could witness scenarios similar to what happened with GameStop or other meme stocks. Just as social media movements and speculative traders turned the stock market into a frenzy, political betting could incentivize manipulation, disinformation campaigns, and mass speculation on election outcomes. The stakes would no longer be about electing the best candidate or having the outcome reflect the will of the voters, but about impacting the process so that the outcome is most profitable from winning or losing a bet.

Overview of Event Contracts and CFTC's Jurisdiction

The CFTC oversees the multi-trillion-dollar derivatives and commodities markets, which are critical to the U.S. economy. Its mission is to ensure these markets function effectively for hedging and price discovery, helping businesses and consumers manage risk and determine fair prices for goods. This process ensures that vital commodities—such as oil, grains, and metals—are available to Americans in the required quantities and at prices that accurately reflect supply and demand. The effectiveness of the CFTC's regulation affects the cost and availability of everyday essentials, from cereal and coffee at breakfast to bread and peanut butter in lunch sandwiches, gas for cars and trucks, cotton for clothing, and sugar in many of the foods we consume. Large institutional financial firms, including physical purchasers and producers of commodities, primarily dominate the markets



regulated by the CFTC. While speculators also participate in these markets, their involvement is carefully monitored because "excess speculation" is expressly prohibited. In fact, a market made up entirely of speculators would be illegal by definition.

Event contracts are derivative financial products that allow traders to speculate on the outcomes of various future events, such as weather conditions or the closing point value of a benchmark like the S&P 500. These contracts fall under the CFTC's jurisdiction, which regulates to ensure fair practices, protect market participants, and maintain market stability. The CFTC's oversight is essential because, while often speculative, event contracts can intersect with financial markets, affecting investor confidence and market behavior.

Unlike traditional futures contracts, which are tied to the expected prices of commodities, financial instruments, or indices, event contracts are priced based on the perceived likelihood of specific outcomes occurring. For instance, since 2022, the Chicago Mercantile Exchange has offered event contracts that allow clients to predict "yes" or "no" on the anticipated closing price of Bitcoin, commodities, and indexes. This shift has sparked broader discussions about the role of event contracts in financial markets, particularly as they venture into areas that resemble gambling more than risk management. As event contracts begin to cover purely non-financial outcomes such as elections or sporting events, the line between the legitimate use of financial instruments and gambling becomes increasingly problematic. This raises the critical question: when do these contracts cross the line from being tools for hedging risk to just gambling in a different form?

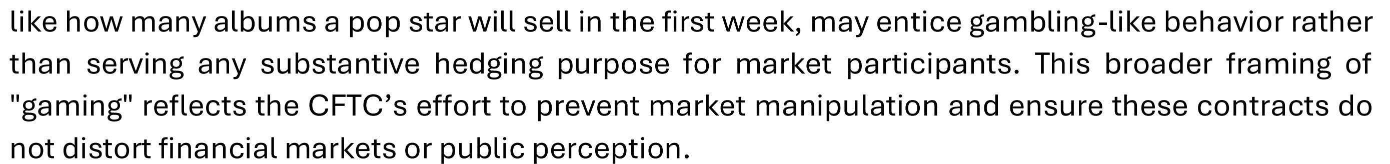
In response to claims that there is a lack of clarity, the CFTC has recently proposed new rules to specify the scope of event contracts, particularly concerning non-financial events. These types of contracts present unique risks that go beyond traditional financial speculation. Unlike contracts tied to commodities or financial indices, betting on the outcomes of elections raises ethical and societal concerns, including potential market manipulation and public interest conflicts. The CFTC's proposal recognizes the need for stricter regulatory intervention to ensure these speculative markets do not undermine the integrity of financial systems or broader democratic processes.

CFTC's Proposed Rulemaking on Event Contracts

In 2011, the CFTC introduced a rule to prevent registered entities from listing or clearing contracts or transactions related to certain prohibited activities. These activities include terrorism, assassination, war, gaming, or other actions deemed illegal under state or federal law. The intent was to ensure that markets remained free from contracts tied to unethical or unlawful events.

On May 10, 2024, the CFTC proposed updates to this rule to improve clarity and consistency in regulating event contracts, particularly those related to political events. The proposed changes seek to refine the language in the existing framework, reinforcing the CFTC's ability to restrict certain event-based contracts in line with its mandate.

To improve clarity and consistency, the CFTC has proposed a definition for "gaming" within the context of prohibited event contracts. The proposed definition builds on the common understanding that gaming involves risking something of value on an uncertain outcome, like a contest or performance, where the primary goal is speculative profit rather than managing risk. This approach indicates a shift toward tightening regulation of event contracts that resemble wagering more than genuine risk mitigation. For example, event contracts that speculate on unpredictable occurrences,



like how many albums a pop star will sell in the first week, may entice gambling-like behavior rather than serving any substantive hedging purpose for market participants. This broader framing of "gaming" reflects the CFTC's effort to prevent market manipulation and ensure these contracts do not distort financial markets or public perception.

Moreover, the proposed definition highlights the CFTC's concerns about the broader implications of event contracts, particularly those related to political outcomes. Allowing traders to bet on elections or other societal events could lead to manipulation and disinformation, turning critical processes into financial games of chance. By placing these contracts under the umbrella of "gaming," the CFTC underscores the importance of keeping markets focused on genuine economic activity, ensuring that financial instruments are used to hedge risks, not exploit uncertainties for profit. This comprehensive approach is designed to maintain the stability and trustworthiness of the financial system, preventing the erosion of public confidence caused by speculative, gambling-like behaviors. It also allows the CFTC to use its limited resources on matters clearly within its jurisdiction and expertise, which are critically important to the American people.

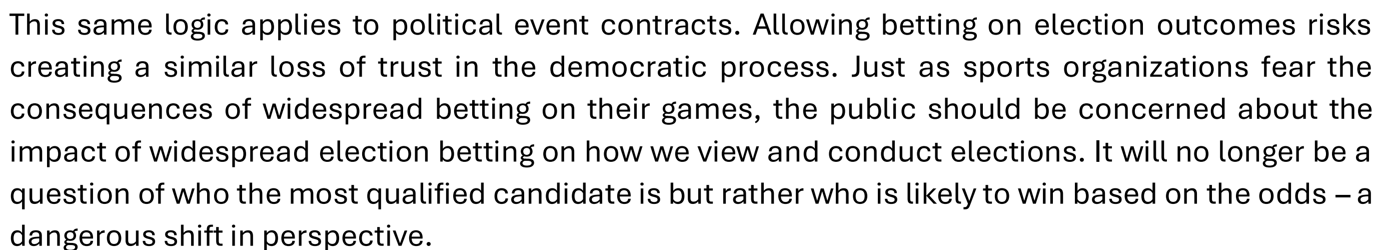
Gamification of Elections

One of the most alarming aspects of political event contracts is how they will almost certainly facilitate the gamification of elections. By turning the outcome of elections into a financial betting market, these contracts reduce the democratic process to a mere spectacle, where the focus shifts from civic responsibility to profit-making. Political event contracts—whether linked to presidential, congressional, or local elections—threaten to undermine the integrity of elections, encouraging participants to treat the democratic process as a game, rather than a vital part of civic engagement.

This trend toward gamification is not new in financial markets. A more recent example is the speculative frenzy surrounding GameStop and the meme stock craze of 2021. Driven by social media hype, individual investors turned a struggling video game retailer into a financial phenomenon, inflating its stock price far beyond its economic value. This speculative behavior led to wild market volatility and highlighted how financial markets can be distorted by focusing on short-term profit rather than fundamental economic realities. Similarly, event contracts tied to elections could encourage the same kind of reckless speculation, reducing political governance to a game of profit. The financial gain involved in betting on election outcomes could incentivize unethical behavior, such as the spread of disinformation or the exploitation of insider knowledge, to manipulate the market. Just as the GameStop episode shook confidence in the stock market's stability, treating elections as speculative opportunities could erode public trust in democratic processes, further destabilizing both markets and political systems.

Public Interest Concerns

Event contracts tied to gaming, whether related to political events or sports, often conflict with the public interest. A key example comes from the sports industry, where the introduction of sports betting has sparked considerable debate. The NFL, for instance, has consistently voiced concerns about betting on sporting events, fearing that such activities could jeopardize the integrity of their games. Widespread sports betting creates the potential for corruption, insider manipulation, and a general degradation of public trust in the fairness of sporting outcomes.



This same logic applies to political event contracts. Allowing betting on election outcomes risks creating a similar loss of trust in the democratic process. Just as sports organizations fear the consequences of widespread betting on their games, the public should be concerned about the impact of widespread election betting on how we view and conduct elections. It will no longer be a question of who the most qualified candidate is but rather who is likely to win based on the odds – a dangerous shift in perspective.

Political Event Contracts Lacks Hedging Utility

Political event contracts lack a meaningful hedging function. Unlike other derivatives, which provide economic value by allowing participants to hedge against price fluctuations in commodities or financial assets, political event contracts do not offer such a benefit. Instead, they encourage speculative trading on outcomes that are inherently unpredictable and tied to the core of democratic governance.

Opponents of the Proposed Rulemaking may attempt to prove the hedging capabilities of political event contracts by citing examples of what they may contend are the economic consequences of elections, including, for example, changes in stock prices experienced by renewable energy companies, tobacco stocks, and others that appear to have been correlated with election outcomes. But such anecdotal "evidence," in a realm so fraught with complexity and an abundance of possible causes, is undeserving of any weight. Moreover, political event contracts are not valid hedging tools, as an analysis in the New York Times demonstrated. The performance of stocks like private prisons and gun companies demonstrates that politically motivated bets are, at best, misguided and, at worse, just plain wrong. For example, despite expectations, private prison stocks did not perform consistently under the Trump administration and showed unexpected gains during Biden's term. Similarly, energy and gun stocks did not align with anticipated political outcomes, indicating that presidential policies have less influence on specific market sectors than commonly believed. This unpredictability provides yet more evidence that political event contracts are unreliable and inappropriate for hedging purposes.

The Kalshi Case and Its Impact

The September 6, 2024, court ruling in favor of Kalshi represents a legal milestone for proponents of prediction markets. The court vacated the CFTC's September 2023 order that prohibited Kalshi from offering political event contracts, which Kalshi had argued were arbitrarily and capriciously barred. The ruling could lead to a surge in platforms offering similar betting markets on elections. However, the CFTC has since filed an emergency motion to delay implementation while considering an appeal.

The decision to allow gambling on U.S. elections represents a dramatic shift in policy with potentially serious national consequences. Democracy and free elections are fundamental pillars of American governance and are not appropriate subjects for financial speculation. Allowing betting on election outcomes further erodes trust in the electoral process, particularly when many Americans are already questioning its integrity. In a climate rife with disinformation, the introduction of financial incentives tied to election results could deepen societal divisions and exacerbate existing skepticism. The January 6th, 2021, events are a stark reminder of how fragile our democratic institutions can be. As a nation, we must safeguard these institutions, not gamble with their future.

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Better Markets fights for the economic security, opportunity, and prosperity of the American people by working to enact financial reform, to prevent another financial crash and the diversion of trillions of taxpayer dollars to bailing out the financial system.

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