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Description of document: Commodity Futures Trading Commission (CFTC) Records
regarding Victoria University's PredictIt predictive
marketplace, 2018-2022

Requested date: 26-September-2022

Release date: 13-October-2022

Posted date: 30-June-2025

Source of document: FOIA Request
FOIA Compliance Office
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581
[CFTC FOIA Online Request Form](#)
[FOIA.gov](#)

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FOIA Office

U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

October 13, 2022

RE: 23-00002-FOIA

This is in response to your request dated September 26, 2022 and received October 3, 2022 under the Freedom of Information Act seeking access to: [A copy of letter correspondence between Victoria University in New Zealand and the CFTC regarding political event contracts during the timeframe January 1, 2018 and present. A copy of presentations by Victoria University to CFTC that may be releasable under FOIA, during the same timeframe. A copy of the CFTC's underlying rationale and reasoning for the administrative decision to shut down the PredictIt market by a February 2023 deadline.]

168 pages of responsive records are publicly available on the Commission's website, here: https://www.cftc.gov/FOI/foia_freqrequestinfo.html. As a courtesy, we are attaching those records to this response.

Any additional responsive records are exempt from disclosure under FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A), because disclosure of that material could reasonably be expected to interfere with the conduct of the Commission's law enforcement activities. *See Robbins Tire & Rubber Co. v. NLRB*, 437 U.S. 214 (1978). The Commission considers the foreseeable harm standard when reviewing records and applying FOIA exemptions. We have conducted a segregability analysis and determined that there are no reasonably segregable portions which may be released to you. In addition, portions of the records may also be subject to withholding pursuant to other FOIA exemptions.

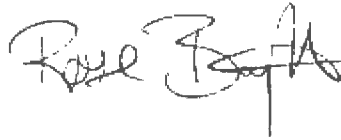
If you have any questions about the way we handled your request, or about our FOIA regulations or procedures, please contact Bridget McFarland at 202-418-5319, or Jonathan Van Doren, our FOIA Public Liaison, at 202-418-5505.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road,

College Park, Maryland 20740-6001, email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with this response to your request, you may appeal by writing to Freedom of Information Act Appeal, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 8th Floor, 1155 21st Street, N.W., Washington, D.C. 20581, within 90 days of the date of this letter. Please enclose a copy of your original request and a copy of this response.

Sincerely,

A handwritten signature in black ink, appearing to read "Rose B. Killoy". The signature is fluid and cursive, with the first name "Rose" and last name "Killoy" clearly distinguishable.

Rosemary B. Killoy
Assistant General Counsel

From: Streit, Elizabeth M.
Sent: 7 May 2019 09:28:28 -0400
To: Williamson, Scott R.
Subject: FW: No Action Letter 14-130 to Victoria University on October 29,2014 - Predict It
Attachments: Predict It Closing Report.docx

(b)(5)

Elizabeth M. Streit
Chief Trial Attorney
Commodity Futures Trading Commission
525 West Monroe Suite 1100
Chicago, Illinois 60661
312-596-0537
312-404-4021
estreit@cftc.gov

From: Van Wagner, David
Sent: Monday, May 06, 2019 3:37 PM
To: Streit, Elizabeth M.
Subject: RE: No Action Letter 14-130 to Victoria University on October 29,2014

(b)(5)

I know that I still owe you some archival Predict It materials, which I'll search around for this week.
DVW

David P. Van Wagner
Chief Counsel
Division of Market Oversight
Commodity Futures Trading Commission
1155 21st Street, NW | Washington, DC 20581 | Tel: 202.418.5481

From: Streit, Elizabeth M.
Sent: Monday, May 06, 2019 1:06 PM
To: Van Wagner, David
Subject: FW: No Action Letter 14-130 to Victoria University on October 29,2014

Hi David- any update on Predict It? Our WB is very persistent in sending us information. If you would like to see any of it, let me know.

Elizabeth M. Streit
Chief Trial Attorney
Commodity Futures Trading Commission
525 West Monroe Suite 1100
Chicago, Illinois 60661
312-596-0537
312-404-4021

estreit@cftc.gov

From: Streit, Elizabeth M.

Sent: Wednesday, April 10, 2019 4:12 PM

To: Van Wagner, David

Cc: McGonagle, Vincent A.; McCormack, Joy; Brown, Dana; Curtis, Jeanette; Raimondi, Philip; McCormack, Joy

Subject: RE: No Action Letter 14-130 to Victoria University on October 29, 2014

David,

I am finally digging out from the shut-down and have returned to looking at Predict It. To refresh your recollection, DOE received a whistleblower complaint about this company that is running a prediction market under no action relief. You were kind enough to forward me materials related to the original no action letter and a new letter Predict It filed asking for further relief.

Can you tell me the status of this matter with DMO?

Also, can we schedule a time to discuss the matter?

Thanks!

Elizabeth M. Streit

Chief Trial Attorney

Commodity Futures Trading Commission

525 West Monroe Suite 1100

Chicago, Illinois 60661

312-596-0537

312-404-4021

estreit@cftc.gov

From: Van Wagner, David

Sent: Friday, December 21, 2018 10:32 AM

To: Streit, Elizabeth M.

Cc: McGonagle, Vincent A.; McCormack, Joy; Brown, Dana; Curtis, Jeanette; Raimondi, Philip

Subject: RE: No Action Letter 14-130 to Victoria University on October 29, 2014

Thanks and will do.

From: Streit, Elizabeth M.

Sent: Friday, December 21, 2018 11:29 AM

To: Van Wagner, David

Cc: McGonagle, Vincent A.; McCormack, Joy; Brown, Dana; Curtis, Jeanette; Raimondi, Philip

Subject: Re: No Action Letter 14-130 to Victoria University on October 29, 2014

Thanks David. (b)(5)

(b)(5)

On: 21 December 2018 09:30,

"Van Wagner, David" <dvanwagner@CFTC.gov> wrote:

Elizabeth,

Hello. I apologize for just now getting back to you and your request for PredictIt-related materials.

Attached is an email from Dana Brown to me with attached materials related to NAL 14-130. Three of the four documents directly pertain to 14-130. The fourth document is a follow-up request from Victoria where they ask for certain amendments to the relief granted in 14-130. I noticed that that correspondence isn't actually dated, but our records show that it was received on March 12, 2018

(b)(5)

(b)(5)

Hope this all helps.

Regards,

DVW

From: Streit, Elizabeth M.

Sent: Wednesday, December 19, 2018 12:29 PM

To: Van Wagner, David

Cc: McGonagle, Vincent A.; McCormack, Joy

Subject: No Action Letter 14-130 to Victoria University on October 29, 2014

David,

The Whistleblower Office referred a TCR from a whistleblower to Enforcement and it has been assigned to my team. The WB claims that Predict It, a platform that allows trading on political events, is operating in violation of the no action relief we granted it in 2014. I have the no action letter- can you forward to me all the correspondence between DMO and the requester Victoria University (particularly their letter seeking the relief) on this subject? Thanks!

We will probably want to talk to you about this as well after we have looked into the facts further.

Thanks again for your help.

Elizabeth M. Streit

Chief Trial Attorney

Commodity Futures Trading Commission

525 West Monroe Suite 1100

Chicago, Illinois 60661

312-596-0537

312-404-4021

estreit@cftc.gov

From: Manley, Joan
Sent: 28 Jan 2019 18:47:37 +0000
To: Streit, Elizabeth M.
Subject: Predictit A8497

New complaint, I've related it to your open matter A8303. (And welcome back!)

Joan Manley
Deputy Director Litigation, Intake, and Triage
Division of Enforcement
Commodity Futures Trading Commission
1155 21st St., N.W.
Washington D.C. , 20581

Tel: (202) 418-5356
email: jmanley@cftc.gov

From: Manley, Joan
Sent: 21 Feb 2019 13:45:04 -0500
To: Streit, Elizabeth M.;Williamson, Scott R.
Subject: Predictit.org A8663

Hi guys – new complaint, not much substance, but I’ve related it to your open matter A8303.

Joan Manley

Deputy Director – Litigation, Intake, and Triage

Division of Enforcement

Commodity Futures Trading Commission

1155 21st St., N.W.

Washington D.C. , 20581

Tel: (202) 418-5356

email: jmanley@cftc.gov

From: Streit, Elizabeth M.
Sent: 24 Apr 2019 16:58:11 -0400
To: Williamson, Scott R.
Cc: McCormack, Joy
Subject: RE: what matters do i need to close on LF?
Attachments: Predict It Closing Report.docx

(b)(5)

Let me know if you want to discuss.

Elizabeth M. Streit
Chief Trial Attorney
Commodity Futures Trading Commission
525 West Monroe Suite 1100
Chicago, Illinois 60661
312-596-0537
312-404-4021
estreit@cftc.gov

From: Williamson, Scott R.

Sent: Wednesday, April 24, 2019 2:29 PM

To: Evans, Lindsey; Gradman, Susan J.; Howell, Robert; Konizeski, Joseph; Streit, Elizabeth M.; Terrell, David A.

Subject: what matters do i need to close on LF?

Scott

Scott R. Williamson
Acting Deputy Director

CFTC Division of Enforcement

525 W Monroe Street, Suite 1100

Chicago, IL 60661

(312) 596-0560

(312) 420-8950 cell

swilliamson@cftc.gov

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received this message in error, please telephone or reply to me immediately and delete all copies of the message from your computer systems.

From: Van Wagner, David
Sent: 8 Dec 2017 12:27:18 -0500
To: Green, Micah (mgreen@Steptoe.com)
Cc: Shilts, Richard (rshilts@Steptoe.com); Pepper, David N.; Curtis, Jeanette
Subject: FW: Final Draft, Request for Amended No Action Relief
Attachments: PredictIT letter 171206.docx

Micah,

Thanks.

By the way, I've looped Jeanette Curtis from DMO's Chief Counsel unit on this email too. Jeanette will be inheriting this project from David Pepper who will be leaving the CFTC for a new position as of Dec. 15th.

Regards,
David

From: Green, Micah [mailto:mgreen@Steptoe.com]
Sent: Friday, December 08, 2017 12:22 PM
To: Van Wagner, David; Pepper, David N.
Cc: Shilts, Richard
Subject: Final Draft, Request for Amended No Action Relief

Dear David and David:

Attached is a revised version of the letter from Victoria University of Wellington requesting amended no action relief. I wanted to highlight a couple of changes that are more than word-smithing.

■)(4)

(b)(4)

Hopefully we can talk early next week and, hopefully try to be in a position to move forward before the end of the year.

Thank you.

Micah

Micah S Green
Partner

Step toe

Step toe & Johnson LLP | 1330 Connecticut Avenue, NW | Washington, DC 20036
+1 202 429 6290 direct | +1 202 550 2823 mobile | +1 202 429 3902 fax | mgreen@Step toe.com | www.step toe.com

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From: Pepper, David N.
Sent: 7 Nov 2017 16:50:20 +0000
To: Shilts, Richard
Cc: Van Wagner, David
Subject: RE: PredictIT
Attachments: Draft Request for Amended Relief - CFTC Letter 14-130 JBR EDITS
10.05.17..(DMO Staff Comments).docx

Hi Rick,

Please see the attached mark-up reflecting our comments and a few suggested edits. As noted in our comments, certain threshold issues need to be resolved before we can present your updated proposal to Amir and, ultimately, to the 9th Floor. Please consider making the suggested corrections before submitting a revised draft for us to vet.

Please let us know if you have any questions.

Warm regards,

David

From: Shilts, Richard [mailto:rshilts@Steptoe.com]
Sent: Tuesday, November 07, 2017 9:20 AM
To: Pepper, David N.
Subject: RE: PredictIT

OK. We appreciate your work on this.

Rick

From: Pepper, David N. [mailto:DPepper@CFTC.gov]
Sent: Monday, November 06, 2017 9:35 PM
To: Shilts, Richard
Cc: Van Wagner, David
Subject: Re: PredictIT

Hi Rick,

I'm planning to send you a markup tomorrow with some further questions/concerns.

Thanks for your patience,

David

From: Shilts, Richard <rshilts@Steptoe.com>
Sent: Monday, November 6, 2017 3:19:53 PM

To: Pepper, David N.
Subject: Re: PredictIT

Hi David, I don't want to be a pest, but was wondering if you had an updated estimated time for a response. Thanks for any info you can provide.

Rick

On Oct 30, 2017, at 5:15 PM, Pepper, David N. <DPepper@CFTC.gov> wrote:

Hi Rick,

We hope to have feedback for you by the end of this week.

Regards,

David

From: Shilts, Richard [<mailto:rshilts@Steptoe.com>]
Sent: Monday, October 30, 2017 5:06 PM
To: Pepper, David N.
Subject: Re: PredictIT

Hi David, we were just wondering if you had any update on the timing of a response. We really appreciate your work on this. Thanks

Rick

On Oct 23, 2017, at 3:49 PM, Pepper, David N. <DPepper@CFTC.gov> wrote:

Hi Rick,

Thanks for your patience. We have reviewed the updated draft no-action request, and we will need more time for internal discussions. We will try to get back to you by the end of this week to provide an estimate.

Warm regards,

David

From: Shilts, Richard [<mailto:rshilts@Steptoe.com>]
Sent: Monday, October 23, 2017 11:55 AM
To: Van Wagner, David; Pepper, David N.
Subject: PredictIT

I know you both are busy with several projects, but was wondering if you had any estimate as to when we may hear back from you about the latest response. Thanks

Rick

Richard A Shilts
Senior Policy Advisor
rshilts@Step toe.com

Step toe

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From: Pepper, David N.
Sent: 30 Oct 2017 21:11:04 +0000
To: Van Wagner, David
Subject: FW: PredictIT
Attachments: Redline - PredictIT Draft NAR (comparing 8-31-17 and 10-5-17 versions)(DP Comments).docx

David,

(b)(5)

Thanks,

David

Duplicate

From: Pepper, David N.
Sent: 20 Sep 2017 20:45:07 +0000
To: Shilts, Richard; Green, Micah
Cc: Van Wagner, David
Subject: RE: Request to Amend No Action Letter for PredictIt (Draft)
Attachments: Draft Request for Amended Relief - CFTC Letter 14-130 (8.31.17)(DMD Staff Comments and Suggested Edits).docx

Rick and Micah,

It was good to speak with both of you yesterday. In addition to the larger ticket items that we discussed on the call, please see the attached redline for some additional comments and suggested edits. Please let us know if you have any questions.

Warm regards,

David

From: Shilts, Richard [mailto:rshilts@Steptoe.com]
Sent: Thursday, August 31, 2017 5:49 PM
To: Van Wagner, David; Pepper, David N.
Cc: Green, Micah
Subject: Request to Amend No Action Letter for PredictIt (Draft)

David and David, attached is a draft request to amend the no action letter previously issued by DMO for the PredictIt market. (b)(4)

(b)(4) Please let us know if you have any comments or questions or want to discuss further. Thanks for your work on this.

Rick

David,

David

From: Pepper, David N.
Sent: 7 Sep 2017 19:42:09 +0000
To: Zaidi, Amir
Cc: Van Wagner, David
Subject: FW: Request to Amend No Action Letter for PredictIt (Draft)
Attachments: Draft Request for Amended Relief - CFTC Letter 14-130 (8.31.17)(Chief Counsel Comments).docx

Amir,

Please find attached Aristotle's draft request for amended no-action relief (b)(4)

(b)(4)

(b)(5)

(b)(5)

Please let us know if you would like a quick, in-person briefing.

Thanks,

David

From: Shilts, Richard [mailto:rshilts@Steptoe.com]
Sent: Thursday, August 31, 2017 5:49 PM
To: Van Wagner, David; Pepper, David N.
Cc: Green, Micah
Subject: Request to Amend No Action Letter for PredictIt (Draft)

David and David, attached is a draft request to amend the no action letter previously issued by DMO for the PredictIt market. (b)(4)

(b)(4)

Please let us know if you have any comments or questions or want to discuss further. Thanks for your work on this.

Rick

From: Shilts, Richard
Sent: 3 Jan 2018 17:01:02 +0000
To: Curtis, Jeanette
Subject: RE: PredictIt Follow-up

OK. Thanks. Please contact me or Micah as soon as you have your follow-up questions (our client keeps asking). We appreciate your work on this.

Rick

-----Original Message-----

From: Curtis, Jeanette [<mailto:JCurtis@CFTC.gov>]
Sent: Wednesday, January 03, 2018 11:55 AM
To: Shilts, Richard
Cc: Van Wagner, David
Subject: RE: PredictIt Follow-up

Hi Rick,

Thanks very much for reaching out.

Yes, I inherited this matter from David Pepper.

David Van Wagner and I are in the process of formulating our follow-up questions and will circle back as soon as we're done, hopefully within the next week or so.

In the interim, please let me know if you have any further inquiries.

Thanks again,

Jeanette

-----Original Message-----

From: Shilts, Richard [<mailto:rshilts@Steptoe.com>]
Sent: Tuesday, January 02, 2018 5:58 PM
To: Curtis, Jeanette
Cc: Van Wagner, David
Subject: PredictIt Follow-up

Hi Jeanette, I understand that you are taking over for David Pepper on the PredictIt review. We wanted to follow up and see if you had any comments or questions about our recent draft no action letter. I was going to reach out to David Van Wagner but understand that he is away for a couple of weeks. Please feel free to contact me or Micah Green about any issues or questions you may have about the filing. Thanks much.

Rick Shilts

Richard Shilts
Senior Policy Advisor
Steptoe & Johnson LLP
202 429-6201

From: Kuserk, Gregory
Sent: 10 Jan 2018 12:29:23 -0500
To: Leahy, Thomas M., Jr.;Curtis, Jeanette
Cc: Van Wagner, David
Subject: RE: Question re: contract terminology

(b)(5)

From: Leahy, Thomas M., Jr.
Sent: Wednesday, January 10, 2018 12:26 PM
To: Curtis, Jeanette; Kuserk, Gregory
Cc: Van Wagner, David
Subject: RE: Question re: contract terminology

(b)(5)

From: Curtis, Jeanette
Sent: Tuesday, January 09, 2018 4:34 PM
To: Kuserk, Gregory; Leahy, Thomas M., Jr.
Cc: Van Wagner, David
Subject: Question re: contract terminology

Hi Greg and Tom,

David and I are reviewing an updated no-action letter request from PredictIT (a New Zealand-based market that trades event contracts for educational purposes), and would like to get your thoughts on an interpretive matter that has come up.

By way of background, in 2014, we granted PredictIT no-action relief from the requirement to register as a DCM, subject to certain conditions.

(No-Action Letter linked here for reference.) One of the conditions to the no-action relief is that PredictIT must limit the maximum "investment by any single participant in any particular contract to \$850."

(b)(5)

(b)(5)

Any thoughts you have on this are greatly appreciated. Please let me know if you have any questions, or if there are others I should ask in Product Review as well.

Thank you,

Jeanette

Jeanette Curtis

Special Counsel | Office of Chief Counsel

Division of Market Oversight

U.S. Commodity Futures Trading Commission

1155 21st Street, NW | Washington, DC 20581 | Tel: 202.418.5669 | JCurtis@cftc.gov

From: Van Wagner, David
Sent: 23 Jan 2018 14:50:35 -0500
To: Zaidi, Amir
Cc: Curtis, Jeanette
Subject: PredictIt
Attachments: Final Draft, Request for Amended No Action Relief, PredictIt Talking Points DVW Edits 01 22 18.docx

Amir,

Jeanette is out of the office this week, but I was planning to reach out to PredictIt reps to convey staff's basic reaction to their draft request.

I'm attaching the talking points which I'd plan to use in contacting them. Let me know if you're fine with things, and I'll go ahead and give them a buzz.

Thanks,
DVW

From: Green, Micah
Sent: 8 Dec 2017 17:22:11 +0000
To: Van Wagner, David; Pepper, David N.
Cc: Shilts, Richard
Subject: Final Draft, Request for Amended No Action Relief
Attachments: PredictIT letter 171206.docx

Dear David and David:

Attached is a revised version of the letter from Victoria University of Wellington requesting amended no action relief. I wanted to highlight a couple of changes that are more than word-smithing.

(b)(4)

(b)(4)

Hopefully we can talk early next week and, hopefully try to be in a position to move forward before the end of the year.

Thank you.

Micah

Micah S Green
Partner

Step toe

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From: Raimondi, Philip
Sent: 29 Jan 2018 16:07:58 -0500
To: Curtis, Jeanette
Subject: FW: IEM Model and PredictIt Relief
Attachments: foirf0503b004_lowa_NAL2_Actual.pdf, PredictIt_14-130.pdf

FYI

From: Raimondi, Philip
Sent: Wednesday, January 24, 2018 2:50 PM
To: Van Wagner, David
Subject: FW: IEM Model and PredictIt Relief

Attaching relevant letters for convenience.

From: Raimondi, Philip
Sent: Wednesday, January 24, 2018 2:49 PM
To: Van Wagner, David
Subject: IEM Model and PredictIt Relief

(b)(5)



(b)(5)

Philip W. Raimondi

Special Counsel, Office of Chief Counsel

Division of Market Oversight, U.S. Commodity Futures Trading Commission

1155 21st Street, NW | Washington, DC 20581 | praimondi@cftc.gov

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COMMODITY FUTURES TRADING COMMISSION

2033 K Street, NW, Washington, DC 20581

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DIVISION OF
TRADING AND MARKETS

June 18, 1993

Professor George R. Neumann
Professor of Economics
The University of Iowa
Department of Economics
Iowa City, Iowa 52242

Dear Professor Neumann:

This is in response to your letter to the Division of Trading and Markets ("Division") of the Commodity Futures Trading Commission (the "Commission"), dated March 16, 1993, as supplemented by the "IEM Trader's Manual" forwarded with your letter and by telephone conversations with Division staff. As you note, the Division previously, by letter dated February 5, 1992, granted no-action relief with respect to the operation of the Iowa Political Stock Market, a market on the 1992 presidential election operated for academic research purposes.

By your letter, you request, on behalf of the Iowa Electronic Markets ("IEM") similar relief with respect to the operation of the IEM, as such operation is described herein. In particular, you request that the Commission recognize that the IEM should not be required to obtain designation as a contract market or otherwise comply with the Commodity Exchange Act ("Act")^{1/} and the regulations promulgated thereunder,^{2/} and that its Operators (as defined below) need not register under the Act or Commission regulations.

Based upon the representations contained in your letter, as supplemented, we understand that the facts are as follows. The IEM is an electronic trading market trading contracts in specified "products" which is organized as an experimental and academic program at the University of Iowa (the "University"). Approval for the operation of the IEM was obtained from the President of the University. Its purpose is to determine whether markets can aggregate information and predict outcomes more accurately than alternative technology such as public opinion polling. Neither the IEM nor the University of Iowa charges any commissions or receives a return in connection with its operation. It is operated strictly on a nonprofit basis and the method of issuing contracts and making

^{1/} 7 U.S.C. § 1 et seq. (1988), as amended by the Futures Trading Practices Act of 1992, Pub. L. No. 102-546, 106 Stat. 3590.

^{2/} Commission regulations referred to herein are found at 17 C.F.R. Ch. I (1992).

Professor George R. Neumann
Page 2

final payoffs on these contracts ensures that the IEM does not realize financial profit or suffer loss as a result of transactions in such contracts.^{3/}

The IEM is operated by three professors on the faculty of the University (designated as the "Governors"), through the Departments of Accounting and Economics and the College of Business Administration. There are various so-called "Directors" of the IEM, who also are on the faculty of the University, who assist in its operation and teach classes that use the IEM. Neither the Governors nor Directors receive any compensation or other payment, directly or indirectly, for operating the IEM. In addition, "Market Administrators," who are graduate students at the University, assist in operating the IEM and a "System Programmer" is employed by the University to assist in the technological operation of the IEM. (Collectively, the Governors, Directors and Market Administrators may be referred to as the "Operators").

You represent that none of the Operators is otherwise required to register with the Commission nor is any of the Operators a business affiliate of any person required to register with the Commission. You also represent that none of the Operators is subject to a statutory disqualification under Sections 8a(2) or 8a(3) of the Act.^{4/} In addition, none of the Operators or any other person involved with the IEM will engage in any advertising in connection therewith. The written materials concerning the IEM will prominently disclose that the IEM is an experimental market that is being operated for academic purposes and it is not regulated by, nor are its operators registered with, the Commodity Futures Trading Commission or any other regulatory authority.

You estimate that at least 20 universities will participate in the IEM, including the University of California at Los Angeles, the California Institute of Technology, Northwestern University, the University of Indiana, the University of Arizona and the University of Virginia.^{5/}

^{3/} The IEM does not currently charge participants in the IEM any enrollment fee. It anticipates that it will implement an enrollment fee of between \$5-20 per participant to cover basic costs for the program such as photocopying of materials and supplemental handouts.

^{4/} 7 U.S.C. §§ 12a(2) or 12a(3) (1988).

^{5/} You anticipate that more than 20 universities will eventually participate in the IEM.

The IEM currently is composed of three submarkets, known as the "Political Market,"^{6/} the "Earnings Market" and the "Economic Indicator Market" (collectively the "Submarkets"). Each of the Submarkets permits trading in various contracts. The traders participating in the Political Markets will not exceed 2000 in number for any particular election for which a Political Market is operated and will be primarily, but not exclusively, students, faculty and staff at the various universities. Currently, no Political Markets are in operation. The number of traders participating in the Earnings Market and the Economic Indicator Market will not exceed 1000 for each such Submarket and participation will be restricted to students, faculty and staff at the various participating universities. The maximum investment by any single participant in any one Submarket is five hundred dollars, but typically participants invest no more than fifty dollars.

The IEM operates on a PC network in the College of Business Administration of the University with local access from PCs or terminals on many University networks and remote access via the Internet and telephone dial-up lines. Participants execute their own trades and no brokerage service is available or allowed. Participants invest their own funds, buy and sell listed contracts, and bear the risk of loss.

While the operations of the Submarkets share many characteristics, each market trades different products. For purposes of the relief requested herein, each Submarket will be addressed separately.

THE POLITICAL MARKET

We understand that the facts with respect to the Political Market are as follows. The Political Market's purpose is to determine whether markets can aggregate information and predict election outcomes more accurately than the alternative technology of public opinion polling. In the Political Market, participants purchase a portfolio of shares in political candidates and returns are determined by the share of the popular vote won by each candidate.

By letter dated December 5, 1991, you sought approval by the Commission for operation of political markets on the 1992 presidential election and the 1992 Democratic Party nomination (collectively, those markets will be referred to as the "1992 Markets"). In its February 5, 1992 response to your request, the Division

^{6/} Prior to this time, the Political Market was referred to as the "Iowa Political Stock Market."

stated that it would not recommend that the Commission take any enforcement action in connection with the operation of the 1992 Markets based upon the Operators of those markets not seeking designation as a contract market, registering under the Act or otherwise complying with the Act or Commission regulations. The Division's position was based upon the facts set forth in your letter, including that the operation of the 1992 Markets was limited solely to academic and experimental purposes and that the persons operating the 1992 Markets received no compensation.

We note that the Division's February 1992 letter was expressly limited to the 1992 Markets and included a request that you notify the Division immediately if the relevant facts or circumstances changed. Thus, operation of any other markets was not addressed by the Division's letter and in this letter we are addressing your request for relief with respect to markets other than the 1992 Markets on a prospective basis only.

You now request that the Division expand the scope of its prior relief to include other political markets which you operate or intend to operate. For example, you intend to operate a political market on the Canadian elections in 1993 and on the U.S. House and Senate races in 1994. Consequently, you seek confirmation that the operation of the prospective Political Markets will not be within the purview of the Act and the regulations promulgated thereunder.

As with the 1992 Markets, participants in the prospective Political Markets will purchase a portfolio of shares in political candidates. Individual investors will invest their own money to participate, and returns will be determined by the share of the popular vote won by each candidate.

Based upon your representations concerning the purposes and manner of operation of the Political Markets of the IEM and, among other facts, that the operation of these markets is limited to academic research and experimental purposes and that the IEM, the Governors and the Directors, do not receive any profit or compensation for its operation,^{1/} the Division of Trading and Markets will not recommend that the Commission take any enforcement action in connection with the operation of the Political Markets based

^{1/} As previously noted, the IEM does not currently charge participants in the IEM (which includes the Political Markets) any enrollment fee. The Operators anticipate that an enrollment fee of between \$5-20 per participant will be implemented to cover basic costs for the program, such as photocopying of materials and the distribution of supplemental handouts.

solely upon the Operators not seeking designation as a contract market, registering under the Act or otherwise complying with the Act or Commission regulations.

We do not render any opinion as to whether the operation of the Political Markets violates the provisions of any state law and our position does not excuse non-compliance with any such law. You must independently confirm whether or not participation by persons or institutions in other states is permitted.

EARNINGS MARKET

Based upon the representations in your letter, as supplemented, we understand that the facts with respect to the Earnings Market are as follows. The Earnings Market is a market composed of contracts on the projected earnings of several corporate stocks. Currently, the corporations for which such contracts are available are American Airlines, Delta Air Lines, Inc., United Airlines, Apple Computer, Inc., and International Business Machines Corporation. You have described the contracts as a forecast of whether the earnings of a corporation will increase or decrease in a particular quarter.

Based upon our review, it appears that the Earnings Market contracts could be viewed as in the nature of options on securities, which may be excluded from the Commission's jurisdiction pursuant to Section 2(a)(1)(B)(i) of the Act,^{8/} but which may be subject to the jurisdiction of the Securities and Exchange Commission ("SEC"). Accordingly, we have forwarded the information you have provided us regarding the IEM to the SEC and we suggest that you contact Brandon C. Becker, Acting Director of the SEC's Division of Market Regulation, concerning your request.

ECONOMIC INDICATOR MARKET

Based upon your representations, we understand that the Economic Indicator Market ("EIM") became operational on January 14, 1993.^{9/} It currently trades contracts in two products, forecasts with respect to changes in the Consumer Price Index and forecasts with respect to the end-of-month exchange rate between the Mexican peso and the United States dollar. As previously noted, participation in this market is limited to students, faculty and staff at the various participating universities.

^{8/} 7 U.S.C. § 2a (1988).

^{9/} As noted above, the relief granted in this letter is only applicable on a prospective basis.

You anticipate that additional contracts on other economic indicator products will be added, such as contracts involving the exchange rate between other currencies and the United States dollar. You represent however, that in no event will more than five economic indicator products be traded in this Market at any time. In addition, to the extent that other currency-type contracts are added, you represent that they will involve currencies that are not traded on any United States securities or futures exchange (i.e., you may trade contracts involving the Italian lira or the Greek drachma vis-a-vis the United States dollar, but not contracts involving the yen vis-a-vis the United States dollar).

You represent that the EIM is used as a teaching device in economic, accounting and business administration classes, that participation in the EIM allows students to become better informed about the measurement issues relevant to predicting the ultimate value of the contracts being traded, such as the inflation rate, and that data collected from the operation of the EIM will provide insights into market and trader behavior. All contracts in the EIM are listed in pairs called "unit portfolios" and each unit portfolio is composed of a so-called "up" contract and a "down" contract. The value of any unit portfolio is formulated so that it is always equal to one dollar. The liquidation values of all contracts are formulated so that the payoff for any one contract is guaranteed to fall between zero and one dollar. These formulations ensure that the IEM does not realize financial profits or suffer losses from operating the EIM.

Based upon your representations concerning the purposes and manner of operation of the EIM, including, among other facts, that the operation of the EIM is limited solely to academic research and experimental purposes, and the IEM, the Governors and the Directors do not receive any profit or compensation for its operation, the Division of Trading and Markets will not recommend that the Commission take any enforcement action in connection with the IEM's operation of the EIM based solely upon the Operators not seeking designation as a contract market, registering under the Act or otherwise complying with the Act or Commission regulations.

We do not render any opinion as to whether the operation of the EIM (or the operation of the IEM as a whole) violates the provisions of any state law and our position does not excuse any failure to comply with any such law. You must independently confirm whether or not participation by institutions and individuals in other states is permitted.

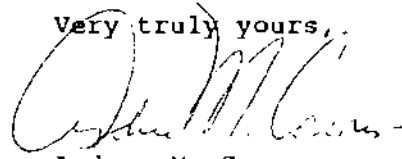
This letter is based upon the information that has been provided to us. Any different, changed or omitted facts or conditions might require us to reach a different conclusion. In

Professor George R. Neumann
Page 7

this regard, we request that you notify us immediately in the event that the operations of the IEM or any Submarkets thereof change in any way from those as represented to us. Finally, this position is that of the Division of Trading and Markets only and does not necessarily represent the views of the Commission or any other office or division of the Commission.

If you have any questions concerning this correspondence, please contact me or Susan C. Ervin, the Division's Chief Counsel, at (202) 254-8955.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Andrea M. Corcoran', is written over the typed name.

Andrea M. Corcoran
Director

TPS/maw

cc: Daniel A. Driscoll, National Futures Association



COMMODITY FUTURES TRADING COMMISSION

2033 K Street, NW, Washington, DC 20581

(202) 254 - 8955

(202) 254 - 8010 Facsimile

DIVISION OF
TRADING AND MARKETS

June 18, 1993

Brandon C. Becker, Esq.
Deputy Director
Division of Market Regulation
Securities and Exchange Commission
450 5th Street, NW
Mail Stop 5-1
Washington, D.C. 20549

Dear Mr. Becker:

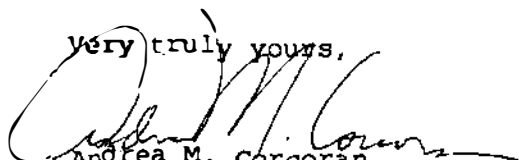
The enclosed letter dated March 16, 1993, from Professor George R. Neumann concerns certain electronic markets operated by Professor Neumann and other faculty of the University of Iowa for academic research purposes.

Based upon our review of these materials, it appears that certain of the contracts traded in these markets relating to corporate earnings may raise issues under the securities laws. Accordingly, we have suggested to Professor Neumann that he contact your office with respect to the relief he seeks.

Commodity Futures Trading Commission staff have separately addressed Professor Neumann's request as it relates to contemplated markets concerning political markets and economic indicators. For your information, we have enclosed this letter as well as a copy of the Division of Trading and Markets' response to an earlier request for relief from Professor Neumann, dated February 5, 1992, which addresses the operation of the so-called "Iowa Political Stock Market."

Should you have any questions or need additional information, please feel free to call me or Susan C. Ervin, Chief Counsel for the Division, at (202) 254-8955.

Very truly yours,



Andrea M. Corcoran
Director

enclosures

cc: Professor George R. Neumann

TPS/tyg

From: Raimondi, Philip
Sent: 29 Jan 2018 17:14:40 -0500
To: Van Wagner, David;Curtis, Jeanette
Subject: FW: IEM Model and PredictIt Relief

•(5)

Philip W. Raimondi

Special Counsel, Office of Chief Counsel

Division of Market Oversight, U.S. Commodity Futures Trading Commission

1155 21st Street, NW | Washington, DC 20581 | praimondi@cftc.gov

Tel: 202.418.5717 | Cell: 202.322.8249 | Fax: 202.418.5507

•Duplicate

From: Van Wagner, David
Sent: 1 Feb 2018 12:12:27 -0500
To: Curtis, Jeanette
Subject: FW: Follow up: Media Inquiry from CNBC

From: Zaidi, Amir
Sent: Tuesday, January 30, 2018 5:38 PM
To: Richardson, Erica Elliott; Van Wagner, David
Subject: RE: Follow up: Media Inquiry from CNBC

(b)(5)

From: Richardson, Erica Elliott
Sent: Tuesday, January 30, 2018 4:41 PM
To: Zaidi, Amir; Van Wagner, David
Subject: Follow up: Media Inquiry from CNBC

(b)(5)

From: Tausche, Kayla (NBCUniversal) [mailto:Kayla.Tausche@nbcuni.com]
Sent: Tuesday, January 30, 2018 4:39 PM
To: Richardson, Erica Elliott
Cc: Faulk-White, Donna; Dhue, Stephanie (NBCUniversal)
Subject: Re: [EXTERNAL] RE: Request for comment from CNBC

Thanks, I'd found those documents. But the no action letter is from 3+ years ago, (b)(5)

(b)(5)

Sent from my iPhone

On Jan 30, 2018, at 4:36 PM, Richardson, Erica Elliott <ERichardson@CFTC.gov> wrote:

Kayla,
I've included some resources below for your review – thanks!

Please see this no action letter from 2014:
<http://www.cftc.gov/idc/groups/public/@lrllettergeneral/documents/letter/14-130.pdf>

Press release is here: <http://www.cftc.gov/PressRoom/PressReleases/pr7047-14>

From: Tausche, Kayla (NBCUniversal) [mailto:Kayla.Tausche@nbcuni.com]
Sent: Tuesday, January 30, 2018 3:59 PM
To: Richardson, Erica Elliott; Faulk-White, Donna
Cc: Dhue, Stephanie (NBCUniversal)
Subject: RE: Request for comment from CNBC

Hi Erica,

I'm about to submit my story for publication and wanted to see whether the CFTC had a comment.

Thanks,
Kayla

From: Richardson, Erica Elliott [<mailto:ERichardson@CFTC.gov>]
Sent: Monday, January 29, 2018 2:55 PM
To: Tausche, Kayla (NBCUniversal); Faulk-White, Donna
Cc: Dhue, Stephanie (NBCUniversal)
Subject: [EXTERNAL] RE: Request for comment from CNBC

Thanks, Kayla. I'll check in with our market oversight team and get back to you.

Erica Elliott Richardson
Director, Office of Public Affairs
U.S. Commodity Futures Trading Commission
erichardson@cftc.gov
Cell: 202.763.9768
Direct: 202.418.5382
@CFTCspox
1155 21st Street, NW
Washington, DC 20581

From: Tausche, Kayla (NBCUniversal) [<mailto:Kayla.Tausche@nbcuni.com>]
Sent: Monday, January 29, 2018 2:54 PM
To: Richardson, Erica Elliott; Faulk-White, Donna
Cc: Dhue, Stephanie (NBCUniversal)
Subject: Request for comment from CNBC

Hi Erica and Donna,

I'm a correspondent for CNBC covering the White House and Congress. I'm doing a story on the political prediction markets, namely PredictIt, which says it is legal because of the small nature of the bets placed and the fact that, like fantasy sports betting, you can do research to make educated investment.

I'm curious how the CFTC views entities like PredictIt and whether it has any plans to evaluate such platforms in the future.

Thanks,
Kayla

Kayla Tausche
CNBC, Washington
kayla@cnbc.com
M: 404-394-1633
O: 202-776-7413

From: Raimondi, Philip
Sent: 1 Feb 2018 18:24:49 -0500
To: Van Wagner, David
Cc: Curtis, Jeanette
Subject: FW: Overview of PredictIT NAL Conditions
Attachments: PredictIt_US_Politics_02.01.18.pdf, PredictIt_US_Elections_02.01.18.pdf, PredictIt_World_02.01.18.pdf

Hi David:

•)(5)

Philip W. Raimondi
Special Counsel, Office of Chief Counsel
Division of Market Oversight, U.S. Commodity Futures Trading Commission
1155 21st Street, NW | Washington, DC 20581 | praimondi@cftc.gov
Tel: 202.418.5717 | Cell: 202.322.8249 | Fax: 202.418.5507

From: Curtis, Jeanette
Sent: Thursday, February 01, 2018 5:05 PM
To: Van Wagner, David
Cc: Raimondi, Philip
Subject: Overview of PredictIT NAL Conditions

Hi David,

•)(5)

Please let us know if you have any questions or would like to add more information to the overview.

Thank you,

Jeanette

Jeanette Curtis

Special Counsel | Office of Chief Counsel

Division of Market Oversight

U.S. Commodity Futures Trading Commission

1155 21st Street, NW | Washington, DC 20581 | Tel: 202.418.5669 | JCurtis@cftc.gov

U.S. Politics



Yes	1¢	NC
No	99¢	NC



Yes	1¢	NC
No	99¢	NC



Yes	18¢	NC
No	82¢	NC



Yes	24¢	2¢
No	76¢	2¢



Yes	87¢	3¢
No	13¢	3¢



Yes

77¢ 1¢

No

23¢ 1¢



Yes

25¢ 5¢

No

75¢ 5¢



Yes

83¢ NC

No

17¢ NC



Yes

18¢ NC

No

82¢ NC



Yes

5¢ 1¢

No

95¢ 1¢



Yes

1¢ 1¢



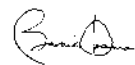
Yes

26¢ NC

No

74¢ NC

APPROVED



Yes

13¢ 2¢

No

87¢ 2¢



Yes

75¢ 5¢

No

25¢ 5¢



Yes

6¢ NC

No

94¢ NC



Yes

70¢

NC

No

30¢

NC



Yes

9¢

NC

No

91¢

NC



Yes

82¢ 7¢

No

18¢ 7¢

APPROVED

Yes

9¢

NC

No

91¢

NC



Yes

13¢ 3¢

No

87¢ 3¢



4.9-

36¢ 7¢



Yes

96¢

NC

No

4¢

NC



4-

42¢

NC

5 - 7

17¢

NC



Yes

11¢

NC

No

89¢

NC



Yes

36¢

NC

No

64¢

NC





Yes

15¢

NC

No

85¢

NC



Yes

22¢

3¢

No

78¢

3¢



Yes

31¢

1¢

No

69¢

1¢



Yes

25¢

1¢

No

75¢

1¢



Yes

56¢

3¢

No

44¢

3¢



Yes

22¢ 1¢

No

70¢ 1¢



Yes

31¢ 2¢

No

69¢ 2¢



Yes

17¢ NC

No

83¢ NC



Yes

52¢ 5¢

No

48¢ 5¢



Yes

12¢ NC

No

88¢ NC



Yes

8¢

NC

No

92¢

NC



Yes

75¢ 3¢

No

25¢ 3¢



Yes

12¢

NC

No

88¢

NC



Yes

28¢ 4¢

No

72¢ 4¢



Yes

7¢ 4¢



Yes

77¢ 13¢

No

23¢ 13¢



Yes

3¢ NC

No

97¢ NC

Kennedy ³⁰

48¢ 2¢

Ginsburg ⁹

22¢ 1¢



Kavanaugh

15¢ 9¢

Kethledge

14¢ NC





Yes

39¢

NC

No

61¢

NC



Yes

83¢

NC

No

17¢

NC



Yes

23¢

NC

No

77¢

NC



Yes

87¢

NC

No

13¢

NC



Yes

77¢

NC

No

23¢

NC



100+

99¢

NC

49-

1¢

NC



40 - 49

56¢ 29¢

50 - 59

45¢ 18¢



Yes

63¢ 1¢

No

37¢ 1¢

Tillerson ²

27¢ 1¢

Ross

21¢ 7¢

Tillerson ⁹

89¢ 1¢

Pompeo ¹

4¢ 1¢



44 0 42 0



Yes

88¢ 3¢

No

12¢ 3¢



Yes

78¢ 1¢

No

22¢ 1¢



29-

31¢ 3¢

30 - 34

20¢ 2¢



Yes

1¢ 1¢

No

99¢ 1¢



Yes

8¢

NC



Yes

5¢

NC

No

95¢

NC



Guinta

10¢

NC

Baum

1¢

NC



Yes

72¢ 5¢

No

28¢ 5¢



Yes

19¢

NC

No

81¢

NC





Yes	22¢	NC
No	78¢	NC



Yes	88¢	NC
No	12¢	NC



41.0+	46¢	2¢
39.0-40.9	26¢	6¢



Yes	96¢	2¢
No	4¢	2¢



Yes	85¢	1¢
No	15¢	1¢



0

72¢

NC

1

11¢

4¢



39.5+

84¢ 13¢

39.1-39.4

20¢ 8¢



Yes

80¢ 4¢

No

20¢ 4¢



Yes

13¢

NC

No

87¢

NC



40.0-41.9

35¢

NC

37.9-

34¢

NC



Powell 2063

13¢ 3¢



Yes

27¢ 3¢

No

73¢ 3¢



Yes

9¢ NC

No

91¢ NC



Yes

4¢ NC

No

96¢ NC



Yes

14¢ 1¢

No

86¢ 1¢



Yes	32¢	NC
No	68¢	NC



Yes	97¢	NC
No	3¢	NC

U.S. Elections



Romney ¹⁵

90¢ 1¢

Love

4¢ NC



Yes

5¢ 1¢

No

95¢ 1¢



Yes

98¢ 2¢

No

2¢ 2¢



McSally ¹

60¢ 1¢

Ward

23¢ NC



Yes

75¢ 2¢

No

25¢ 2¢



Yes	3¢	NC
No	97¢	NC



Yes	91¢	3¢
No	9¢	3¢



Yes	1¢	NC
No	99¢	NC



Yes	65¢	3¢
No	35¢	3¢



Yes	93¢	8¢
No	7¢	8¢

**Rokita**

52¢

NC

**Yes**

93¢

NC

No

7¢

NC

**Yes**

94¢

NC

No

6¢

NC

**Scott₁**

87¢ 12¢

Jolly

12¢ NC

**Yes**

6¢

NC

No

94¢

NC



Yes	1¢	NC
No	99¢	NC



Yes	5¢	NC
No	95¢	NC



Blackburn	88¢	NC
Ogles	5¢	NC



Yes	4¢	NC
No	96¢	NC



Yes	88¢	5¢
No	12¢	5¢



Yes

96¢

NC



Newman

64¢

NC

Lipinski

42¢

NC



Yes

1¢

NC

No

99¢

NC



Yes

98¢

NC

No

2¢

NC



Yes

92¢

NC

No

8¢

NC





Ian Conyers

35¢ NC

Gilmore

26¢ NC



Montenegro

39¢ 10¢

Lesko

28¢ 2¢



Yes

91¢ 1¢

No

9¢ 1¢



Yes

93¢ NC

No

7¢ NC



Yes

87¢ NC

No

13¢ NC



Yes

86¢ 3¢

No

11¢ 2¢



Morrisey

65¢ 13¢

Jenkins

48¢ NC



Pritzker 1

72¢ 4¢

Biss 1

21¢ 1¢



Yes

3¢ NC

No

97¢ NC



Yes

1¢ NC

No

99¢ NC



Newsom

93¢ NC

Villaraigosa

12¢ 1¢



Cordray

75¢ NC

Pillich

11¢ 1¢



Villaraigosa ¹

65¢ NC

Chiang

16¢ NC



DeSantis ¹

52¢ 2¢

Putnam

42¢ 1¢



Graham

63¢ NC

**Wagner**

73¢ NC

Mango

17¢ NC

**Valdez** ¹

72¢ 7¢

White

23¢ 5¢

**Jealous**

57¢ 23¢

Baker

49¢ 7¢

**Labrador**

53¢ 4¢

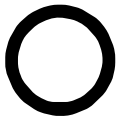
Little

33¢ NC





Lujan Grisham	83¢	NC
Apodaca	27¢	NC



Sanders 46	19¢	1¢
Harris 10	14¢	NC



Trump 93	33¢	1¢
Biden	12¢	1¢



Trump 20	52¢	1¢
Pence	16¢	NC



Democratic 47	57¢	1¢
Republican 30	44¢	1¢



Yes

52¢

NC

No

48¢

NC



Yes

17¢ 1¢

No

83¢ 1¢



Yes

15¢

NC

No

85¢

NC



Yes

25¢ 2¢

No

75¢ 2¢



Yes

45¢

NC

No

55¢

NC



Yes

21 11



Yes

30¢

NC

No

70¢

NC



Yes

63¢

NC

No

37¢

NC



Yes

58¢

NC

No

42¢

NC



Yes

63¢

NC

No

37¢

NC



Yes

31¢

NC



Yes

55¢ 2¢

No

45¢ 2¢



Yes

72¢

NC

No

28¢

NC



Yes

21¢

NC

No

79¢

NC



Yes

10¢

NC

No

90¢

NC





Yes	71¢	NC
No	29¢	NC



Yes	75¢	NC
No	25¢	NC



Yes	24¢	NC
No	76¢	NC



Yes	66¢	NC
No	34¢	NC



Yes	7¢	NC
No	93¢	NC



Yes	55¢	NC
No	45¢	NC



Yes	17¢	NC
No	83¢	NC



Yes	7¢	NC
No	93¢	NC



Yes	17¢	2¢
No	83¢	2¢



Yes	32¢	NC
No	68¢	NC



Yes

52¢

NC



Yes

31¢

NC

No

69¢

NC



Yes

66¢ 2¢

No

34¢ 2¢



Yes

31¢

NC

No

69¢

NC



Yes

14¢

NC

No

86¢

NC



Yes

11¢ 4¢

No

89¢ 4¢



Democratic

86¢ 2¢

Republican

19¢ 1¢



Democratic 1

64¢ 1¢

Republican

37¢ NC



Republican

61¢ NC

Democratic

13¢ NC



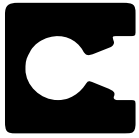
Democratic

69¢ 1¢

Republican

28¢ 1¢





Democratic

72¢ 3¢

Republican

29¢ 2¢



Democratic

90¢ NC

Republican

16¢ NC



Democratic

68¢ NC

Republican

35¢ 2¢



Democratic

73¢ NC

Republican

29¢ 3¢



Democratic

74¢ NC

Republican

32¢ NC



Democratic	85¢	NC
Republican	20¢	NC



Democratic	92¢	NC
Republican	7¢	NC



Republican	58¢	2¢
Democratic	45¢	2¢



Yes	13¢	NC
No	87¢	NC



49- ₃	33¢	NC
50- ₅	17¢	1¢



Republican ¹⁴

67¢ 1¢



Yes

69¢ 3¢

No

31¢ 3¢



Yes

90¢ NC

No

10¢ NC



Yes

75¢ 3¢

No

25¢ 3¢



Yes

89¢ 3¢

No

11¢ 3¢



Yes	5¢	NC
No	95¢	NC



Republican	72¢	2¢
Democratic	33¢	2¢



Yes	60¢	NC
No	40¢	NC



Yes	48¢	4¢
No	52¢	4¢



Democratic	64¢	NC
Republican	37¢	1¢



✓



Yes

66¢ 3¢

No

34¢ 3¢



Yes

77¢ NC

No

23¢ NC



Yes

68¢ NC

No

32¢ NC



Yes

54¢ NC

No

46¢ NC



Yes

80¢ 5¢

No

20¢ 5¢



Yes	76¢	1¢
No	24¢	1¢



Yes	74¢	NC
No	26¢	NC



Democratic/DFL	86¢	NC
Republican	17¢	NC



Yes	15¢	7¢
No	85¢	7¢



Yes	90¢	NC
No	10¢	NC



Yes

92¢

NC



217-6

59¢ NC

218-225

16¢ 2¢



Democratic 4

59¢ 2¢

Republican 24

41¢ 3¢



Republican 1

67¢ 2¢

Democratic 5

37¢ NC



85+

73¢ NC

80 - 84

8¢ 1¢



Yes

54¢ 1¢

No

46¢ 1¢



Democratic

94¢ NC

Republican

4¢ NC



Yes

87¢ NC

No

13¢ NC



Republican

81¢ 4¢

Democratic

25¢ NC



Yes

2¢ NC

No

98¢ NC



Yes

23¢

NC



Yes

43¢ 1¢

No

57¢ 1¢



Democratic

66¢

NC

Republican

2¢

NC



Democratic

74¢

5¢

Republican

24¢

NC



3-6

31¢

NC

0-3

26¢

NC



Republican

90¢

NC

Democratic

15¢

NC



Democratic

55¢

NC

Republican

48¢

NC



Democratic

89¢

NC

Republican

12¢

NC



Democratic

62¢

NC

Republican

42¢

NC



Republican

89¢

NC

Democratic

9¢

NC



Yes

9¢

NC

No

91¢

NC



Yes

23¢ 6¢



Republican

70¢ NC

Democratic

28¢ NC



Yes

25¢ NC

No

75¢ NC



Republican

88¢ NC

Democratic

18¢ NC



Yes

3¢ NC

No

97¢ NC



Republican	75¢	NC
------------	-----	----

Democratic	20¢	NC
------------	-----	----



Democratic	76¢	NC
------------	-----	----

Republican	27¢	NC
------------	-----	----



Yes	34¢	3¢
-----	-----	----

No	66¢	3¢
----	-----	----



Yes	45¢	9¢
-----	-----	----

No	55¢	9¢
----	-----	----



Yes	36¢	NC
-----	-----	----

No	64¢	NC
----	-----	----



Democratic

73¢

4¢

**Yes**

38¢

NC

No

62¢

NC

**Yes**

17¢

NC

No

83¢

NC

**Democratic**

71¢

NC

Republican

27¢

NC

**Democratic**

79¢

NC

Republican

32¢

NC





Democratic

88¢

NC

Republican

12¢

NC



Democratic

62¢

NC

Republican

57¢

NC



Democratic

89¢

NC

Republican

1¢

NC



Democratic

79¢

NC

Republican

4¢

NC



Yes

21¢

NC

No

79¢

NC

World

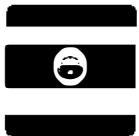


AMLO 2

59¢ 2¢

Anaya Cortés

18¢ 1¢



Álvarez

55¢ NC

Castro

31¢ NC



Yes

97¢ 5¢

No

3¢ 5¢



Yes

85¢ 3¢

No

15¢ 3¢



Yes

94¢ NC

No

6¢ NC

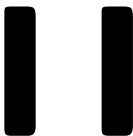


Yes

91¢ 3¢

No

9¢ 3¢



Gentiloni

31¢ NC

Di Maio ¹

20¢ 1¢



Yes

2¢ 1¢

No

98¢ 1¢



Yes

92¢ NC

No

8¢ NC



Yes

2¢ NC

No

98¢ NC



Hoyle

43¢ NC



Yes

99¢ NC

No

1¢ NC

From: Shilts, Richard
Sent: 12 Mar 2018 15:41:23 +0000
To: Zaidi, Amir
Cc: Van Wagner, David;geoff.todd@viclink.co.nz;Curtis, Jeanette;Green, Micah
Subject: Request for Amended No Action Relief for PredictIt
Attachments: Signed Final Request for Amended Relief - CFTC Letter.pdf

Dear Amir,

Attached is the revised signed letter from Victoria University of Wellington requesting amended no action relief for the PredictIt market. We believe that this revised letter addresses all of the concerns that have been raised previously. Please let us know if you have any questions. We look forward to your response. Thanks for your attention to this.

Rick

Richard A Shilts
Senior Policy Advisor
rshilts@Step toe.com

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From: Curtis, Jeanette
Sent: 20 Mar 2018 20:53:40 +0000
To: Shilts, Richard
Cc: Van Wagner, David;geoff.todd@viclink.co.nz;Green, Micah;Zaidi, Amir;Raimondi, Philip
Subject: RE: Request for Amended No Action Relief for PredictIt

Hi Rick,

Thanks very much for the revised letter.

Amir asked that we follow up on a few points we would like to discuss with you.

■(4)

Please let us know if you have any questions, and when you would like to discuss further. Thank you.

Kind regards,

Jeanette

●uplicate

From: Raimondi, Philip
Sent: 26 Mar 2018 18:07:40 -0400
To: Curtis, Jeanette; Van Wagner, David
Subject: FIA Prediction Market Article

FIA Market Voice Magazine article this month highlights PredictIt and prediction markets generally. See <https://marketvoice.fia.org/articles/political-prediction-markets-turn-pro>.

●(5)

Philip W. Raimondi

Special Counsel, Office of Chief Counsel

Division of Market Oversight, U.S. Commodity Futures Trading Commission

1155 21st Street, NW | Washington, DC 20581 | praimondi@cftc.gov

Tel: 202.418.5717 | Cell: 202.322.8249 | Fax: 202.418.5507

From: Raimondi, Philip
Sent: 27 Mar 2018 12:23:35 -0400
To: Curtis, Jeanette; Van Wagner, David
Subject: Riveting PredictIt Article

In addition to the FIA article I forwarded yesterday, this recent article goes much more

(b)(5)

<https://www.theringer.com/2018/3/21/17130490/predictit-politics-elections-gambling>

(b)(5)

Philip W. Raimondi

Special Counsel, Office of Chief Counsel

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From: Raimondi, Philip
Sent: 29 Mar 2018 11:07:57 -0400
To: Zaidi, Amir;Curtis, Jeanette;Van Wagner, David
Subject: Articles on PredictIt
Attachments: PredictIt Articles and Concerns

Hi Amir:

In response to your question yesterday, there are over 1,700 search results on Google for news articles that mention PredictIt. A majority of the results simply cite the platform for its take on a particular political outcome as part of a larger news story. However, there are a decent amount of articles that focus on the platform itself. In addition to the two previous articles we shared (attached), here are a sampling of some more interesting articles over the past few years:

Sportshandle, How to Speculate—With Real Money—on the Supreme Court Sports Betting Case (Feb. 7, 2018)

<https://sportshandle.com/supreme-court-sports-betting-speculate-real-money/>

CNBC, These online traders bet on the chaos of the Trump administration and the world of politics (Jan. 30, 2018)

“PredictIt CEO John Phillips says the relatively small amounts invested keeps insiders from profiting too handsomely off private information or subjecting the markets to manipulation. ‘It’s really designed to prevent whales from coming in and either shifting the odds of something occurring or making a huge killing,’ Phillips tells CNBC. But is it gambling? ‘Any stock market has an element of luck to it.’”

<https://www.cnbc.com/2018/01/30/these-online-traders-bet-on-the-chaos-of-the-trump-administration.html>

The Washington Post, Bettors need to know: Did the shutdown ever happen? (Jan. 23, 2018)

“Knowing the difference between what people want to happen and what they conclude will happen can be vital information for political campaigns, governments and marketers of all sorts. But some researchers say prediction markets don’t really act as crystal balls, instead merely reflecting what is already available in poll results and other news media reports. In the 2016 presidential campaign, for example, prediction markets and opinion polls ended up saying basically the same things at the same times, according to a Brookings Institution study.”

https://www.washingtonpost.com/politics/bettors-need-to-know-did-the-shutdown-even-happen/2018/01/23/39ab5264-0061-11e8-bb03-722769454f82_story.html

Brookings, Political prediction markets: What are they good for? (Sept. 15, 2016)

<https://www.brookings.edu/blog/fixgov/2016/09/15/political-prediction-markets-what-are-they-good-for/>

The Washington Post, Here’s how to legally gamble on the 2016 race (Mar. 28, 2016)

<https://www.washingtonpost.com/lifestyle/style/heres-how-to-legally-gamble-on-the-2016-race/2016/>

PBS, Something better than polls for political predictions? You bet! (Feb. 18, 2016)

CED JOHN PHILLIPS: “I see it as a stock market. A funny thing happens when people try to figure out what is going to happen tomorrow or a week down the road. And if I can put a little bit of money in the outcome that I’m expecting, I think that’s a stock market.”

<https://www.pbs.org/newshour/show/something-better-than-polls-for-political-predictions-you-bet>

TIME, Political Betting Market Raises Questions About Insider Trading (updated, Oct. 6, 2015)

“Welcome to the new American campaign casino. For the first time in modern history, the average citizen 18 years or older can legally place real-money wagers on politics, in a marketplace approved by federal regulators. The new market for political betting, coupled with the explosion of the multi-billion dollar fantasy-sports industry that was roiled by scandal this week, has raised questions about the spread of online betting markets that have few rules to prevent forms of insider trading.”

<http://time.com/4062628/fantasy-sports-predictit-political-forecasting/>

Politico, Meet the ‘stock market’ for politics (Oct. 31, 2014)

<https://www.politico.com/story/2014/10/predictit-online-politics-stock-market-112374>

Philip W. Raimondi

Special Counsel, Office of Chief Counsel

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From: Shilts, Richard
Sent: 7 May 2018 19:59:33 +0000
To: Van Wagner, David;Curtis, Jeanette
Subject: PredictIt follow-up

David and Jeanette, I just wanted to let you know we are still developing some data in response to the questions raised in our earlier call with you and a later conversation with Amir. We will provide it as soon as it possible. (b)(4)

(b)(4)

Thanks

Rick

Richard A Shilts
Senior Policy Advisor
rshilts@Step toe.com

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From: Van Wagner, David
Sent: 5 Jun 2018 12:45:10 -0400
To: Raimondi, Philip
Cc: Curtis, Jeanette
Subject: FW: PredictIt Letter Minor Revision Request
Attachments: CFTC 14-130_Minor_Revisions_06.04.18.docx

Phil,

■)(5)

General thoughts?

Thanks,
DVW

From: Raimondi, Philip
Sent: Monday, June 04, 2018 7:35 PM
To: Van Wagner, David
Cc: Curtis, Jeanette
Subject: PredictIt Letter Minor Revision Request

Hi David:

(b)(5)

Philip W. Raimondi
Special Counsel, Office of Chief Counsel
Division of Market Oversight, U.S. Commodity Futures Trading Commission
1155 21st Street, NW | Washington, DC 20581 | praimondi@cftc.gov
Tel: 202.418.5717 | Cell: 202.322.8249 | Fax: 202.418.5507

From: Van Wagner, David
Sent: 26 Jun 2018 17:06:51 -0400
To: Raimondi, Philip;Curtis, Jeanette
Subject: FW: PredictIt

FYI

From: Shilts, Richard [mailto:rshilts@Step toe.com]
Sent: Tuesday, June 26, 2018 3:39 PM
To: Van Wagner, David
Subject: PredictIt

Hi David, I left you a voice message yesterday as an FYI. We wanted to let you know that we have spoken with the commissioners and chairman about this matter as we had told you we would during an earlier discussion. Micah has reached out to Amir to discuss as a follow-up and hasn't been able to set up a call yet. Thanks

Rick

Richard A Shilts
Senior Policy Advisor
rshilts@Step toe.com

Step toe

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+1 202 429 3902 fax	Washington, DC 20036
	www.step toe.com

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From: Raimondi, Philip
Sent: 10 Jul 2018 19:39:57 -0400
To: Van Wagner, David
Cc: Curtis, Jeanette
Subject: RE: PredictIt Revised NAL
Attachments: Draft 2018 PredictIt NAL_07.10.18.docx

Hi David:

As requested, please find attached a first draft revised no-action letter for PredictIt. Please let us know your thoughts and suggestions once you have an opportunity to review. Thank you.

Philip W. Raimondi

Special Counsel, Office of Chief Counsel

Division of Market Oversight, U.S. Commodity Futures Trading Commission

1155 21st Street, NW | Washington, DC 20581 | praimondi@cftc.gov

Tel: 202.418.5717 | Cell: 202.322.8249 | Fax: 202.418.5507

Duplicate

From: Van Wagner, David
Sent: 21 Dec 2018 10:30:26 -0500
To: Streit, Elizabeth M.
Cc: McGonagle, Vincent A.; McCormack, Joy; Brown, Dana; Curtis, Jeanette; Raimondi, Philip
Subject: RE: No Action Letter 14-130 to Victoria University on October 29,2014
Attachments: RE: CSL Request

Elizabeth,

Hello. I apologize for just now getting back to you and your request for PredictIt-related materials.

(b)(5)

Hope this all helps.

Regards,
DVW

From: Streit, Elizabeth M.
Sent: Wednesday, December 19, 2018 12:29 PM
To: Van Wagner, David
Cc: McGonagle, Vincent A.; McCormack, Joy
Subject: No Action Letter 14-130 to Victoria University on October 29,2014

David,

(b)(5)

We will probably want to talk to you about this as well after we have looked into the facts further.
Thanks again for your help.

Elizabeth M. Streit
Chief Trial Attorney

Commodity Futures Trading Commission
525 West Monroe Suite 1100
Chicago, Illinois 60661
312-596-0537
312-404-4021
estreit@cftc.gov

From: Brown, Dana
Sent: 20 Dec 2018 08:42:42 -0500
To: Van Wagner, David
Subject: RE: CSL Request
Attachments: 20150721 1412 CFTC Letter No 14-130 No-Action 20141029.pdf, 20160310 1734 VICU-Commission Memo-EventContracts-20141029.pdf, 20160310 1736 VICU-No-Action Request-Event Contracts - 08-26-2014.pdf, 20180531 2277 VICU-PredictIt-No-Action-Ed Event Contracts Request-03-12-2018.pdf

Good Morning David,

(b)(5)

Dana

From: Van Wagner, David
Sent: Wednesday, December 19, 2018 1:23 PM
To: Brown, Dana
Subject: CSL Request

Dana,

(b)(5)

Thanks,
DVW

REQUEST FOR ABSENT OBJECTION CIRCULATION

No.: 2015004

Due Date: October 29, 2014 @ 3:00 pm

TO: Chairman Timothy G. Massad

SUBJECT: No-action relief for Victoria University of Wellington, New Zealand

May the above mentioned document be circulated to the Commission for Absent Objection consideration? For specific questions or comments regarding this document, please contact the following division/office staff:

Staff Contact: David N Pepper x5565

Division: DMO

Approved for Circulation:


Signature

10/22/14
Date

CLERK OF THE COMMISSION
10/3/14

From: Raimondi, Philip
Sent: 12 Apr 2019 12:52:21 -0400
To: Van Wagner, David
Cc: Curtis, Jeanette
Subject: PredictIt Draft Letter
Attachments: Draft 2018 PredictIt NAL_04.12.19.docx, Talking Points - PredictIt No-Action Relief Briefings 04.04.18_PWR_edits.docx

Hi David:

Please find attached a current draft version of a revised NAL for PredictIt as well as an old talking points document prepared by Jeanette. Thanks.

Philip W. Raimondi

Special Counsel, Office of Chief Counsel

Division of Market Oversight, U.S. Commodity Futures Trading Commission

1155 21st Street, NW | Washington, DC 20581 | praimondi@cftc.gov

Tel: 202.418.5717 | Cell: 202.322.8249 | Fax: 202.418.5507

From: Van Wagner, David
Sent: 21 May 2019 09:35:35 -0400
To: Raimondi, Philip;Curtis, Jeanette;Brown, Dana
Subject: FW: [EXTERNAL] Letter from Victoria University
Attachments: Victoria - Amended No Action Relief Request (4.29.19).pdf

FYI

David P. Van Wagner
Chief Counsel
Division of Market Oversight
Commodity Futures Trading Commission
1155 21st Street, NW | Washington, DC 20581 | Tel: 202.418.5481

From: Green, Micah [mailto:mgreen@Steptoe.com]
Sent: Monday, May 20, 2019 10:53 PM
To: Zaidi, Amir; Van Wagner, David
Cc: Shilts, Richard; Kim, Grace
Subject: [EXTERNAL] Letter from Victoria University

Dear Amir and David

Per my earlier email and our discussions, attached is a letter from Victoria University of Wellington seeking modest changes to the existing no action relief granted to PredictIt. This is intended to be an interim measure while the Commission appropriately deliberates on the petition for use of exemptive authority to provide an appropriate regulatory framework for event contract markets.

Implementing these modest changes will ensure that PredictIt can continue to provide robust and liquid markets that have integrity and are free of manipulation while the Commission engages in its broader policy review.

We are happy to discuss this at your convenience.

Thank you very much.

Micah

Micah S. Green
Partner

Steptoe

Steptoe & Johnson LLP | 1330 Connecticut Avenue, NW | Washington, DC 20036
202.429.6290 direct | 202.550.2823 mobile | mgreen@steptoe.com

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From: Van Wagner, David
Sent: 22 May 2019 14:43:53 -0400
To: Raimondi, Philip;Curtis, Jeanette
Subject: FW: [EXTERNAL] Properly Regulating Event Contract Markets
Attachments: Aristotle - 4(c) Petition Letter (Final 5.20.19).pdf

fyi

David P. Van Wagner
Chief Counsel
Division of Market Oversight
Commodity Futures Trading Commission
1155 21st Street, NW | Washington, DC 20581 | Tel: 202.418.5481

From: Green, Micah [mailto:mgreen@Steptoe.com]
Sent: Monday, May 20, 2019 10:47 PM
To: Zaidi, Amir
Cc: Giancarlo, Chris; Quintenz, Brian; Stump, Dawn; Berkovitz, Dan; Behnam, Rostin; Gill, Michael; Webb, Kevin S; Bucsa, Daniel J.; Remmler, Erik F; Dunfee, John; Van Wagner, David; Shilts, Richard
Subject: [EXTERNAL] Properly Regulating Event Contract Markets

Dear Amir:

Per our many discussions, attached is a petition filed by Aristotle International to the CFTC to use its exemptive authority to establish an appropriate regulatory framework for the trading of event contracts. The petition outlines how these markets are developing into very credible predictive markets that, if operated properly and with integrity, provide academics, the public, the media and business and investment managers with information of economic and substantive value. The petition explains how these markets fall between futures and swaps and because of the need to ensure that these markets are fashioned to provide academic predictive value to consumers of aggregated trade data, free of manipulation, they need a separate regulatory framework.

The petition also describes the phenomena in the marketplace today where venues that are completely outside of the scope or view of the CFTC are beginning to proliferate in the marketplace, with no stated economic or academic purpose and with no clear efforts to protect against market manipulation.

This petition is filed with the complete understanding that because of both limited time and other resources, the Commission review of this petition could take some time. We also recognize that the 2020 election cycle has already begun in earnest and to ensure that the existing platform, PredictIt, can continue to operate in a robust manner with integrity, and handle the level of interest in these markets both from the participant side and from the perspective of the consumer of the data, modest changes in the existing no action relief are needed. This modest action will give the Commission the flexibility it needs to comprehensively review the attached petition while still ensuring that the incumbent platform can continue to operate efficiently and with integrity during the Commission's review. That request for the modifications of the existing no action letter is a separate request of Victoria University of Wellington, which I will be forwarding to you under separate cover.

We do understand that some have raised issues whether the CFTC should be regulating this space at all, particularly if the resources are not appropriated to adequately enable the Commission to meet the task. We understand and respect those views. As the attached petition explains, this market is legitimately creating liquidity for participants to create aggregated data that provides real economic value. The CFTC's mission is to regulate such markets and to ensure they are free of manipulation. Our filing this petition, while at the same time supporting modest adjustments to the existing no action relief, will preserve the Commission's ability to deliberatively decide whether and how to regulate these markets before volume and traffic migrates to foreign or other platforms that operate completely outside of the purview of the Commission, which would foreclose the Commission's options.

We are happy to discuss this with you and your team at your convenience.

We look forward to working with you and the Commission on this very interesting issue.

Thank you.

Micah

Micah S. Green
Partner

Stephoe

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ARISTOTLE

New York, NY

May 20, 2019

VIA E-EMAIL

Mr. Amir Zaidi
Director, Division of Market Oversight
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

**Re: Petition Pursuant to Section 4(c) of the Commodity Exchange Act
for Action on Event Markets**

Dear Mr. Zaidi:

On behalf of Aristotle International, Inc. ("Aristotle"), a service provider for an event markets trading platform, I respectfully petition the Commodity Futures Trading Commission ("CFTC" or "Commission") to formally address the status of event markets by promulgating rules related to the trading in these markets, including taking action pursuant to Section 4(c) of the Commodity Exchange Act ("Act" or "CEA").¹ Furthermore, recognizing that the Commission has limited time and financial resources, and given the expansion of wholly unsupervised U.S. and offshore non-security based event markets, Aristotle asks that the Division of Market Oversight, in the interim as the Commission and its staff consider this Petition, amend the existing no-action relief granted to Victoria University of Wellington ("Victoria University").² Doing so will provide Aristotle and Victoria University more flexibility to grow and invest in infrastructure to ensure the continued resilience and integrity of their event markets trading platform on the eve of the 2020 national election.

I. Introduction and Petition Overview

Aristotle is a U.S.-based, non-partisan commercial compliance and verification service provider to a number of clients in the political arena.³ One of Aristotle's clients is PredictIt, a small-scale, not-for-profit online market for political and other event contracts.⁴ PredictIt allows participants to make predictions on future events, such as U.S. elections, by committing up to \$850 on the outcome of the event.⁵ PredictIt is a project of Victoria University, a not-for-profit

¹ 7 U.S.C. § 1 et seq.

² CFTC No-Action Letter No. 14-130 (Oct. 29, 2014). Victoria University formally requests this revised no-action relief under separate cover. See Letter from Geoff Todd, Project Administrator for Predict to Amir Zaidi, Director, Division of Market Oversight, CFTC (March 29, 2019).

³ ARISTOTLE, <http://aristotle.com/> (last visited May 17, 2019).

⁴ PREDICTIT, <https://www.predictit.org/> (last visited May 17, 2019).

⁵ The contracts for each event are binary where pricing is determined by the demand for one outcome verses the other.

university located in New Zealand, and is designed for educational and research purposes. PredictIt operates in the United States pursuant to a size-limited 2014 CFTC staff no-action letter.⁶

PredictIt has academic advisors at Victoria University and at a long and growing list of colleges and universities throughout the United States and around the globe. The team weighs various considerations before making trading available on a new type of event, including: whether the event is “political” in nature, topicality, popularity, timelines to resolution, and experience with analogous markets on the site. Utilizing the services of Aristotle, PredictIt has developed robust systems and processes to ensure great care is paid to the rules the PredictIt team uses to determine when to close an event and how to properly determine an event contract’s resolution.⁷ Aristotle also provides to PredictIt “know your customer” technology, payment and identity security, and compliance with market surveillance and anti-money laundering rules.

The environment in which PredictIt operates has changed dramatically since the Commission granted no-action relief to Victoria University in 2014. Event markets have now entered the mainstream and more researchers, the media, companies, and governments use them as information aggregation vehicles to monitor and measure listed events’ direct and indirect risks. And with technology making it easier for this type of trading to occur, several event markets—in the United States and around the world—are using both fiat and cryptocurrencies to operate outside of any regulatory no-action relief or government oversight. The Supreme Court’s recent ruling on sports betting also may result in more venues and platforms where event contracts could trade outside of an appropriate regulated environment. Sports betting and other games of chance are generally regulated at the state level and are distinguishable from event contract markets because of the predictive value of the trading data to the public and affected sectors of the economy.

However, the regulatory status of event markets is unclear. Congress did not contemplate event markets when drafting the Commodity Exchange Act and its subsequent amendments, and previous Commission actions have not set forth a clear regulatory framework for its oversight of them. Although the Commission has granted no-action relief to two event trading platforms, the limited nature of the existing no-action relief under which PredictIt operates, in particular, is restricting the information aggregation aspects of PredictIt’s market data. The potential economic benefits of these markets cannot be fully realized if trading is banned or excessively limited to small-scale, academic initiatives. Consistent with the history of derivatives regulation, action is needed now so that event markets, like PredictIt, can provide a broader array of useful information aggregation functions to businesses and other entities to help them make better, more accurate decisions.

⁶ CFTC No-Action Letter No. 14-130 (Oct. 29, 2014).

⁷ These rules are posted prominently on the PredictIt site for market participants to review. In rare cases, when a clarification or elaboration on a particular rule is necessary, a comment is posted, clearly visible to anyone wishing to trade in that event market.

Similar to the Commission as it contemplated in a 2008 concept release,⁸ Aristotle recommends that the CFTC develop a regulatory regime using its authority under Section 4(c) of the Commodity Exchange Act to enable event contracts to trade on trading platforms registered with the Commission. Under this approach, the Commission would have the flexibility to tailor the regulatory regime to the unique characteristics of these markets and permit the listing of event contracts with appropriate protections for market participants and the public. Focused regulation in this manner would allow these markets to develop appropriately, ensuring their economic value while protecting members of the public from fraud, manipulation, and other abuses.

Recognizing that an undertaking of this nature could take some time, particularly given the limited resources of the Commission, and in consideration of the rapidly growing public interest in these types of markets, Aristotle understands that Victoria University also proposes under separate cover that the Division of Market Oversight issue a revised no-action letter so that it can continue to operate PredictIt efficiently and without abuses.⁹ Issuing revised no-action relief would accomplish a number of items. First, a revised no-action letter would send a message to non-security based event market platforms that, absent no-action relief, the CFTC intends to subject them to enforcement, even while it contemplates a separate regulatory regime. Second, amending the current no-action relief would allow PredictIt to continue to evolve in a manner that ensures for its participants the safety, market integrity, and the continued robustness of the PredictIt infrastructure as the 2020 national election cycle begins. Finally, taking this interim step will give Congress time to potentially express a view on the regulation of event contracts to the Commission before any Section 4(c) exemptive authority or other action is taken.

Event markets are in the public interest because, as further discussed below, they provide an important economic function to academics, businesses, governments, and the public in their ability to aggregate information from many market participants. In particular, the PredictIt platform has attracted hundreds of academic partnerships and countless businesses and governments that use PredictIt's aggregated data in their studies and decision-making processes. Without clarity as to the federal regulator overseeing these non-security based event markets, this trading activity will continue to occur offshore in unregulated environments or become subject to a patchwork of regulations at the state level. A fragmented environment regulated on a state-by-state basis, however, would remove the ability to aggregate trade data and eliminate the economic value of the predictive nature of these markets.

This Petition consists of seven parts:

- **Part I** provided an introduction to Aristotle and the environment in which PredictIt currently operates.

⁸ Concept Release on the Appropriate Regulatory Treatment of Event Contracts, 73 Fed. Reg. 25669 (May 1, 2008) [hereinafter "Concept Release"].

⁹ See Letter from Geoff Todd, Project Administrator for Predict to Amir Zaidi, Director, Division of Market Oversight, CFTC (March 29, 2019).

- **Part II** further explains how event markets and event contracts function.
- **Part III** shows how events markets serve a *bona fide* economic purpose of price discovery. That is, their information aggregation function allows members of the public—academics, companies, and governments—to use event markets to further their research, manage their business operations, and set policy.
- **Part IV** discusses event markets’ recent popularity in the American mainstream, and comments on how the Supreme Court’s ruling regarding sports betting may affect listing of event-type markets by casinos and others. Because the public events traded on these markets are not sporting events, they should not be considered gaming.
- **Part V** discusses the CFTC’s previous interactions with event markets. It first walks through the uncertain regulatory status of event contracts. It then explains why the current no-action relief is insufficient, federal oversight is needed, and the CFTC is the appropriate federal agency suited to oversee non-security based event contracts.
- **Part VI** discusses the contours of the Commission’s statutory authority under Section 4(c) and why the Commission’s use of its Section 4(c) authority is appropriate to regulate event markets. Unlike participants in the futures market, participants in event markets create pricing data that, when aggregated, represents ongoing public sentiment of an event’s outcome and creates predictive data that is valuable to members of the public—i.e., academics, companies, and governments. Since the economic utility of the contracts does not, per se, result from trading in the contracts, but in the use of the aggregated data to better inform decision making, event markets should be regulated differently than traditional futures and options markets, which have different economic purposes. Moreover, given the economic and academic utility of such data, this activity should not be considered gaming. The creation of a separate category to regulate events markets should include the establishment of core principles to address the potential for manipulation, fraud, and other abuses to ensure the Commission can continue to discharge its regulatory responsibilities.
- **Part VII** explains how the Commission can harmonize its previous order prohibiting political event contracts on designated contract markets with permitting them as part of a new market category.

II. How Event Markets¹⁰ and Event Contracts Function

Event markets allow participants to take positions on whether a certain event or outcome will take place. The events may be the results of elections and other political outcomes, individual company or industry developments, economic events or indicators, weather and geologic events, and any other event or outcome that can be confirmed. The event contracts

¹⁰ These markets go by a variety of names: prediction markets, decision markets, proposition markets, opinion markets, idea markets, claim markets, information aggregation markets, unconventional markets, and non-traditional markets. For the purposes of this Petition, we use “event markets” to encompass all of the above.

making up these markets differ in design and payout structure to reveal varied information about the underlying event or outcome. This section summarizes foundational concepts of how event markets and event contracts function.

Event markets are broadly defined as forums for trading contracts that yield payments based on the result of uncertain events. Trading platforms listing event contracts specify future events with different possible outcomes, define payment structures based on those outcomes, state when the contracts expire, and explain how the outcomes of the contracts are defined and confirmed. Event contracts “generally take the form of financial agreements linked to eventualities or measures that neither derive from, nor correlate with, market prices or broad economic or commercial measures.”¹¹ In other words, event contracts do not provide the trader with the ability to buy or sell anything in the future.

Event contracts come in various designs that reveal different information. These designs include, among others: (1) “winner-take-all” or “binary option” contracts; (2) “index” contracts; and (3) “spread” contracts. The “winner-take-all” or “binary option” contract pays a specified amount to the contract holder only if an event occurs. The price represents the market’s expectation of the likelihood of the outcome occurring. The “index” contract pays based on the level of some outcome variable and reveals the market’s belief of the event’s expected value. “Spread” contracts have a fixed price, but the size of the spread can change. “Spread betting” combined with an “even-money bet” (i.e., winners double their money while losers receive nothing) can reveal the expectation of the median outcome.¹²

For illustrative purposes, this Petition describes the “winner-take-all” or “binary option” contracts on the PredictIt platform.¹³ PredictIt offers traders in the United States the opportunity to forecast the outcome of political and economic events by trading shares on an open exchange. Event contracts are structured as a series of binary propositions. In some cases, these binary outcomes are intrinsically linked to one another: there can only be one winner of the U.S. Presidential election, for example. In these instances, a set of contracts are combined in a single umbrella market, such as “Who will be elected President of the United States in 2020?”

Event contracts range from those focusing on electoral outcomes, to legislative and regulatory decisions, and to influential global events. Below are three examples of events offered as of May 17, 2019.¹⁴




¹¹ Concept Release, *supra* note 8, at 25670.

¹² Justin Wolfers & Eric Zitzewitz, *Prediction Markets*, NAT’L BUREAU OF ECON. RESEARCH (May 2004), at 4. <https://www.nber.org/papers/w10504.pdf>.

¹³ For a deeper overview of the “index” and “spread” contracts, see Adam Ozimek, *The Regulation and Value of Prediction Markets*, Working Paper 14-07, MERCATUS CENTER (March 2014), https://www.mercatus.org/system/files/Ozimek_PredictionMarkets_v1.pdf.

¹⁴ Images were screenshotted from <https://www.predictit.org/> on May 17, 2019. Permission granted by Aristotle for use in this Petition.

Who will win the 2020 Democratic presidential nomination?

Contract	Latest Yes Price	Best Offer	Best Offer
 Joe Biden	37¢	37¢	64¢
 Bernie Sanders	18¢	18¢	83¢
 Kamala Harris	13¢	13¢	88¢

Who will win the 2020 U.S. presidential election?

Contract	Latest Yes Price	Best Offer	Best Offer
 Donald Trump	43¢	43¢	58¢
 Joe Biden	25¢	25¢	76¢
 Bernie Sanders	11¢	12¢	89¢

Which party will control the Senate after 2020 election?

Contract	Latest Yes Price	Best Offer	Best Offer
 Republican	69¢	69¢	32¢
 Democratic	32¢	32¢	69¢

Traders purchase shares in the possibility that an event will take place (called ‘Yes’ shares) or that it will not take place (called ‘No’ shares). Shares are priced between one and 99 cents, with the price of ‘Yes’ shares corresponding to the probability of the event taking place. (The price of ‘No’ shares is simply the inverse price of ‘Yes’ shares.) Event market trading platforms, including PredictIt, neither establish an initial price for shares nor participate in the market. Instead, traders make “offers” to buy shares at a desired price. These offers are then posted on the exchange for other traders to match. For example, Trader A could offer 60 cents to buy a ‘Yes’ share in a particular contract. Trader B would see this offer as an opportunity to buy a ‘No’ share for 40 cents. If Trader B chooses to match the offer, the trading platform would collect 60 cents and 40 cents from the respective traders, and each would be issued a share, either a ‘Yes’ share or a ‘No’ share.

So long as the market remains open, traders are free to purchase and sell shares at any price provided there is a counterparty willing to assume the other side of the transaction (and, in the context of PredictIt, any CFTC staff-imposed limitations on investment and trader participation are observed).¹⁵ In this fashion, the market's expectation of the probability of the event taking place will fluctuate as sentiments shift over time. When PredictIt certifies that a potential event has either taken place or that it will not take place, according to the rules stipulated for that particular contract, trading in the contract is closed. Traders holding shares in the correct outcome, either 'Yes' or 'No', are paid \$1 per share. Those holding shares in the incorrect outcome receive nothing, and all shares are liquidated. This trade information is readily and publicly available.

If a trader contacts PredictIt to dispute an event market's resolution, PredictIt follows a clear and transparent series of steps outlined in its terms of service to resolve the issue. The trader first receives a reply that the dispute has been marked for resolution before PredictIt's in-house counsel uses its best efforts to settle any dispute, claim, question, or disagreement through confidential, good faith negotiations. This normally involves providing the trader with a summary of the facts and law upon which the disputed decision was based. To date, there has not been any instance in which a trader has commenced a lawsuit or filed for arbitration at the conclusion of this process.¹⁶

III. Event Markets Serve an Information Aggregation Function

Event markets serve an information aggregation function for members of the public—academics, companies, and governments—who use them to further their research, manage their business operations, and set policy. The “price” of the event contract reflects the probability of the specified event or outcome happening. By aggregating individuals' beliefs with respect to an unknown future outcome, event contracts incorporate a wide diversity of thoughts and opinions that serve as a predictive tool for those who use them.

First, researchers use event markets for their studies because the real-time, constantly updating nature of event markets provides a highly refined measure that polls, expert surveys, and other methods of aggregating beliefs cannot easily replicate.¹⁷ For example, when presidential candidate Rick Perry made a gaffe during a 2012 Republican primary debate, an event market contract on his chances of winning the GOP nomination changed within minutes, and the odds of him receiving the nomination “halved within seconds.”¹⁸ Event markets also

¹⁵ See *infra* Part V.A (discussing PredictIt's 2014 CFTC no-action relief).

¹⁶ Where a trader fails to follow the terms of service and instead files a chargeback request with his or her credit card company, PredictIt follows the same process as described above. The credit card company is provided with an analysis of the facts and law that apply to the event in dispute, along with a statement that the trader's chargeback request is outside of the dispute resolution processes to which the trader has agreed under PredictIt's terms of service.

¹⁷ PredictIt, alone, is officially used across 111 universities and 156 researchers. (List on file with author.)

¹⁸ Catherine Rampell, *Rick Perry's Intrade Flash Crash*, N.Y. TIMES (Nov. 10, 2011), <https://economix.blogs.nytimes.com/2011/11/10/rick-perrys-intrade-flash-crash/>.

have a more successful record of forecasting election outcomes than poll aggregators and can provide additional insight into market events. One study found that prediction markets are more accurate and have half the forecast error when compared to polls.¹⁹ Another study used PredictIt data to find that more political amateurs entered congressional races as Donald Trump's nomination for president became more likely, suggesting that his nomination had important consequences that went beyond the presidential race.²⁰ In the 2018 U.S. midterm elections, PredictIt outperformed FiveThirtyEight, a popular political analysis website focused on reviewing and aggregating public opinion polling, in correctly predicting U.S. Senate races.²¹ These types of objective, up-to-the-minute, and accurate forecasting assessments are unique to event markets and prove their value to researchers.²²

Second, businesses incorporate the prices of event markets into their decision making on capital investment, determining where to efficiently allocate resources and in which areas to accelerate innovation. For example, Hewlett-Packard used internal event markets to forecast sales of its printers and found that the markets outperformed the company's official forecasts.²³ It also reported that it used event markets for the price of computer memory three and six months ahead, and found that the markets were up to 70% more accurate than the company's traditional forecasting models.²⁴ Best Buy also has used event markets to gauge demand for digital set-top boxes and store-opening dates.²⁵ While there is understandably little coverage of specific business uses of event contracts (other than for internal purposes), a number of companies have

¹⁹ Erik Snowberg et al., *Partisan Impacts on the Economy: Evidence from Prediction Markets and Close Elections*, NAT'L BUREAU OF ECON. RESEARCH (Jan. 2007), <https://www.nber.org/papers/w12073.pdf>. See also Concept Release, *supra* note 8, at 25670 ("Indeed, trading data generated by some . . . election contracts arguably have produced better predictive indicators than data obtained from professional polling organizations."); Joyce E. Berg et al., *Prediction Market Accuracy in the Long Run*, 24 INT'L J. FORECASTING 285, 286 (2008), <https://www.sciencedirect.com/science/article/pii/S0169207008000320> (finding that political event markets are more accurate than political polls in forecasting elections in the long-term).

²⁰ Gavin Riley & Jacob Smith, *The Trump Effect: Filing Deadlines and the Decision to Run in the 2016 Congressional Elections*, J. OF APPLIED RESEARCH IN CONTEMPORARY POLITICS (Aug. 30, 2018), <https://doi.org/10.1515/for-2018-0019>.

²¹ Harry Crane, *Polls, Pundits, or Prediction Markets: An Assessment of Election Forecasting*, RESEARCHERS.ONE (Nov. 9, 2018) (Under Review), <https://www.researchers.one/article/2018-11-6>.

²² See also Erik Snowberg et al., *Prediction Markets for Economic Forecasting*, BROOKINGS (June 13, 2012), <https://www.brookings.edu/wp-content/uploads/2016/06/13-prediction-markets-wolfers.pdf> (arguing that prediction markets have a number of attractive features: they quickly incorporate new information, are largely efficient, and impervious to manipulation); Erik Snowberg et al., *How Prediction Markets Can Save Event Studies*, NAT'L BUREAU OF ECON. RESEARCH (Apr. 2011), <https://www.nber.org/papers/w16949.pdf>. (arguing that "by augmenting event studies with prediction markets, other scholars will no doubt come up with creative ways to address many other unanswered questions").

²³ Charles R. Plott & Kay-Yut Chen, *Information Aggregation Mechanisms: Concept, Design and Implementation for a Sales Forecasting Problem*, CALIFORNIA INST. OF TECH. (Mar. 2002), <https://authors.library.caltech.edu/44358/1/wp1131.pdf>.

²⁴ Steve Lohr, *Betting to Improve the Odds*, N.Y. TIMES (Apr. 9, 2008), <https://www.nytimes.com/2008/04/09/technology/techspecial/09predict.html>.

²⁵ *Id.*

reported using these markets in some form, including Google, Cisco Systems, GE Healthcare, General Mills, ArcelorMittal (the world's largest steelmaker), and Swisscom (a large telecommunications company).²⁶ Goldman Sachs also reported that it relied on event markets, including those compiled by PredictIt, to forecast stock market turmoil as a result of the U.S. midterm elections,²⁷ and international banks seeing that a Brexit deal is unlikely may want to increase staffing in their Brussels or Dublin offices.²⁸

Third, governmental bodies use event markets to better set policy. In 2001, for example, the Department of Defense's blue-sky research agency, DARPA, planned to sponsor prediction markets on questions of military interest,²⁹ and, in 2009, the National Science Foundation issued a grant to the Wilson Center to set up prediction markets pertaining to synthetic biology.³⁰ Others have since called on central banks to integrate market events into their setting of monetary policies. For example, one economics professor suggests that monetary policy could be improved by setting up a nominal gross domestic product ("GDP") prediction market and adjusting the monetary base to stabilize nominal GDP future prices.³¹ Instead of having central banks set the level of the monetary base and short-term interest rates, the market would.³²

²⁶ *Id.* See also Julie Wittes Schlack, *Ask Your Customers for Predictions, Not Preferences*, HARVARD BUS. REV. (Jan. 5, 2015), <https://hbr.org/2015/01/ask-your-customers-for-predictions-not-preferences> (detailing other businesses' use of event markets); Bo Cowgill & Eric Zitzewitz, *Corporate Prediction Markets: Evidence from Google, Ford, and Firm X*, REV. OF ECON. STUDIES (Oct. 2015), <https://doi.org/10.1093/restud/rdv014> (finding that the event markets used by three firms are "relatively efficient" and improve forecasts of experts by as much as 25%). When the Commission issued its 2008 concept release, Google, Microsoft, and Yahoo! also all acknowledged their use of (or at least interest in) event markets as a way to aggregate information. See *infra* note 70.

²⁷ Akin Oyedele, *Goldman Sachs: A Steadfast Source of Stock Market Turmoil is Poised to Make a Comeback*, BUSINESS INSIDER (INDIA) (Apr. 21, 2018), <https://www.businessinsider.in/GOLDMAN-SACHS-A-steadfast-source-of-stock-market-turmoil-is-poised-to-make-a-comeback/articleshow/63857012.cms>.

²⁸ See also Jeff Sommer, *Now, the Markets Can Worry About Other Things. Here's a List*, N.Y. TIMES (Nov. 9, 2018), <https://www.nytimes.com/2018/11/09/business/stock-market-midterms-congress.html> (describing how businesses and financial markets follow political and economic trends beyond the simple tracking of stock and bond prices).

²⁹ The program was shut down before it was launched as some of the proposed contracts included events pegged to specific illegal/terroristic activities, including the possibility that Yassir Arafat might be assassinated; that North Korea would launch a missile attack; and that the king of Jordan would be overthrown. Tom W. Bell, *Government Prediction Markets: Why, Who, and How*, 116 PENN STATE L. REV. 403, 423 (2011), <http://www.pennstatelawreview.org/116/2/116%20Penn%20St.%20L.%20Rev.%20403.pdf>.

³⁰ *Id.* at 405.

³¹ Scott Sumner, *Nominal GDP Futures Targeting*, J. FINANCIAL STABILITY (Apr. 2015), <https://doi.org/10.1016/j.jfs.2014.10.001>.

³² See also Robert W. Hahn & Paul C. Tetlock, *Using Information Markets to Improve Public Decision Making*, 29 HARVARD J. LAW AND PUBLIC POLICY 213 (2005), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=598882 (suggesting how information markets can improve the quality of public policy); Michael Abramowicz, *Information Markets, Administrative Decisionmaking, and Predictive Cost-Benefit Analysis*, 71 U. CHICAGO L. REV. 933 (2004), <https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=5277&context=uclrev> (detailing potential government uses for information markets, such as to improve homeland security, regulate solvency, and forecast budgets). See generally Leonid Krasnozhon & John Levendis, *Mises and Prediction Markets: Can Markets Forecast?*, 28 REVIEW OF AUSTRIAN ECONOMICS 41 (Mar. 2015),

IV. Recent Developments Necessitate Action Now

The increase in the number of event markets and the media's interest in them have grown dramatically as a result of the intense public interest in the 2016 presidential election (and the now growing interest in the 2020 presidential election), Brexit, and political volatility around the world. This section discusses event markets' recent popularity in the American mainstream, as evidenced by a rise in the number of event market platforms and their use among a wide variety of researchers and businesses. This section also comments on how the 2018 Supreme Court ruling regarding sports betting may affect listing of event-type markets by casinos and others.

Interest in trading event markets has increased since the 2016 presidential election, as evidenced by the increasing number of unregulated and offshore platforms for trading event contracts. These websites allow users to participate in various contracts with fiat currency and various cryptocurrencies. MyBookie,³³ for example, allows users to place predictions on sports, horse racing, casino games, and political events using MasterCard, Visa, ACH, and bitcoin. During the most recent U.S. midterm elections, MyBookie offered contracts on, for example, who would control the House of Representatives³⁴ and whether Congressman Beto O'Rourke would upset Senator Ted Cruz.³⁵ Another predictive event contract market operating outside of the purview of any regulator, Augur, operates on the Ethereum blockchain and recorded trading of over \$2 million in political event contracts on the night of the midterm elections.³⁶ This was more than the amount traded that same night on PredictIt. Augur also allows participants to place predictions on weather events, geopolitical events, and company-specific outcomes.³⁷ Other cryptocurrency-based platforms, such as AlphaCast,³⁸ Fairlay,³⁹ Hypermind,⁴⁰ and Stox,⁴¹

<https://link.springer.com/article/10.1007%2Fs11138-013-0244-6> (arguing that prediction markets can leverage subjective knowledge and aggregate forward-looking information to overcome the Hayekian, or local knowledge, problem).

³³ MYBOOKIE, <https://mybookie.ag/> (last visited May 17, 2019).

³⁴ William Cummings, *Smart Money is on Republicans Keeping Control of House, Betting Site Odds Say*, USA TODAY (Oct. 28, 2018), <https://www.usatoday.com/story/news/politics/onpolitics/2018/10/28/midterm-elections-betting-odds/1800052002/>.

³⁵ Matthew Adams, *What Are Beto O'Rourke's Chances of Upsetting Ted Cruz? Betting Sites and Forecasters Weigh In*, DALLAS NEWS (Nov. 5, 2018), <https://www.dallasnews.com/news/2018-elections/2018/11/05/beto-orourkes-chances-upsetting-ted-cruz-betting-sites-forecasters-weigh>.

³⁶ *Ethereum dApp Augur Records \$2 Million in Bets in US Midterms*, CCN (Nov. 7, 2018), <https://www.ccn.com/ethereum-dapp-augur-records-2-million-in-bets-in-us-midterms/>.

³⁷ Augur also is notoriously known for hosting assassination markets on its platform, allowing users to predict the fate of prominent public figures. David Floyd, *The First Augur Assassination Markets Have Arrived*, COINDESK (July 25, 2018), <https://www.coindesk.com/the-first-augur-assassination-markets-have-arrived>. A regulated environment would ensure that event contracts based on the eventuality of criminal acts are not permitted.

³⁸ ALPHACAST, <https://alphacast.cultivateforecasts.com/> (last visited May 17, 2019).

³⁹ FAIRLAY, <https://fairlay.com/> (last visited May 17, 2019).

⁴⁰ HYPERMIND, <https://hypermind.com/> (last visited May 17, 2019).

⁴¹ STOX, <https://www.stox.com/> (last visited May 17, 2019).

similarly offer event contracts on a number of different subject matters as approved by the sites' administrators. Other platforms, moreover, let participants create their own event contracts. These sites, like BetMoose,⁴² Gnosis,⁴³ and Predictious,⁴⁴ allow users to build their own forecasting applications on virtually any topic. Unlike PredictIt's platform, though, these sites operate outside the confines of CFTC no-action relief or any other government oversight. As the 2020 election draws closer, we expect to see even more unregulated, offshore platforms emerge.

Reputable news sources also have begun covering event markets more prominently. For example, *Bloomberg* ran an opinion piece on the use of event markets to forecast when the U.S. debt ceiling would be hit,⁴⁵ *Forbes* discussed the use of event markets in predicting who would become the next Chairman of the Federal Reserve in November 2017,⁴⁶ and the *Economist*⁴⁷ ran a story about how event markets covered the Supreme Court hearings for then-Judge Brett Kavanaugh in September 2018:

Before Ms [Christine] Blasey Ford entered the room, punters on PredictIt, a popular prediction market focused on American politics, thought Mr Kavanaugh had slightly better than a 50/50 chance of being confirmed. After she was deemed to be credible and convincing even by conservative pundits, investors turned bearish on Mr Kavanaugh's odds.

[Graphic on next page]

⁴² BETMOOSE, <https://www.betmoose.com/bets> (last visited May 17, 2019).

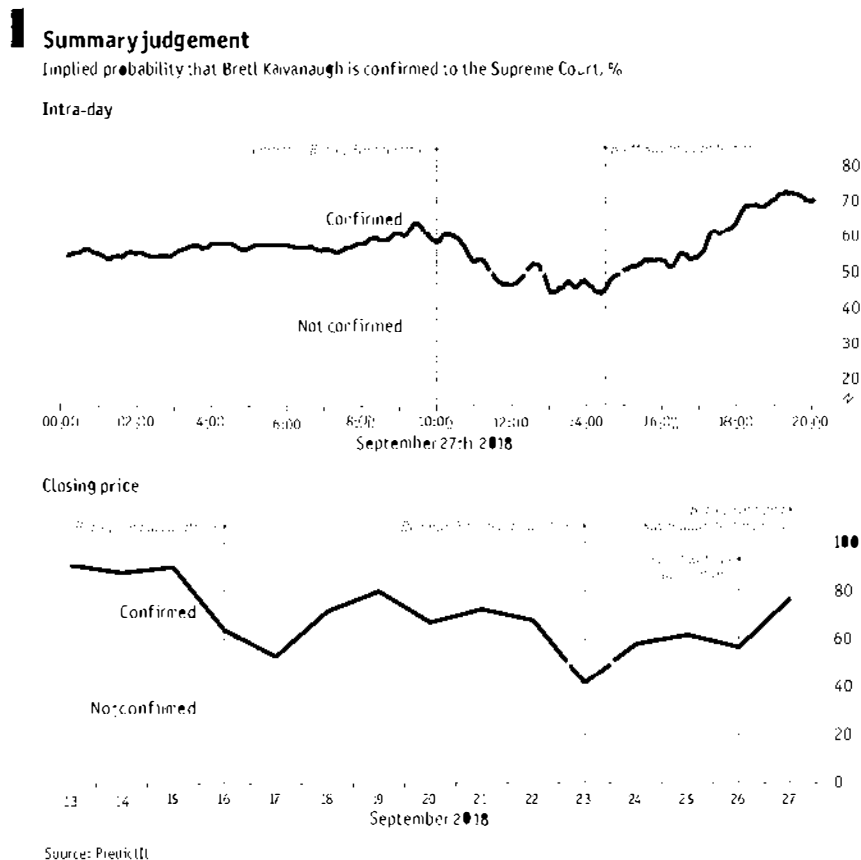
⁴³ GNOSIS, <https://gnosis.pm/> (last visited May 17, 2019).

⁴⁴ PREDICTIOUS, <https://www.predictious.com/> (last visited May 17 2019).

⁴⁵ Conor Sen, Opinion, *Place Your Bets: When Will the U.S. Hit the Debt Ceiling?*, BLOOMBERG (Aug. 9, 2017), <https://www.bloomberg.com/opinion/articles/2017-08-09/place-your-bets-when-will-the-u-s-hit-the-debt-ceiling> ("Prediction markets add a crowdsourced opinion to the chaos of Washington . . . But for both investors and general observers, a Treasury spread is a blunt instrument. Prediction markets get more specific. PredictIt has become the go-to prediction market for observing U.S. political events.").

⁴⁶ Alap Shah, *Who Will The New Fed Chair Be? Any Of The Top Candidates Will Lead To Higher Rates*, FORBES (Nov. 1, 2017), <https://www.forbes.com/sites/alapshah/2017/11/01/who-will-the-new-fed-chair-be-any-of-the-top-candidates-will-lead-to-higher-rates/#32b59b5222f7> ("Political prediction market PredictIt shows that current governor Jerome Powell is the frontrunner by a wide margin, followed by Stanford professor with famously controversial views on monetary policy John Taylor and current chair Janet Yellen. Probabilities of nomination for Gary Cohn and Kevin Warsh have decreased dramatically and Neel Kashkari has never really been a serious contender. These predictions may change in real-time and are based on those at time of publication.").

⁴⁷ *Brett Kavanaugh May Have Fared Better with Senators than Voters*, THE ECONOMIST (Sep. 28, 2018), <https://www.economist.com/graphic-detail/2018/09/28/brett-kavanaugh-may-have-fared-better-with-senators-than-voters>.



More recently, *Newsweek* and *Bloomberg* both ran pieces discussing PredictIt's event markets on whether President Trump would be impeached. In December 2018, *Newsweek* reported that PredictIt's market on the impeachment question saw "the price on Trump to be impeached in his first term leap to a value of 48 cents, the highest it has been in at least three months."⁴⁸ *Bloomberg* similarly reported that "the odds that the House of Representatives passes articles of impeachment against the president [are] approaching a coin flip."⁴⁹

There also has been increased academic, business, and government interest in event contracts. As discussed above,⁵⁰ individuals and entities in these fields have begun using event markets in their research, decision making, and policy formation.

⁴⁸ Jason Le Miere, *Donald Trump Impeachment Odds Surge, With President Now Rated More Likely Than Not To Be Impeached* NEWSWEEK (Dec. 16, 2018), <https://www.newsweek.com/donald-trump-impeachment-odds-impeach-1260779>.

⁴⁹ Sarah Ponczek & Vildana Hajric, *Calculating the Cost of Trump Tumult in a Market Pushed to Brink*, BLOOMBERG (Dec. 14, 2018), <https://www.bloomberg.com/news/articles/2018-12-14/calculating-the-cost-of-trump-tumult-in-a-market-pushed-to-brink>.

⁵⁰ See *supra* Part III (describing the information aggregation function of event markets).

Finally, the Supreme Court's ruling legalizing sports betting in the United States can be expected to increase the number of trading platforms that provide participants a venue for taking financial positions on various types of events. In *Murphy v. National Collegiate Athletic Association*, the Supreme Court found that a federal law prohibiting state authorization of sports gambling schemes violated the anticommandeering doctrine under the 10th Amendment to the U.S. Constitution.⁵¹ Individual states are now free to pass statutes that would legalize sports gambling within their borders,⁵² and as they do, casinos and others may wish to list event-type contracts. If this becomes reality, event markets will be subject to a patchwork of different state statutes and regulations, raising compliance costs and potentially chilling the growth and value of these information aggregation tools. Furthermore, state gambling laws will fall far short of any potential federal regulation, oversight, and enforcement to prevent fraud and manipulation in these markets. As these developments continue to unfold, now is the appropriate time to revisit the issue of how best to regulate event markets.

V. Event Markets and the CFTC

Congress did not contemplate event markets in drafting the CEA and its subsequent amendments, and previous Commission actions have not set forth a clear regulatory framework for oversight of them. The current no-action relief under which PredictIt operates, moreover, is insufficient for this growing space. Federal oversight is needed, and the CFTC is the appropriate federal regulator to oversee non-security based event contracts.

This section first discusses the uncertain regulatory status of event contracts. It then explains why the current no-action relief is insufficient, federal oversight is needed, and the CFTC is the appropriate federal agency suited to regulate non-security based event contracts.

A. Uncertain Regulatory Status of Event Contracts

The CFTC is well aware of event markets, though it has never fully articulated an approach to regulating them. The Commission has permitted some types of event contracts to be traded on exempt boards of trade ("EBOTs") and designated contract markets ("DCMs"), prohibited other types of event contracts to be traded altogether, and allowed some to be traded under no-action relief. The Commission also has also raised questions of whether and to what extent it should be regulating event markets, yet has not issued any rules or guidelines related to their regulatory status. This regulatory uncertainty undermines the development of these markets and denies market participants and the public the benefits accruing from measuring the likelihood of future events through a robust marketplace.

The CFTC has allowed some types of event contracts to be traded on EBOTs and DCMs. For example, in 2005, the CFTC filed charges against Intrade the Prediction Market Limited

⁵¹ 584 U.S. ____ (2018).

⁵² See, e.g., Fenit Nirappil, *D.C. Council Legalizes Sports Betting, Becoming First in Washington Region*, WASH. POST (Dec. 18, 2018), https://www.washingtonpost.com/local/dc-politics/dc-council-legalizes-sports-betting-becoming-first-in-washington-region/2018/12/18/76a8a842-02ef-11e9-b6a9-0aa5c2fcc9e4_story.html.

(“Intrade”), an online, offshore event markets platform, for allowing U.S. persons to trade in commodities in violation of the Commission’s ban on off-exchange options trading.⁵³ Intrade had permitted customers to buy and sell options predicting whether specific events would occur, including whether the prices of gold, oil, and currencies would reach a certain level by a certain future date.⁵⁴ Intrade agreed to pay a fine and subsequently sought to be classified as an EBOT.⁵⁵

The CFTC also has permitted many event-type contracts to be listed on DCMs that involve interests that constitute commodities under the Commodity Exchange Act. Examples of these types of contracts include contracts based on: Company-Specific Earnings Per Share; Eurozone Index of Consumer Prices; Consumer Price Index; Nonfarm Payrolls; Retail Sales Data; Unemployment Claims; Company-Specific Merger and Acquisitions; State-Specific and National Crop Yields; Location-Specific Heating and Cooling Degree Days; Location-Specific Snowfall; Regional Wind Indices; and movie box-office receipts.⁵⁶ In its 2010 statement approving the box-office receipts contracts, the CFTC said that movie revenues “fall into the same category as many other commodities for which futures and options contracts have been either approved by or self-certified to the Commission where the underlying commodity is a non-price-based measure of an economic activity, commercial activity or environmental event.”⁵⁷

In other instances, however, the CFTC has prohibited certain event contracts altogether. In 2012, the Commission prohibited the Northern American Derivatives Exchange (“Nadex”) from introducing political event contracts on a regulated DCM, which would have allowed traders to stake positions on the outcome of the 2012 elections.⁵⁸ In its order (the “Nadex Order”), the CFTC cited the “economic purpose test” that was part of the Commodity Exchange Act until 2000, which required the demonstration of hedging or pricing utility for futures markets. The Commission argued that political futures had no hedging or pricing purpose due to

⁵³ In re Intrade, Order Instituting Proceedings Pursuant to Section 6(c) and 6(d) of the Commodity Exchange Act Making Findings and Imposing Remedial Sanctions (Sep. 29, 2005), <https://www.cftc.gov/sites/default/files/files/enf/05orders/enftradeexchangenetworkorder.pdf>.

⁵⁴ *Id.* at 2.

⁵⁵ The Commission sued Intrade in 2012 for violating the conditions of the 2005 order it had consented to and the terms required of it as an EBOT. *CFTC Charges Ireland-based “Prediction Market” Proprietors Intrade and TEN with Violating the CFTC’s Off-Exchange Options Trading Ban and Filing False Forms with the CFTC*, CFTC (Nov. 26, 2012), <https://www.cftc.gov/PressRoom/PressReleases/pr6423-12>. Intrade shut down its operations shortly thereafter. Chris Isidore, *Intrade Shutdown Due to Financial Probe*, CNN (Mar. 11, 2013), <https://money.cnn.com/2013/03/11/investing/intrade-shutdown/index.html>.

⁵⁶ *Statement of the Commission*, CFTC (June 14, 2010), <https://www.cftc.gov/sites/default/files/idc/groups/public/@otherif/documents/ifdocs/indexcommissionstatement061410.pdf> [hereinafter *Statement of the Commission*].

⁵⁷ *Id.* See also Concept Release, *supra* note 8, at 25670 (“The Commission, with some exceptions, has exclusive jurisdiction over two relevant types of derivative instruments—commodity options and commodity futures contracts.”).

⁵⁸ Order Prohibiting The Listing or Trading of Political Event Contracts, CFTC (Apr. 2, 2012), <https://www.cftc.gov/sites/default/files/stellent/groups/public/@rulesandproducts/documents/ifdocs/nadexorder040212.pdf> [hereinafter “Nadex Order”].

“the unpredictability of the specific economic consequences of an election.”⁵⁹ The Commission also argued that these political prediction markets were against the public interest because they “can potentially be used in ways that would have an adverse effect on the integrity of elections, for example by creating monetary incentives to vote for particular candidates even when such a vote may be contrary to the voter’s political views of such candidates.”⁶⁰ For its support, the Commission cited state gambling statutes that link the terms gaming or gambling to betting on elections.⁶¹

Yet, the Commission—both before and after issuing its Nadex Order—permitted political event contracts through no-action relief. In 1993, the CFTC issued no-action relief to the University of Iowa and permitted it to list on its Iowa Electronic Markets (“IEM”)⁶² political event contracts subject to three core conditions: (1) the market remain small; (2) the contracts serve an academic purpose; and (3) the market remain not-for-profit. The no-action letter limited access to any one submarket on the IEM platform to between 1,000 and 2,000 traders, and set the maximum amount that any single participant could risk in any one submarket to \$500.⁶³

After the Nadex Order, the Commission staff in 2014 granted no-action relief with similar conditions and limitations.⁶⁴ Issued to Victoria University, the no-action relief, among other things, limited access to any particular contract to 5,000 traders, limited investment by any single investment participant in a particular contract to \$850, and permitted advertising.⁶⁵ The Commission staff stated that the enhanced limitations set forth for Victoria University relative to those specified for IEM in its no-action relief would produce more accurate results, which would “promote the educational public interest purpose of the project while maintaining the small-scale, not-for-profit nature of the proposed market.”⁶⁶

Finally, the Commission itself recognized the uncertain regulatory status of event markets. In 2008, after receiving “a substantial number of requests for guidance,” the CFTC issued a concept release soliciting comment on the appropriate regulatory treatment of event contracts.⁶⁷ The Commission identified three broad issues in connection with event contracts:

⁵⁹ *Id.* This Petition refutes these findings and argues, *infra* Part VI.B., that political event contracts serve an economic purpose because of their information aggregation benefits.

⁶⁰ Nadex Order, *supra* note 58.

⁶¹ We discuss in Part VII, *infra*, why the Nadex Order should not prevent the CFTC from creating a separate regulatory category for, among other types of event contracts, political event contracts.

⁶² *Iowa Electronic Markets*, UNIV. OF IOWA, <https://iemweb.biz.uiowa.edu/> (last visited May 17, 2019).

⁶³ CFTC No-Action Letter No. 93-96 (June 18, 1993).

⁶⁴ CFTC No-Action Letter No. 14-130 (Oct. 29, 2014).

⁶⁵ The increase from a \$500 cap to the \$850 cap was merely to reflect inflation since IEM’s no-action relief was issued in 1993. *See* No-Action Request from Victoria University to Vince A. McGonagle, Director, CFTC (June 26, 2014) (on file with author).

⁶⁶ CFTC No-Action Letter No. 14-130 (Oct. 29, 2014), at 5.

⁶⁷ Concept Release, *supra* note 8, at 25670.

(1) whether event contracts fall within the CFTC's jurisdiction; (2) whether any exemptions or exclusions from the Act should be applicable to them; and (3) how the CFTC should address the potential gaming aspects of event contracts and the potential preemption of state gambling laws by the Act.⁶⁸ It requested public comment on, among other things, whether using its authority would be appropriate for implementing a regulatory scheme for event contracts and markets.⁶⁹ The Commission received 31 comment letters from the public, and many argued that the CFTC had the authority to create a new regulatory scheme for event contracts and markets.⁷⁰ The Commission, though, did not take further action with respect to the ideas considered in the concept release and has not since provided the marketplace with guidance as to how event markets are to be regulated and overseen.

This regulatory uncertainty undermines development of these markets as participants do not know the "rules of the road."⁷¹ If event markets operate without regulatory supervision or such trading occurs instead on state-regulated gaming platforms, the market will become fragmented, thereby undermining the economic utility of the data generated on the markets. Furthermore, with no position limits or other measures designed to protect against abuses, such platforms will be subject to fraud and manipulation, further degrading the economic value of the predictive nature of these markets. Such legal uncertainty arguably reduces the opportunities these markets have to encourage broader participation, aggregate information, and improve decision-making.⁷² Moreover, because event contracts operate under the assumption that the

⁶⁸ *Id.*

⁶⁹ *Id.* at 25673.

⁷⁰ See, e.g., Letters from International Swaps and Derivatives Association ("ISDA"); Crystal World Markets ("CWM"); Coalition for Internal Markets ("CIM"); and Microsoft, available at *Comment File for Federal Register Release 73 FR 25669*, CFTC (May 7, 2008), <https://www.cftc.gov/LawRegulation/PublicComments/08-004.html>.

⁷¹ Alexandra Lee Newman, *Manipulation in Political Prediction Markets*, 3 J. BUS. ENTREPRENEURSHIP & L. ISS. 205, 207 (2010), <http://digitalcommons.pepperdine.edu/jbel/vol3/iss2/1> ("The absence of a legal framework has suppressed the development of these markets in the United States."); Miriam A. Cherry & Robert L. Rogers, *Prediction Markets and the First Amendment*, 2008 U. ILL. L. REV. 833, 835, 841 (2008), <https://illinoislawreview.org/wp-content/ilr-content/articles/2008/3/Cherry.pdf> (arguing that legal uncertainty impedes the growth of event markets). See generally Steven J. Davis, *Regulatory Complexity and Policy Uncertainty: Headwinds of Our Own Making*, STANFORD UNIV. (Feb. 2017), http://www.policyuncertainty.com/media/Davis_RegulatoryComplexity.pdf (describing the advantages of policy designs that foster predictable regulatory responses); Alfred A. Marcus, *Policy Uncertainty and Technological Innovation*, 6 ACADEMY OF MANAGEMENT REVIEW 443, 443 (1981), <https://www.jstor.org/stable/257379> ("Without certainty about government policies, business decision makers are unable to assess risk and opportunity and make the trade-offs necessary for investment in new technologies."); Ronald R. Braeutigam, *The Effect of Uncertainty in Regulatory Delay on the Rate of Innovation*, 43 DUKE J. LAW AND CONTEMPORARY PROBLEMS 98, 110 (1979), <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=3571&context=lcj> ("Higher discount rates, higher costs of engaging in the administrative process, and longer regulatory delay all serve to reduce the amount of R&D undertaken by the regulated firm."). See, e.g., Charles Bovaird, *Cryptocurrency Markets Gripped By Wait-And-See Mentality*, FORBES (Feb. 12, 2018), <https://www.forbes.com/sites/bovaird/2018/02/12/cryptocurrency-markets-gripped-by-wait-and-see-mentality/#6842c10e3712> ("When seeking to explain the relatively tepid activity taking place in the digital currency markets, several analysts pointed to regulatory uncertainty as a development undermining sentiment and causing investors to sit on the sidelines.").

⁷² Newman, *supra* note 71.

“wisdom from the crowd” is authentic, the lack of effective oversight could open the door to market manipulation, which in turn would cause distorted pricing information and threaten the integrity of the markets.⁷³

B. Current No-Action Relief is Insufficient and Federal Oversight is Needed

There has been an expansion of new event markets on U.S. domestic and offshore trading platforms operating completely outside of any regulatory involvement. In the long term, the CFTC’s limited supervision of these markets through no-action letters will become untenable, and the Commission will become unable to protect against fraud and manipulation. Measured and focused federal oversight will help ensure that the integrity of the market and the economic benefits of these markets can be realized.

The desire to limit the scope of permissible activity under the existing no-action relief to be “small scale” and not-for-profit is proving to be too limited to meet demand in the marketplace—demand that is beginning to be met by completely unregulated U.S.-based or foreign-based trading platforms (e.g., MyBookie, BetMoose, and Augur). In order to achieve their full potential, event markets need to be able to attract sufficient liquidity, which cannot be accomplished under some of the existing limitations in the staff no-action relief. There needs to be an environment where the rules for trading activity in the United States are transparent and applied equally to all participants without fraud, manipulation, or other abuses.

Furthermore, the no-action relief requirement that these markets be not-for-profit puts a strain on the ability to raise the necessary capital to invest in the continued development of these markets to ensure adequate safety protections (e.g., “know your customer,” anti-money laundering, cybersecurity, surveillance, position limits, etc.) in these markets. For-profit companies committed to the research, development, and introduction of new technologies that improve the communication of knowledge have expressed their interest in investing their time, money, and resources into improving the event markets space.⁷⁴ They cannot legally do so under the current no-action relief.

Proper federal oversight would address a number of concerns, including:

- (1) Possible undue influence or manipulation of event contracts by large traders or foreign actors (by requiring position limits or other restrictions on trading activity);⁷⁵

⁷³ See generally Note, *Prediction Markets and Law: A Skeptical Account*, 122 HARV. L. REV. 1217, 1223-24 (2009), http://harvardlawreview.org/wp-content/uploads/2009/02/prediction_markets_and_law.pdf (arguing that “the circumstances in which prediction markets are inaccurate are precisely the circumstances in which law needs them most”).

⁷⁴ Letter from the Coalition for Internal Markets to David A. Stawick, Secretary, CFTC (Sep. 2, 2008), at 7, 23, <https://www.cftc.gov/sites/default/files/idc/groups/public/@lrfederalregister/documents/trcomment/08-004c029.pdf>.

⁷⁵ See, e.g., Newman, *supra* note 71, at 212-19 (providing examples of manipulation in political event markets); Note, *Prediction Markets and Law*, *supra* note 73, at 1221-24 (discussing when event markets “go wrong”). These

- (2) Ensuring uniform core principles and requirements (to prevent event markets from being regulated under fragmented state gambling laws);⁷⁶ and
- (3) Providing a more focused effort to police against similar trading of these event contracts on unregulated, U.S.-based or offshore trading platforms.⁷⁷

C. *The CFTC is the Appropriate Federal Regulator (for Non-Security Based Contracts)*

Given that the CFTC is both clearly and broadly charged with protecting the markets it oversees from fraud and manipulation, now is the time for the Commission to exert its authority over the event marketplace to ensure it operates in a fair and transparent manner without fraud and manipulation. The CFTC is the appropriate federal agency to regulate event markets and event contracts particularly because event markets fit logically within the Commission's jurisdiction overseeing other markets (e.g., futures and swaps) that are derivative to the underlying assets and activities on which the markets are based.⁷⁸ This section discusses the Commission's expertise regulating the derivatives markets and how it can best formally address the status of event markets by promulgating rules related to trading in these markets.

First, event contracts are derivatives. The Commission defines "derivative" as a financial instrument the price of which is directly dependent upon (i.e., derived from) the value of one or more underlying commodities, among others.⁷⁹ A "commodity" is broadly defined as, in addition to certain enumerated commodities, "all services, rights, and interests in which contracts

requirements protect the integrity of the event markets, the election process, and the predictive value of their aggregated pricing data.

⁷⁶ States differ in their definitions of gambling and how gambling is regulated. Compare, e.g., GA. CODE ANN. 16-12-20 *et seq.* (Georgia's highly restrictive gambling statutes), with N.R.S. 463.010 *et seq.* (Nevada's gambling-friendly statutes).

⁷⁷ We agree with Commissioner Brian Quintenz that the CFTC should focus its limited resources to where they can be best utilized. See *Remarks of Commissioner Brian Quintenz at the 38th Annual GFTX Technology Week Conference*, CFTC (Oct. 16, 2018), <https://www.cftc.gov/PressRoom/SpeechesTestimony/opaquintenz16> (arguing that event markets, whether clearly regulated by the CFTC or not, still require some form of enforcement responsibility: "In some cases, it may be that new products require the Commission to rethink its existing regulations or provide regulatory relief—both courses of action that I think would be appropriate depending upon the technology in question."). It is for this exact reason that Victoria University is requesting modest amendments to its existing no-action relief while the Commission carefully considers this broader request for regulatory certainty over event markets.

⁷⁸ See generally Robert W. Hahn & Paul C. Tetlock, *A New Approach for Regulating Information Markets*, 29 J. REG. ECON. 265, 268, 272-79 (2006), <https://doi.org/10.1007/s11149-006-7399-z> (suggesting that CFTC oversight would bring more stability and certainty to event markets); Paul Architzel, *Event Markets Evolve: Legal Certainty Needed*, FUTURES INDUSTRY (2006), at 50, https://secure.fia.org/downloads/fimag/2006/marapr06/mar-apr_eventmarkets.pdf (same). Nonetheless, as further explained below in Part VI.B, *infra*, event markets differ from futures and swaps and thus should be overseen under a separate regulatory regime.

⁷⁹ *CFTC Glossary*, CFTC, <https://www.cftc.gov/ConsumerProtection/EducationCenter/CFTCGlossary/index.htm#D> (last visited May 17, 2019).

for future delivery are presently or in the future dealt in.”⁸⁰ The Commission has previously argued that “events” can underlie a futures or options contract, and thus a contract that is based on an event does not preclude it from being a commodity.⁸¹ An event contract, therefore, meets the definition of a non-security based derivative, which the CFTC regulates.⁸²

Second, the Commission has expertise in regulating event-type markets that are predominantly retail in nature. Nadex, a DCM, has self-certified hundreds of event contracts,⁸³ many of which have no underlying cash market.⁸⁴ Cantor Exchange also lists binary options, including hurricane landfall, rainfall, and snowfall event contracts.⁸⁵ Furthermore, the National Futures Association (“NFA”), the self-regulatory organization operating under the purview of the CFTC, has extensive experience overseeing retail markets. The CFTC could conserve its resources by delegating ongoing market and trade practice surveillance to a self-regulatory organization.

Third, the CFTC has recognized its role in the oversight of these markets when it issued no-action relief to IEM and Victoria University,⁸⁶ and when it contemplated (through the issuance of a formal concept release) a regulatory structure for event markets.⁸⁷ In so doing, the Commission asked the public for comment on its “regulatory purview over event contracts.”⁸⁸ Many commenters supported the CFTC asserting jurisdiction and oversight of these markets.⁸⁹ In the concept release, the Commission also posed a number of questions related to: whether any exemptions or exclusions from the Act should be applicable to them; and how the CFTC should address the potential gaming aspects of event contracts and the potential preemption of state gambling laws by the Commodity Exchange Act. In so doing, the Commission implicitly acknowledged the appropriateness of it overseeing these markets.

⁸⁰ 7 U.S.C. § 1a(9).

⁸¹ *Statement of the Commission*, *supra* note 56.

⁸² See 15 U.S.C. § 8302(a) (granting the CFTC regulatory authority over swaps (a type of derivative), except for security-based swaps, which are regulated by the Securities and Exchange Commission). In the CFTC’s no-action letter granted to Victoria University, CFTC staff acknowledged that event contracts could be characterized as swaps. CFTC No-Action Letter No. 14-130 (Oct. 29, 2014), at 5 n6.

⁸³ See *supra* text accompanying note 56.

⁸⁴ *Statement of the Commission*, *supra* note 56, at 4 (“[T]he Commission does not believe that the existence of an underlying cash market is a requirement for meeting the definition of a commodity within section 1a(4) of the Act.”).

⁸⁵ *Products and Markets*, CANTOR EXCHANGE, <https://www.cxmarkets.com/products-and-inmarkets/> (last visited May 17, 2019).

⁸⁶ The Commission, though, did not explicitly assert its jurisdiction over event markets through issuing no-action relief.

⁸⁷ See *supra* text accompanying note 67.

⁸⁸ Concept Release, *supra* note 8, at 25673.

⁸⁹ See *supra* text accompanying note 70.

Finally, no state or other federal regulator has the experience in overseeing derivative markets that the CFTC has developed over the last 40+ years.⁹⁰ In establishing the CFTC under the Commodity Futures Trading Commission Act of 1974,⁹¹ Congress created an agency “comparable in stature and responsibility to the Securities and Exchange Commission,” which brought “under Federal regulation all agricultural and other commodities, goods, and services traded on exchanges and otherwise strengthen[ed] the regulation of the Nation’s \$500 billion commodity futures industry.”⁹²

In view of the foregoing, we urge the Commission to formally address the status of event markets by promulgating rules related to the trading in these markets.

VI. Regulating Event Markets Under the Commission’s Authority

The Commission should develop a regulatory framework tailored to the unique characteristics of event markets that do not fit squarely within the futures and swaps markets, and create a regulatory regime that permits the listing of event contracts with appropriate protections to traders and the marketplace. As contemplated in its 2008 concept release, the Commission should consider utilizing its Section 4(c) authority to create a separate regulatory regime specifically tailored to the characteristics of these markets. The use of such exemptive authority is wholly consistent with congressional intent in adopting Section 4(c). This section first describes the Commission’s statutory authority under Section 4(c), and then argues why the Commission’s use of its Section 4(c) authority is appropriate to regulate event markets, such as through the creation of a separate event markets category.

A. Statutory Authority under Section 4(c)

The Commission has broad authority under Section 4(c) to “promote responsible economic or financial innovation and fair competition” by exempting any transaction or class of transaction from any of the provisions of the Commodity Exchange Act (subject to certain exceptions) where the Commission determines that the exemption would be consistent with the public interest and the purposes of the Act.⁹³

In adding Section 4(c), Congress gave the Commission a means of “providing certainty and stability to existing and emerging markets so that financial innovation and market development can proceed in an effective and competitive manner.”⁹⁴ Congress expected that the Commission would “apply consistent standards based on the underlying facts and circumstances of the transaction and markets being considered, and [would] make distinctions between exchanges and other markets taking into account the particular facts and circumstances involved.

⁹⁰ Or the last almost 100 years if one goes back to 1921 when the Commission’s predecessor agency was created.

⁹¹ P.L. 93-463, 88 Stat. 1389 (1974).

⁹² S. Rep. No 93-1194, at iii, 2 (1974).

⁹³ 7 U.S.C. § 6(c)(1).

⁹⁴ Conference Report, H.R. Report 102-978 at 8 (Oct. 2, 1992).

consistent with the public interest and the purposes of the Act, where such distinctions are not arbitrary and capricious.”⁹⁵ While this language refers specifically to distinctions between exchanges and other markets, the Commission has read it to imply that Congress more generally expected it, in applying Section 4(c), to draw distinctions among different market participants where circumstances justify it.⁹⁶

Congress, moreover, viewed the Commission’s Section 4(c) use to apply to novel instruments without the need for the CFTC to preliminarily determine complex jurisdictional issues:

The conferees [to the Conference Report] do not intend that the exercise of exemptive authority by the Commission [under Section 4(c)] would require any determination beforehand that the agreement, instrument, or transaction for which an exemption is sought is subject to the Act. Rather, this provision provides flexibility for the Commission to provide legal certainty to novel instruments where the determination as to jurisdiction is not straightforward.⁹⁷

The Commission’s past use of its Section 4(c) exemptive authority is quite varied, ranging from establishing new market categories for multilateral transaction execution facilities, market intermediaries, and clearing organizations;⁹⁸ to providing derivatives clearing organizations with greater procedural flexibility than what was provided by statute;⁹⁹ to temporarily relieving market participants from the cross-border application of the Commodity Exchange Act’s swaps provisions.¹⁰⁰ In these instances, the Commission believed that the existing regulatory framework was inadequate to ensure appropriate oversight and to encourage innovation in a changing derivatives marketplace. In those instances, the Commission concluded that a new regulatory regime was warranted.¹⁰¹ It therefore used its Section 4(c) exemptive authority to address these issues by creating a new regulatory framework for the markets to flourish, while ensuring that its actions were in line with the Commodity Exchange Act and the public interest.

⁹⁵ *Id.*

⁹⁶ *See, e.g.*, Clearing Exemption for Certain Swaps Entered Into by Cooperatives, Final Rule, 78 Fed. Reg. 52285, 52295 (Aug. 22, 2013) (finding cooperatives to be so unique in their organizational form and how they act in the interests of their members that an exemption from the Commodity Exchange Act was appropriate).

⁹⁷ Conference Report, H.R. Report 102-978 at 82-83 (Oct. 2, 1992).

⁹⁸ A New Regulatory Framework for Multilateral Transaction Execution Facilities, Intermediaries and Clearing Organizations, Final Rule, 65 Fed. Reg. 77961 (Feb. 12, 2001).

⁹⁹ A New Regulatory Framework for Clearing Organizations, Final Rule, 66 Fed. Reg. 45604 (Aug. 29, 2001).

¹⁰⁰ Final Exemptive Order Regarding Compliance With Certain Swap Regulations, Final Order, 78 Fed. Reg. 858 (Feb. 21, 2012).

¹⁰¹ *See, e.g.*, A New Regulatory Framework for Multilateral Transaction Execution Facilities, Intermediaries and Clearing Organizations, Proposed Rule, 65 Fed. Reg. 38985, 38992 (June 22, 2000) (“The proposed framework is intended to promote innovation and competition in the trading of derivatives and to permit the markets the flexibility to respond to technological and structural changes in the markets.”).

Under the provisions of Section 4(c), the Commission may grant exemptive relief if it determines that: (1) the exemption is appropriate for the transaction and consistent with the public interest; (2) the exemption is consistent with the purposes of the Commodity Exchange Act; (3) the transaction will be entered into solely between “appropriate persons”; and (4) the exemption will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory responsibilities under the Act.¹⁰²

B. Event Markets are in the Public Interest

Like the futures and swaps markets, event markets serve a *bona fide* economic purpose of price discovery and should not be considered gaming. However, because event contracts may not be useful for hedging or price basing¹⁰³ by the participants in the market, they should be distinguished from traditional futures and swaps through the creation of a separate category.

When Congress first contemplated regulating the grains futures markets in the early 20th century, it was met with resistance by those who believed the federal government was, in effect, legalizing national gambling.¹⁰⁴ Congress ultimately determined that futures markets have a *bona fide* economic purpose that serve the public interest and warrant federal oversight, and, in 1922, it passed the Grain Futures Act regulating grain futures exchanges.¹⁰⁵ Since then, Congress has extended regulation of derivatives to a growing list of commodities enumerated in the Commodity Exchange Act.¹⁰⁶ It also has extended federal oversight of derivatives to

¹⁰² 7 U.S.C. § 6(c)(2).

¹⁰³ Hedging is defined as “a derivative transaction or position that represents a substitute for transactions or positions to be taken at a later time in a physical marketing channel.” *Speculative Limits*, CFTC, <https://www.cftc.gov/IndustryOversight/MarketSurveillance/SpeculativeLimits/index.htm> (last visited May 17, 2019). It allows market participants to reduce their exposure to various risks of adverse price movements by making two investments with negative correlations. Price basing, as defined by the CFTC, refers to the situation where producers, processors, merchants, or consumers of a commodity establish commercial transaction prices based on the futures prices for that or a related commodity.

¹⁰⁴ In a 1921 floor speech, U.S. Senator Arthur Capper from Kansas decried futures markets as “gambling hell”: “Mr. President, it is against the law to run a gambling house anywhere within the United States. But today under the cloak of business respectability, we are permitting the biggest gambling hell [sic] in the world to be operated on the Chicago Board of Trade.” 61 CONG. REC. 4761, 4763 (Aug. 9, 1921) (remarks of Sen. Capper). If the farmer is to survive, said Senator Capper, “the grain gambler must go.” *Id.* at 4768.

¹⁰⁵ 42 Stat. 998 at Sec. 3 (1922) (“Transactions in grain involving the sale thereof for future delivery as commonly conducted on boards of trade and known as ‘futures’ are affected with a national public interest . . .”).

¹⁰⁶ The Commodity Exchange Act of 1936 expanded the Grain Futures Act to cover—instead of just grain—wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs and *Solanum tuberosum* (Irish potatoes). In 1938, Congress added wool tops to the list of regulated commodities, and, in 1940, added fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil, and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, and soybean meal to the list. Congress continued to amend the Commodity Exchange Act, each time expanding the list of regulated commodities. *See History of the CFTC*, CFTC, https://www.cftc.gov/About/HistoryoftheCFTC/history_precftc.html (last visited May 17, 2019). As a later Senate report explained:

The expansion in the scope of the [Commodity Exchange Act] and the creation of the Commission were designed to accomplish two basic goals: (I) to provide a uniform regulatory structure

options¹⁰⁷ and most recently to swaps,¹⁰⁸ even over objections by some who called them “financial weapons of mass destruction.”¹⁰⁹ Congress and the Commission continue to realize and promote the economic value of the futures and swaps markets to market participants and the broader economy.

Like the futures and swaps markets, event markets serve a *bona fide* economic purpose of price discovery. Price discovery is the process of determining the price of a commodity or financial instrument in the marketplace through the interactions of buyers and sellers. Traders with information and opinions participate in the markets to realize a profit from their knowledge. When new information becomes known, the buy and sell actions of market participants, including speculators, cause changes in the prices of derivatives which provide market participants, as well as the public at-large, information about the collective view of prices for the underlying commodity or instrument. The price discovery process serves a useful economic purpose by allowing traders to take positions in the market based on their perceptions on various tangible and intangible factors—such as supply and demand, investor risk attitudes, and the overall economic and geopolitical environment—to arrive at a price or probability of an event’s occurrence. And, as has been discussed above,¹¹⁰ researchers, businesses, and governments use this price discovery aspect of event markets to further their research, manage their business operations, and set policy.¹¹¹

Moreover, because event markets provide an economic purpose, they are distinguishable from pure gaming. Traditional gaming provides a venue for participants to place a bet on the outcome of a sports contest or other event, and its primary and ultimate purpose is to benefit the trading participants and the operator of the venue who is the counterparty to the trade.¹¹²

covering all futures trading in both the regulated and previously unregulated commodities, and (2) to allow for the extension of the economic benefits of futures trading under this structure to those areas of commerce where the risk-shifting and price discovery functions of futures markets might prove to be of value.

1978 Senate Report at 10, *reprinted in* [1978] U.S. CODE CONG. & AD. NEWS 2087, 2109-11.

¹⁰⁷ On September 8, 1981, the Commission adopted regulations to govern exchange-trading of options on futures contracts. *CFTC History in the 1980s*, CFTC, https://www.cftc.gov/About/HistoryoftheCFTC/history_1980s.html (last visited May 17, 2019).

¹⁰⁸ See Dodd–Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376-2223 (2010), at Title VII.

¹⁰⁹ Warren Buffett, *Berkshire Hathaway Annual Report: Letter to Shareholders*, BERKSHIRE HATHAWAY INC. (2002) at 15. <http://www.berkshirehathaway.com/2002ar/2002ar.pdf>.

¹¹⁰ See *supra* Part III.

¹¹¹ See Valerio Restocchi et al., *The Stylized Facts of Prediction Markets: Analysis of Price Changes*, PHYSICA A: STATISTICAL MECHANICS AND ITS APPLICATIONS (forthcoming Feb. 1, 2019), <https://doi.org/10.1016/j.physa.2018.09.183> (“Prediction markets are a powerful tool to make accurate predictions about the outcome of an event and, for this reason, they attract the interest of researchers and practitioners alike.”); Concept Release, *supra* note 8, at 25672 (“[I]nnovative event markets have the capacity to facilitate the discovery of information, and thereby provide potential benefits to the public.”).

¹¹² See also Letter from Christopher P. Rabalais, CEO, Crystal World Markets to David A. Stawick, Secretary, CFTC (July 7, 2008), at 5,

Gambling casinos, moreover, do not release their trading data or aggregate such data to provide non-participants any benefit from the gambling activity. On the other hand, event markets serve as information aggregation vehicles for the benefit of both participants *and* non-participants in the contracts.

However, unlike traditional futures and options, event contracts may not be as useful for hedging or price basing. There ordinarily would not be a sufficiently close relationship between the price of the event contract and the value of a trader's event markets position, and the price of a commodity or instrument for which the trader has economic risk.¹¹³ In view of these differences, the Commission should consider a separate regulatory structure for event markets that could distinguish them from traditional futures and options.¹¹⁴

C. Recognizing the Economic Utility of Event Markets, Including the Creation of a New Regulatory Category, is Consistent with the Purposes of the Commodity Exchange Act

Providing legal certainty for the trading of event markets is consistent with the purposes of the Commodity Exchange Act because Section 3 of the Act provides that transactions subject to the Act affect the public interest by “providing a means for managing and assuming price risks, discovering prices, or disseminating pricing information through trading in liquid, fair and financially secure trading facilities.”¹¹⁵ As described above, event markets provide a price discovery function by aggregating information that produces price information about the likelihood of an event occurring that enhances decision-making. As also noted above, the economic benefits offered by these types of markets are becoming more widely recognized, but the markets cannot realize their full potential without addressing the significant legal uncertainty associated with trading in these markets.

<https://www.cftc.gov/sites/default/files/idc/groups/public/@Irfederalregister/documents/ircomment/08-004c023.pdf> (“Gaming contracts might be thought of as contracts that are dependent upon the outcome of discrete events that are not associated with a financial, commercial or economic consequence, but rather have utility only for their entertainment value. Thus, a contract that is contingent upon the outcome of a specific sporting event is unlikely to be associated with a financial, commercial or economic consequence and its primary or sole utility to the parties entering into the contract is its entertainment value.”).

¹¹³ This is not to say, though, that event markets could not one day grow and evolve to become liquid enough to support hedging. *See, e.g.*, Letter from 19 Academic Researchers to Hon. Gary Gensler, Chairman, CFTC, regarding the Northern American Derivatives Exchange (“Nadex”) Application to List Political Event Contracts (Feb. 3, 2012).

<https://www.cftc.gov/sites/default/files/stellent/groups/public/@rulesandproducts/documents/ildocs/cricitzewitzltr020312.pdf> (“In addition, if allowed to operate onshore, political event futures markets might eventually grow to the point where they provide useful hedging opportunities for firms.”).

¹¹⁴ *See generally* Cherry & Rogers, *supra* note 71, at 865 (arguing that, if the CFTC were to regulate event markets, such regulation “must take into account the unique expressive elements of prediction markets, which differentiate them from commodities trading . . . [T]rading on ideas is not the same as trading on bushels of wheat, the movement of currency prices, or other fungible goods. This is a distinction with a difference that should be reflected in any regulatory structure that might be applied to prediction markets.”).

¹¹⁵ 7 U.S.C. § 5(a).

Section 3 also provides that, to further the public interest noted above, it is the purpose of the Commodity Exchange Act “to deter and prevent price manipulation or any other disruptions to market integrity; to ensure the financial integrity of all transactions . . . and the avoidance of systemic risk; [and] to protect all market participants from fraudulent or other abusive sales practices and misuses of customer assets.”¹¹⁶ Providing legal certainty for the trading of event markets via the creation of a separate event markets regulatory regime will help ensure that the markets are free from manipulation, fraud, and other abuses, and will help ensure that they are financially sound with protections for market participants.

Finally, Section 3 states that the purpose of the Commodity Exchange Act is to “promote responsible innovation and fair competition among boards of trade, other markets and market participants.”¹¹⁷ As noted above, the current state of federal regulation of event markets is quite comparable to the situation when federal oversight of futures was first contemplated. In that regard, both futures in the earlier part of the 20th century and event markets in the 21st century were initially thought to be speculative vehicles only, but later were found to have useful economic benefits to individual market participants and the broader economy.¹¹⁸

D. Appropriate Persons in Event Markets

Rules related to the trading of event markets should be tailored so that contracts are entered into solely between “appropriate persons.” Section 4(c) defines “appropriate persons” to include, among others, those “the Commission determines to be appropriate in light of their financial or other qualifications, or the applicability of appropriate regulatory protections.”¹¹⁹ To ensure liquidity in the markets and provide for a broad and divergent group of traders to participate and yield the best results, the Commission should allow retail traders to engage in these markets. A set of core principles should be established to address the potential for manipulation, fraud, and other abuses, similar to the existing rules and requirements applicable to exchanges offering retail trading in futures and swaps.

We believe that the criteria, procedures, and requirements for approval as an event market could be generally based on the core principles and guidance that currently apply to DCMs and swap execution facilities (“SEFs”).¹²⁰ Since event markets likely would permit retail

¹¹⁶ 7 U.S.C. §5(b).

¹¹⁷ *Id.*

¹¹⁸ As the conferees noted in adopting Section 4(c), the exercise of this exemptive authority is appropriate for the Commission to provide legal certainty to novel instruments where the determination as to jurisdiction is not straightforward. 5 H.R. Rep. No. 978, 102d Cong., 2d Sess. 82-83 (1992).

¹¹⁹ 7 U.S.C. § 6(c)(3)(K).

¹²⁰ See *Designated Contract Markets (DCMs)*, CFTC, <https://www.cftc.gov/IndustryOversight/TradingOrganizations/DCMs/dcmhowto.html> (last visited May 17, 2019) (“How to Become a Designated Contract Market”); *Swaps Execution Facilities (SEFs)*, CFTC, <https://www.cftc.gov/IndustryOversight/TradingOrganizations/SEF2/sefhowto.html> (last visited May 17, 2019) (“How to Register as a Swap Execution Facility”).

traders to participate, these markets would most resemble traditional futures exchanges, which also may allow access to their facilities by all types of traders. Accordingly, the core principles and rules applicable to DCMs may best serve as a template for an event market regulatory framework. For example, the Commission adopted Part 38 of its CFTC regulations along with Appendices A and B to provide specific information on the requirements and guidance to applicants seeking to become designated as DCMs.¹²¹ The Commission could similarly adopt a new section of its regulations, say Part 47, with relevant appendices that would provide specific information on the requirements and guidance to applicants seeking to become and remain registered as event markets.

These requirements could include:

- (i) market and trade practice surveillance;
- (ii) position limits to address manipulation and undue influence by single traders;
- (iii) audit trail and recordkeeping;
- (iv) financial integrity of contracts;
- (v) availability of general information;
- (vi) publication of trading information;
- (vii) customer verification;
- (viii) “know your customer” (KYC) / anti-money laundering (AML) information; and
- (ix) system safeguards and cybersecurity oversight.

The above is a suggested framework. The Commission may determine to adopt other requirements, such as additional tailored rules to address specific issues associated with trading and oversight of these markets, to accomplish its objectives of preventing fraud and manipulation, and ensuring that the markets provide their information aggregation function.

E. An Event Markets Category Will Not Adversely Affect the Commission's Authority to Carry Out its Regulatory Responsibilities

Providing for oversight of event markets would not have an adverse effect on the ability of the Commission to discharge its regulatory responsibilities. Such oversight will neither change the CFTC's statutory authority over the futures and swaps markets nor will it hinder the Commission's other critical regulatory responsibilities. Rather, the potential creation of a new event markets category would enhance the Commission's ability to police an already growing

¹²¹ 17 CFR Part 38; 17 CFR Appendix A to Part 38; 17 CFR Appendix B to Part 38.

marketplace for event contracts and ensure that this space is appropriately supervised without impeding innovation. The Commission will ultimately need to reign in venues that are operating and being created completely “off the grid”—i.e., away from any regulator, away from any no-action relief, and without regard to protecting against fraud and manipulation. But without a regulatory framework over the entities in question, such efforts will be much more difficult and costly.

Since event contracts customarily are listed as binary options under the Commodity Exchange Act, they cannot be classified as futures or options on futures. The other product classification identified in the Act is the swap category, which defines swaps, in part, as any contract that provides for payment on the “occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence.”¹²² Though futures and swaps are similar to event contracts, neither have the same economic, information aggregation purpose as event contracts.¹²³ We recommend that the Commission find that event contracts warrant the establishment of a new regulatory category and use its Section 4(c) authority to create such category and the attendant rules and regulations governing the operation of markets operating under that regulatory regime.

VII. The Nadex Order Should Not Hinder the CFTC from Creating a Separate Regulatory Category

Though this Petition is not restricted to the listing of political event contracts, Aristotle wishes to address the concerns raised in the Nadex Order.¹²⁴ Aristotle does not believe that the Commission’s 2012 order prohibiting Nadex, a registered DCM, from introducing “political event contracts” should prevent the Commission from addressing this Petition. As discussed above, providing legal certainty for event markets (including those that list political event contracts) is appropriate and in the public interest because event markets serve a legitimate economic purpose of information aggregation and are not gaming.

In its Nadex Order, the CFTC held that the political event contracts sought to be listed were contrary to the public interest because the contracts could not reasonably be expected to be used for hedging, and that they created an adverse effect on the integrity of elections by creating monetary incentives to vote for particular candidates even when such a vote may be contrary to the voter’s political views of such candidates.¹²⁵ It also ruled that trading on political events amounted to gambling based on a review of several state statutes that link the terms gaming or gambling to betting on elections.¹²⁶

¹²² 7 U.S.C. § 1a(47); 17 CFR 1.3.

¹²³ See *infra* Part III.

¹²⁴ See *supra* Part V.A.

¹²⁵ Nadex Order, *supra* note 58, at 3-4.

¹²⁶ *Id.* at 2. Under Section 5c(c)(5)(C)(i) of the Commodity Exchange Act, the Commission is prohibited from listing event contracts on DCMs and SEFs that involve gaming. 7 U.S.C. § 7a-2(c)(5)(C)(i); 17 C.F.R. § 40.11(a).

The Commission, if it so chose and for consistency with its Nadex Order, could maintain its earlier position prohibiting the listing of political event contracts on DCMs because of its finding that these markets do not serve a traditional hedging and pricing function (which are the core economic purposes of contracts listed by DCMs). Under this scenario, the Commission could find, for reasons set forth above, that event markets—including those that list political event contracts—do serve price discovery or information aggregation functions. Political event markets, as well as other types of markets, that do not readily provide efficient hedging and pricing functions would then be regulated under a separate regulatory framework that is specifically designed to address the operation of information aggregation markets and any unique issues or concerns associated with them.

With respect to the concern that political event contracts may have an adverse effect on the integrity of elections, we believe that this potential concern is addressed through appropriate regulation and oversight of such event markets. It is incorrect to link political event contracts with gaming because of the economic purpose of the predictive nature of event markets. Pushing a political events contract market away from reasonable and appropriate federal regulation and oversight will diminish the importance of protecting these markets from fraud and manipulation. Position limits for the purposes of protecting against manipulation are not the focus of state gambling statutes.¹²⁷

Under state regulation, to the detriment of market participants, there will be an unpoliced environment for market manipulation, including traders taking large positions that will convey false public sentiment for a certain outcome. Such inaccurate portrayals of public sentiment are not only inconsistent with the economic purpose of such markets, but also could influence the viabilities of candidates and have a material impact on the outcome of elections. Comprehensive, regulated event market exchanges with rules related to transparency, fair trading, recordkeeping, and position limits, among other requirements, should prevent and deter abusive trading activity that, in an unregulated environment, would be contrary to the public interest.

Finally, with respect to the finding that certain state laws define betting on elections as gaming, we believe that the Commission should find that political event markets provide a *bona fide* economic purpose that distinguishes them from gambling. To ensure the integrity of the economic purpose of these markets, trading should take place on regulated markets at the federal level. If the CFTC makes this finding and establishes a regulatory framework for oversight of these markets, then the federal regulation would supersede state gaming laws to allow for a consistent set of rules governing this activity.¹²⁸

¹²⁷ Operators of sportsbooks do limit the amount that can be wagered, but do not do so to protect the participant or the integrity of their market; rather, limits are reportedly done to protect the profitability of the sportsbook operator. M.F., *How Bookmakers Deal with Winning Customers*, THE ECONOMIST (Oct. 4, 2017), <https://www.economist.com/the-economist-explains/2017/10/04/how-bookmakers-deal-with-winning-customers>.

¹²⁸ Section 12(e) of the Commodity Exchange Act generally provides that the Act supersedes other laws, including state and local gaming and bucket shop laws, with respect to transactions executed on or subject to the rules of a Commission-regulated market, or with respect to transactions exempted from the Act pursuant to the Commission's

VIII. Conclusion

Aristotle understands that the process for reviewing, proposing, and finalizing a unique regulatory regime established through the Commission's Section 4(c) exemptive authority takes time and resources. The Commission should nonetheless use this opportunity to affirmatively claim jurisdiction over non-security based event markets to preserve its ability to more fully regulate them later. To permit flexibility and continued operational robustness on the eve of the 2020 national election, the Commission should concurrently permit event markets to continue evolving beyond certain confines under the current no-action relief until it is ready to directly regulate the industry. Aristotle understands that a separate request for specific amendments to Victoria University's existing no-action letter also is being submitted.

The CFTC, in overseeing the U.S. derivatives markets, is charged with ensuring such markets are in the public interest and provide useful economic functions, such as managing business or other investment risks and serving as price discovery instruments. The economic value of event markets lies in their ability to aggregate information from many market participants. Without the engagement of a federal regulator, trading activity in event markets can be expected to migrate to either wholly unsupervised offshore internet gaming platforms, or to sports betting platforms regulated as gaming at the state level. As explained above, what distinguishes sports betting and gaming from regulated derivatives markets is the underlying economic value provided by these markets that can inform business decisions in interstate commerce. A fragmented and restrictive regulatory environment on a state-by-state basis would severely undermine traders' ability to aggregate data to usefully inform business or other decision makers and risk managers affected by the outcome of such events. The information produced by an unsupervised internet gaming site will simply not yield valuable data and will exist only for the purpose of meeting the gaming interests of its participants. Either outcome undermines the economic value of the aggregated trade data now produced by PredictIt under Victoria University's current no-action relief.

* * *

exemptive authority under Section 4(c) of the Act. 7 U.S.C. § 16(e); *see also* Concept Release, *supra* note 8, at 25673 (summarizing Section 12(e) of the Act).

Mr. Amir Zaidi
May 20, 2019
Page 30

ARISTOTLE
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For the foregoing reasons, Aristotle respectfully requests that the Commission use its exemptive authority to formally address the status of event markets by promulgating rules related to the trading in such markets, such as the creation of a separate regulatory category. In the interim, Aristotle asks that the Commission reaffirm its jurisdiction over event markets to preserve its ability to more fully regulate these markets at a later time and amend certain conditions in the current no-action relief.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'John Aristotle Phillips', followed by a horizontal line.

John Aristotle Phillips
CEO
Aristotle International, Inc.

CC: Chairman J. Christopher Giancarlo
Commissioner Brian D. Quintenz
Commissioner Rostin Behnam
Commissioner Dawn DeBerry Stump
Commissioner Dan M. Berkovitz
Daniel J. Davis, General Counsel

Certification Pursuant to Commission Rule 140.99(c)(3)(i)

The undersigned hereby certifies that the material facts set forth in the attached letter, dated May 20, 2019, are true and complete to the best of my knowledge.

Pursuant to Commission Rule 140.99(c)(3)(ii), Aristotle International, Inc. hereby undertakes that, if at any time prior to the issuance of such no-action letter(s), any material representation made in this letter ceases to be true and complete, it will promptly inform the Commission staff in writing of any material change in facts and circumstances.

Aristotle International, Inc.

Dated: May 20, 2019

By: 

John Aristotle Phillips

Title: CEO

From: Raimondi, Philip
Sent: 28 Aug 2019 15:06:03 -0400
To: McGonagle, Vincent A.
Cc: Curtis, Jeanette
Subject: PredictIt
Attachments: Talking Points - PredictIt_08.28.19.docx, Draft 2018 PredictIt
NAL_08.28.19.docx, Victoria - Amended No Action Relief Request (4.29.19).pdf, Artistotle - 4(c) Petition
Letter (Final 5.20.19).pdf

Hi Vince,

(b)(5)

Philip W. Raimondi

Special Counsel, Office of Chief Counsel

Division of Market Oversight, U.S. Commodity Futures Trading Commission

1155 21st Street, NW | Washington, DC 20581 | praimondi@cftc.gov

Tel: 202.418.5717 | Cell: 202.322.8249 | Fax: 202.418.5507

From: Raimondi, Philip
Sent: 23 Aug 2018 16:01:46 +0000
To: Van Wagner, David
Subject: Smart Contract Primer and PredictIt Draft Letter
Attachments: Smart Contracts Primer DRAFT 08012018 v3.pptx, Smart Contracts Primer DRAFT 08012018 v3_Word_Version.rtf, Draft 2018 PredictIt NAL_07.10.18.docx

Hi David:

As discussed, please see attached. I also created a word version of the powerpoint for redlining, but it may be a little tough to follow.

(b)(5)

Philip W. Raimondi

Special Counsel, Office of Chief Counsel

Division of Market Oversight, U.S. Commodity Futures Trading Commission

1155 21st Street, NW | Washington, DC 20581 | praimondi@cftc.gov

Tel: 202.418.5717 | Cell: 202.322.8249 | Fax: 202.418.5507

From: Zaidi, Amir
Sent: 1 Oct 2018 14:06:55 -0400
To: Van Wagner, David; Raimondi, Philip
Subject: FW: Coverage of PredictIt's markets

FYI.

From: Gill, Michael
Sent: Monday, October 01, 2018 1:24 PM
To: Zaidi, Amir; Bussey, Brian; Tuckman, Bruce; Srinivasan, Sayee
Subject: FW: Coverage of PredictIt's markets

I'm sure he's sent it to you also, but FYI if not.

From: Green, Micah [mailto:mgreen@Steptoe.com]
Sent: Monday, October 1, 2018 10:27 AM
To: Gill, Michael
Cc: Shilts, Richard
Subject: Coverage of PredictIt's markets

Dear Mike

Hope you are well. I thought you would find this Economist piece from Friday interesting in demonstrating how trade data from PredictIt is a real time and instructive report of public sentiment, which is the core of the predictive value of the trading platform.

Talk soon. Are you going to SIFMA later?

Micah

<https://www.economist.com/graphic-detail/2018/09/28/brett-kavanaugh-may-have-fared-better-with-senators-than-voters>

Micah S Green
Partner

Steptoe

Steptoe & Johnson LLP | 1330 Connecticut Avenue, NW | Washington, DC 20036
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From: Van Wagner, David
Sent: 16 Oct 2018 16:16:55 -0400
To: Raimondi, Philip;Curtis, Jeanette
Subject: PredictIt NAL
Attachments: Draft 2018 PredictIt NAL_07.10.18 DVW 10 09 18.docx

Believe it or not.....see the attached with my suggested revisions and comments.

From: Raimondi, Philip
Sent: 7 Nov 2018 23:10:34 +0000
To: Van Wagner, David;Curtis, Jeanette
Subject: Revised PredictIt NAL
Attachments: Draft 2018 PredictIt NAL_11.7.18.docx

Discussion of draft revised PredictIt NAL. I accepted David's edits, but left a few of his comments for further discussion.

✕

Philip W. Raimondi
Special Counsel, Office of Chief Counsel
Division of Market Oversight, U.S. Commodity Futures Trading Commission
1155 21st Street, NW | Washington, DC 20581 praimondi@cftc.gov
Tel: 202.418.5717 Cell: 202.322.8249 Fax: 202.418.5507

From: Kuserk, Gregory
Sent: 6 Dec 2018 16:36:30 -0500
To: Van Wagner, David;Raimondi, Philip
Subject: PredictIt

Don't they have a no action from us?

A Post reporter provided this detail about Trump's former press secretary:



Sean Spicer

Who do you think the next
will be? We weighed in on this week's
poll. Visit [betting site](#) and get \$25 to
place your bets

8

42



Drew Harwell

Why does [@realDonaldTrump](#) keep posting links to the political
betting site [betting site](#) (including one today, now deleted,
about the Mueller probe)? The company pays him for
new signups, a spokesman said. Won't say how much,
but says, "I can assure you it's not that much"

Read the full story at [Washington Post](#)

From: Van Wagner, David
Sent: 6 May 2019 14:47:05 -0400
To: Raimondi, Philip
Cc: Curtis, Jeanette
Subject: RE: PredictIt Draft Letter
Attachments: Draft 2018 PredictIt NAL_04.12.19 DVW 05 06 19.docx

Phil,

Apologies for the foot dragging on this item.

The attached reflects some minor suggested edits and comments.

DVW

David P. Van Wagner
Chief Counsel
Division of Market Oversight
Commodity Futures Trading Commission
1155 21st Street, NW | Washington, DC 20581 | Tel: 202.418.5481

From: Raimondi, Philip
Sent: Friday, April 12, 2019 12:52 PM
To: Van Wagner, David
Cc: Curtis, Jeanette
Subject: PredictIt Draft Letter

Hi David:

Please find attached a current draft version of a revised NAL for PredictIt as well as an old talking points document prepared by Jeanette. Thanks.

Philip W. Raimondi
Special Counsel, Office of Chief Counsel
Division of Market Oversight, U.S. Commodity Futures Trading Commission
1155 21st Street, NW | Washington, DC 20581 | praimondi@cftc.gov
Tel: 202.418.5717 | Cell: 202.322.8249 | Fax: 202.418.5507

From: Curtis, Jeanette
Sent: 21 May 2019 10:12:04 -0400
To: Raimondi, Philip
Subject: FW: [EXTERNAL] Letter from Victoria University
Attachments: Victoria - Amended No Action Relief Request (4.29.19).pdf

(b)(5)

From: Van Wagner, David
Sent: Tuesday, May 21, 2019 9:36 AM
To: Raimondi, Philip; Curtis, Jeanette; Brown, Dana
Subject: FW: [EXTERNAL] Letter from Victoria University

FYI

David P. Van Wagner
Chief Counsel
Division of Market Oversight
Commodity Futures Trading Commission
1155 21st Street, NW | Washington, DC 20581 | Tel: 202.418.5481

From: Green, Micah [mailto:mgreen@Steptoe.com]
Sent: Monday, May 20, 2019 10:53 PM
To: Zaidi, Amir; Van Wagner, David
Cc: Shilts, Richard; Kim, Grace
Subject: [EXTERNAL] Letter from Victoria University

Dear Amir and David

Per my earlier email and our discussions, attached is a letter from Victoria University of Wellington seeking modest changes to the existing no action relief granted to PredictIt. This is intended to be an interim measure while the Commission appropriately deliberates on the petition for use of exemptive authority to provide an appropriate regulatory framework for event contract markets.

Implementing these modest changes will ensure that PredictIt can continue to provide robust and liquid markets that have integrity and are free of manipulation while the Commission engages in its broader policy review.

We are happy to discuss this at your convenience.

Thank you very much.

Micah

Micah S. Green
Partner



Steptoe & Johnson LLP | 1330 Connecticut Avenue, NW | Washington, DC 20036
202.429.6290 direct | 202.550.2823 mobile | mgreen@steptoe.com

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From: Van Wagner, David
Sent: 10 Jun 2019 11:27:58 -0400
To: Streit, Elizabeth M.
Cc: Raimondi, Philip
Subject: RE: No Action Letter 14-130 to Victoria University on October 29,2014

Not a problem.

David P. Van Wagner
Chief Counsel
Division of Market Oversight
Commodity Futures Trading Commission
1155 21st Street, NW | Washington, DC 20581 | Tel: 202.418.5481

From: Streit, Elizabeth M.
Sent: Monday, June 10, 2019 11:15 AM
To: Van Wagner, David
Cc: Raimondi, Philip
Subject: RE: No Action Letter 14-130 to Victoria University on October 29,2014

Ok – I understand. I'll just check in once and a while if you don't mind- after we get the new Chairman.

Elizabeth M. Streit
Chief Trial Attorney
Commodity Futures Trading Commission
525 West Monroe Suite 1100
Chicago, Illinois 60661
312-596-0537
312-404-4021
estreit@cftc.gov

From: Van Wagner, David
Sent: Monday, June 10, 2019 10:11 AM
To: Streit, Elizabeth M.
Cc: Raimondi, Philip
Subject: RE: No Action Letter 14-130 to Victoria University on October 29,2014

Elizabeth,

(b)(5)

DVW

David P. Van Wagner

Chief Counsel
Division of Market Oversight
Commodity Futures Trading Commission
1155 21st Street, NW | Washington, DC 20581 | Tel: 202.418.5481

From: Streit, Elizabeth M.
Sent: Monday, June 10, 2019 11:02 AM
To: Van Wagner, David
Subject: RE: No Action Letter 14-130 to Victoria University on October 29,2014

(b)(5)

Elizabeth M. Streit
Chief Trial Attorney
Commodity Futures Trading Commission
525 West Monroe Suite 1100
Chicago, Illinois 60661
312-596-0537
312-404-4021
estreit@cftc.gov

Duplicate

From: Curtis, Jeanette
Sent: 28 Mar 2018 15:26:28 -0400
To: Van Wagner, David;Raimondi, Philip
Subject: PredictIt Call Notes
Attachments: Notes from 3.27.18 call with PredictIt.docx

David and Phil - attached are my rough notes on our call with PredictIt. I'll bring extra copies to our meet with Amir.

Thanks,

Jeanette

Jeanette Curtis

Special Counsel | Office of Chief Counsel

Division of Market Oversight

U.S. Commodity Futures Trading Commission

1155 21st Street, NW | Washington, DC 20581 | Tel: 202.418.5669 | JCurtis@cftc.gov

From: Van Wagner, David
Sent: 24 Jan 2018 17:46:20 -0500
To: Shilts, Richard;Curtis, Jeanette
Cc: Raimondi, Philip
Subject: RE: PredictIt Follow-up

Rick,

Hi. Jeanette is out this week, but I think that Phil Raimondi and I can chat with you tomorrow at 2:30. (Not a random time selection. It looks like that's about the best 30 minute spot that we have.)

Thanks,
David

From: Shilts, Richard [mailto:rshilts@Steptoe.com]
Sent: Wednesday, January 24, 2018 10:17 AM
To: Curtis, Jeanette
Cc: Van Wagner, David
Subject: PredictIt Follow-up

Jeanette and David, I just wanted to follow-up on this. Amir had mentioned to Micah last week at the ABA conference that you have some questions about the loss limitation and thought that you would be getting back to us this week. Thanks much.

Rick

-----Original Message-----

From: Curtis, Jeanette [mailto:JCurtis@CFTC.gov]
Sent: Wednesday, January 03, 2018 1:47 PM
To: Shilts, Richard
Subject: RE: PredictIt Follow-up

Hi Rick,

Understood, and will do!

Thanks again,

Jeanette

-----Original Message-----

From: Shilts, Richard [mailto:rshilts@Steptoe.com]

Sent: Wednesday, January 03, 2018 12:01 PM
To: Curtis, Jeanette
Subject: RE: PredictIt Follow-up

OK. Thanks. Please contact me or Micah as soon as you have your follow-up questions (our client keeps asking). We appreciate your work on this.

Rick

-----Original Message-----

From: Curtis, Jeanette [<mailto:JCurtis@CFTC.gov>]
Sent: Wednesday, January 03, 2018 11:55 AM
To: Shilts, Richard
Cc: Van Wagner, David
Subject: RE: PredictIt Follow-up

Hi Rick,

Thanks very much for reaching out.

Yes, I inherited this matter from David Pepper.

David Van Wagner and I are in the process of formulating our follow-up questions and will circle back as soon as we're done, hopefully within the next week or so.

In the interim, please let me know if you have any further inquiries.

Thanks again,

Jeanette

-----Original Message-----

From: Shilts, Richard [<mailto:rshilts@Steptoe.com>]
Sent: Tuesday, January 02, 2018 5:58 PM
To: Curtis, Jeanette
Cc: Van Wagner, David
Subject: PredictIt Follow-up

Hi Jeanette, I understand that you are taking over for David Pepper on the PredictIt review. We wanted to follow up and see if you had any comments or questions about our recent draft no action letter. I was going to reach out to David Van Wagner but understand that he is away for a couple of weeks. Please feel free to contact me or Micah Green about any issues or questions you may have about the filing. Thanks much.

Rick Shilts

Richard Shilts
Senior Policy Advisor
Step toe & Johnson LLP
202 429-6201

From: Curtis, Jeanette
Sent: 15 Mar 2018 15:18:01 -0400
To: Raimondi, Philip
Subject: FW: Request for Amended No Action Relief for PredictIt
Attachments: Signed Final Request for Amended Relief - CFTC Letter.pdf

•(5)

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From: Curtis, Jeanette
Sent: 15 Mar 2018 16:11:24 -0400
To: Van Wagner, David
Cc: Raimondi, Philip
Subject: FW: Request for Amended No Action Relief for PredictIt
Attachments: Signed Final Request for Amended Relief - CFTC Letter.pdf

Hi David,

•(5)

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From: Curtis, Jeanette
Sent: 19 Mar 2018 10:03:37 -0400
To: Raimondi, Philip
Subject: FW: Request for Amended No Action Relief for PredictIt

FYI ... I'm going to schedule a quick meet with David to discuss how he wants to handle next steps. It

(b)(5)

From: Zaidi, Amir
Sent: Sunday, March 18, 2018 11:40 AM
To: Van Wagner, David; Curtis, Jeanette
Subject: Re: Request for Amended No Action Relief for PredictIt

I read the revised letter. Generally I am fine with it, but a few questions and comments.

(b)(5)

Thanks,
Amir

duplicate

From: Curtis, Jeanette
Sent: 19 Mar 2018 10:25:07 -0400
To: Zaidi, Amir; Van Wagner, David
Cc: Raimondi, Philip
Subject: RE: Request for Amended No Action Relief for PredictIt

Thanks very much, Amir.

I've scheduled some time to discuss your points with David and Phil, who is also helping on this matter.

(b)(5)

Thanks,

Jeanette

Duplicate

From: Curtis, Jeanette
Sent: 20 Mar 2018 16:13:16 -0400
To: Zaidi, Amir
Cc: Van Wagner, David;Raimondi, Philip
Subject: RE: Request for Amended No Action Relief for PredictIt
Attachments: Signed Final Request for Amended Relief - CFTC Letter.pdf, CFTC NAL - 14-130.pdf

Hi Amir,

Please see below for a draft response to PredictIt's no-action relief request. I bracketed and highlighted a couple items for feedback from you. For reference, I also attached the 2014 staff no-action letter for PredictIt.

Please let us know if you have any questions or would like us to make changes.

Thank you,

Jeanette

(b)(5)

From: Curtis, Jeanette
Sent: 20 Mar 2018 16:53:40 -0400
To: Shilts, Richard
Cc: Van Wagner, David;geoff.todd@viclink.co.nz;Green, Micah;Zaidi, Amir;Raimondi, Philip
Subject: RE: Request for Amended No Action Relief for PredictIt

Hi Rick,

Thanks very much for the revised letter.

Amir asked that we follow up on a few points we would like to discuss with you.

■)(4)

Please let us know if you have any questions, and when you would like to discuss further. Thank you.

Kind regards,

Jeanette

•uplicate

From: Green, Micah
Sent: 11 Apr 2018 20:32:50 +0000
To: Geoff Todd
Cc: Curtis, Jeanette; Shilts, Richard; Zaidi, Amir; Van Wagner, David; Raimondi, Philip
Subject: Re: Request for Amended No Action Relief for PredictIt

Rick and I can meet.

Micah S. Green

Steptoe & Johnson LLP
202-429-6290 (o)
202-550-2823 (m)

On Apr 11, 2018, at 4:24 PM, Geoff Todd <geoff.todd@viclink.co.nz> wrote:

Hi

I am away in the mountains all next week.

Cheers

Geoff

Geoff Todd is a Director of Viclink Limited, a company registered in New Zealand. Viclink Limited is a member of the Financial Markets Foundation for Children (FMF) and is a member of the Financial Markets Foundation for Children (FMF) and is a member of the Financial Markets Foundation for Children (FMF).
Geoff Todd is a Director of Viclink Limited, a company registered in New Zealand. Viclink Limited is a member of the Financial Markets Foundation for Children (FMF) and is a member of the Financial Markets Foundation for Children (FMF) and is a member of the Financial Markets Foundation for Children (FMF).
Geoff Todd is a Director of Viclink Limited, a company registered in New Zealand. Viclink Limited is a member of the Financial Markets Foundation for Children (FMF) and is a member of the Financial Markets Foundation for Children (FMF) and is a member of the Financial Markets Foundation for Children (FMF).
www.viclink.co.nz

From: Curtis, Jeanette <JCurtis@CFTC.gov>
Sent: Thursday, 12 April 2018 3:42 a.m.
To: Shilts, Richard <rshilts@Steptoe.com>
Cc: Zaidi, Amir <AZaidi@CFTC.gov>; Van Wagner, David <dvanwagner@CFTC.gov>; Geoff Todd <geoff.todd@viclink.co.nz>; Green, Micah <mgreen@Steptoe.com>; Raimondi, Philip <PRaimondi@CFTC.gov>
Subject: RE: Request for Amended No Action Relief for PredictIt

Hi Rick,

We would like to schedule a follow-up call to discuss your request. Could you please let me know which times below work best on your end, or if you need me to send additional times?

Monday, 4/16: between 3:30-5:30PM
Tuesday, 4/17: between 4:00-5:30PM

Wednesday, 4/18: between 11AM - 12PM

Thanks very much,

Jeanette

■uplicate

From: Zaidi, Amir
Sent: 1 Oct 2018 14:06:55 -0400
To: Van Wagner, David; Raimondi, Philip
Subject: FW: Coverage of PredictIt's markets

FYI.

From: Gill, Michael
Sent: Monday, October 01, 2018 1:24 PM
To: Zaidi, Amir; Bussey, Brian; Tuckman, Bruce; Srinivasan, Sayee
Subject: FW: Coverage of PredictIt's markets

I'm sure he's sent it to you also, but FYI if not.

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