

Christopher Kirkpatrick, Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581
United States
www.cftc.gov

Chris Barnard
Germany

27 January 2021

**- Industry Filing IF 20-004
- 90-day Review of RSBIX NFL Futures Contracts
Proposed by Eris Exchange, LLC**

Dear Mr. Kirkpatrick.

Thank you for giving us the opportunity to comment on your 90-day Review of RSBIX NFL Futures Contracts Proposed by Eris Exchange, LLC (Industry Filing IF 20-004).

The Commodity Futures Trading Commission (Commission) announced on December 23, 2020 it has initiated a review, pursuant to CFTC Regulation 40.11(c), of RSBIX NFL futures contracts self-certified by Eris Exchange, LLC (ErisX) on December 15, 2020. ErisX self-certified three RSBIX NFL futures contracts: one based on the moneyline; the second on the point spread; and the third on total points for individual NFL games.

I would like to raise the following concerns that I have regarding these proposed NFL futures contracts.

Congressional intent

Section 745(b) of the Dodd-Frank Act amended Section 5c of the Commodity Exchange Act by adding the following under new (c)(5)(C)(i) concerning event contracts, which states that:

“EVENT CONTRACTS.—In connection with the listing of agreements, contracts, transactions, or swaps in excluded commodities that are based upon the occurrence, extent of an occurrence, or contingency (other than a change in the price, rate, value, or levels of a commodity described in section 1a(2)(i)), by a designated contract market or swap execution facility, the Commission may determine that such

agreements, contracts, or transactions are contrary to the public interest if the agreements, contracts, or transactions involve—

- (I) activity that is unlawful under any Federal or State law;
- (II) terrorism;
- (III) assassination;
- (IV) war;
- (V) gaming; or
- (VI) other similar activity determined by the Commission, by rule or regulation, to be contrary to the public interest.”

The proposed NFL futures contracts clearly “involve” an element of gaming, and are clearly contrary to the public interest.

Additional arguments raised by Eris Exchange are not sufficient

Eris Exchange states that, “To date, 25 States and the District of Columbia have authorized sports betting by licensed sportsbook businesses”.¹ However, 25 States still prohibit such gambling activities, which is significant.

Furthermore, according to Eris Exchange, “To the extent that a Licensed Sportsbook adjusts its odds for a particular sporting event, but when those adjustments differ materially from the more ‘natural’ odds established by an illegal off-shore operation, then customers may decide to shift their business to that illegal off-shore operation because they perceive the odds at the illegal off-shore operation to be more favorable to their preference”.

Whilst this may be a reasoned argument, I am not yet convinced that it is sufficient to outweigh the negative aspects associated with the proposed contracts; that they “involve” an element of gaming. I am also not convinced that the Commission bears the responsibility to level the playing field with “illegal off-shore operations”.

Yours sincerely

C.R.B.

Chris Barnard

¹ See Eris Exchange Submission, 14 December 2020, available at: <https://www.cftc.gov/sites/default/files/filings/ptc/20/12/ptc121520erisdcmcmdcm001.pdf>