



January 28, 2021

Acting Chairman Rostin Behnam
Commissioner Dan Berkovitz
Commissioner Brian Quintenz
Commissioner Dawn DeBerry Stump
Commissioner Heath Tarbert

Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

RE: CFTC Rule 40.11 Review of Proposed RSBIX NFL Futures Contracts

Dear Members of the Commodity Futures Trading Commission:

Stop Predatory Gambling provides responses below to three of the specific questions the Commission raised in its solicitation of public comment. Because we consider Question 6 the most important one of all, we put our response to that question first.

About Stop Predatory Gambling

A 501c3 non-profit based in Washington, DC, Stop Predatory Gambling is a national social reform network of individuals and partner groups with members of more than 1 million people.

Question 6: What factors should the Commission consider in determining whether these contracts are “contrary to the public interest”?

- 1) If approved by the CFTC, the proposed event contracts would further extend the institutionalized racism of state-sanctioned gambling and how it has reconfigured the nation’s tax code to benefit whites at the expense of black and brown people.**

The death of George Floyd has led almost every aspect of American life to be rightly scrutinized for its impact on black lives. State-sanctioned gambling, including its latest offering of commercialized sports betting, has eluded the spotlight because most state governments, liberal and conservative alike, are reaping tens of billions of dollars from it.

While on paper, racial groups are not required to pay different sets of taxes, the tax dollars derived from citizen gambling losses to commercialized sports betting and other forms of state-

sanctioned gambling represent a form of systemic racial discrimination if not by intent then certainly *by effect*.

The proliferation and continual expansion of government-sanctioned gambling cannot be fully understood unless seen through the lens of race. Government-sanctioned gambling began to intensify during the early 1970's when many whites blamed people of color, especially blacks and Latinos, for their own economic insecurities caused by real income stagnation and looming tax debts. It's snowballed since into an avalanche.

Commercialized gambling has now become the preferred method by legislators from both parties to fund state government services that everyone uses. The result has been a continual reconfiguration of state tax code to redistribute tax liability along racial lines in which black and brown tax dollars have steadily displaced white tax dollars. It has blocked capital accumulation for people of color, it has hoarded resources for many whites, and reallocated minority capital through unfair distributions of tax burdens.¹

Meanwhile, rationales for this mode of public finance places blame on minorities themselves for self-imposing these tax burdens. It's an example of racial oppression that extends Jim Crow practices into the 21st century. What makes it so pervasively insidious, however, is that it is accomplished in ways that are institutional, covert, and racial in almost every way but name.

Commercialized sports betting and other forms of government-sanctioned gambling are a key contributor to the massive wealth disparity between whites and blacks. State governments deliberately concentrate gambling locations in economically-distressed regions to entice more low-income citizens, often clustering outlets in neighborhoods with large numbers of minorities. They also aggressively target these communities with marketing campaigns shielded from truth-in-advertising regulations under the Federal Trade Commission.

The types of gambling that used to occur in African-American neighborhoods were local and private, and the money exchanged stayed in the community. Today, much of the tens of billions of dollars that state governments extract comes from low-income and minority communities and is redistributed to benefit residents of middle-class and upper-class communities which are disproportionately white.

Allowing sports books and casinos to lay off sports bets with futures contracts would further intensify the outflow of personal wealth from these same communities because these are the same communities who are already the most targeted by gambling operators.

¹ Hendricks, Dr. Kasey. 2017. *State Looteries: Historical Continuity, Rearticulations of Racism, and American Taxation*. Pg. 105

2) If approved by the CFTC, this proposal would further restrict mobility out of poverty for tens of millions of everyday Americans, whites and people of color alike.

The RSBIX NFL Futures Contracts proposal comes before the CFTC at a time when most Americans are financially broke: 45% of citizens have \$0 in savings and nearly 70% of Americans have less than \$1,000 in a savings account.²

Yet American families are on a collision course to lose more than \$1 trillion of personal wealth to commercialized gambling over the next eight years.³ That amount of losses will be even larger if the CFTC permits sportsbooks and casinos to lay off sports bets with event contracts.

Building assets, the accumulation and investment of savings, are key for anyone looking to make a better life. A home, a college fund, retirement accounts, a stock portfolio—these assets are the hallmarks of upper and middle class America, and they are all the result of savings. With so few low-income citizens holding these essential assets, they miss out on higher average returns than low-risk assets, as well as the power of compound interest.

Creating wealth by the accumulation of assets and the investment of savings is the direct opposite of what commercialized gambling represents and encourages.

When states bring in commercialized gambling including sports betting, the almost sole focus has been *to maximize profits, not protect the public interest*. That’s because a fundamental and irreconcilable conflict exists between the interests of state-sanctioned gambling and the public interest: the state is charged with protecting the public from the very business practices that generate more revenue for the state.

The resulting public policy implications have been the equivalent of putting Dracula in charge of the blood bank. These proposed gambling futures contracts, if authorized by the CFTC, will draw a lot more blood from everyday Americans and put it into that blood bank.

Question 1: “Do any of these contracts involve, relate to, or reference gambling as described in Commission regulation 40.11(a)(1)?”

We respectfully urge the Commissioners to reflect on why Congressional leaders would add commercialized gambling schemes to be included on a notorious list of activities to be prohibited from event contracts such as “terrorism,” “assassination,” and “war.” Was its inclusion a typo? Was it because Congress just didn’t understand that event contracts involving

² "Survey: 69% of Americans Have Less Than \$1,000 in Savings," Yahoo Finance, December 16, 2019
<https://finance.yahoo.com/news/survey-69-americans-less-1-171927256.html>

³ H2 Gambling Capital, 2018 <https://h2gc.com/>

the commercialized gambling business are no different than “grain futures,” as one commenter claimed in his recent letter of support to the Commission?

The reason why Congress included it on such a notorious list is because commercialized gambling is no ordinary commodity. Commercialized gambling is when state governments partner with corporate gambling interests to operate and market for-profit gambling to citizens and their communities.

What separates commercialized sports betting and other forms of commercialized gambling from every other business, including vices like alcohol and tobacco, is it's a form of consumer financial fraud, similar to price-gouging and false advertising, that results in life-changing financial losses for many citizens. Citizens are conned into thinking they can win money on games that are designed to get them fleeced in the end. If you pay for a pizza, a ticket to a sporting event, or a glass of wine, that's what you receive in return. In commercialized gambling, what you receive is a *financial exchange* offering *the lure* that *you might* win money. But this financial exchange is mathematically stacked against you so inevitably you lose your money in the end, especially if you keep gambling. Success only comes at someone else's expense. All of this explains why commercialized gambling is illegal *unless* you run the gambling scheme in partnership with state government.

Making a bet with a friend, that's one thing, but if you do it against a sportsbook, you're going to lose money almost all the time over the long-term. An *ESPN* journalist who covers sports gambling told an Ohio newspaper that a review of one major bookmaker's accounts found that **“out of 500,000 accounts, only 50 individuals were found to be profitable.”**⁴

And if you are one of the very rare people who wins more sports bets than he loses, the bookmakers *don't let you place bets anymore*. An *ESPN* story highlighted that bookmakers are severely restricting or closing accounts for the very fact that these people are winning!⁵

No American stock exchange has ever banned an individual who was skilled at investing in stocks. But in the commercialized gambling business, only those who run the games are expected to make money over an extended period.

But there is an even more revealing fact about why commercialized gambling is no ordinary commodity. With the zeal of a teetotaler, most of the people who operate and invest in commercialized gambling such as sports betting, regional casinos and lotteries, along with the

⁴ "Everything you need to know about betting on Ohio State in 2016," Interview with ESPN Chalk's David Purdum, *Land Grant Holy Land*, Aug. 31, 2016 <http://www.landgrantholyland.com/2016/8/31/12689280/espn-david-purdum-interview-2016-ohio-state-heisman-odds-betting-trends>

⁵ "Won and done? Sportsbooks banning the smart money," David Purdum of *ESPN*, August 30, 2018 http://www.espn.com/chalk/story/_/id/24425026/gambling-bookmakers-growing-us-legal-betting-market-allowed-ban-bettors

public officials who lobby to bring them in, don't gamble themselves even though they cause life-changing financial losses for millions of Americans.⁶

Why? Because it's a statistical certainty that the vast majority of people will lose their money betting on sports, gambling at regional casinos and on state lotteries. The longer and more frequently you wager against the house, the more you're going to lose. It's a sure thing.

Commercialized gambling operators hire the brightest people they can find (e.g. odds-makers, computer programming whizzes, sophisticated marketers) for the specific purpose of *taking as much money as possible* from customers. On the other hand, the investment industry hires the smartest and best-performing analysts it can find in order to help *make money* for their customers. It's about as different as it can get.

Finally, those parties with a vested financial interest in overturning the CFTC's prohibition on event contracts involving gambling have attempted to claim that the act of laying off sports bets is not related to gambling. Instead, in the words of ErisX CEO Thomas Chippas, the event contracts proposals involve "athletic competition, sports team performance and the like – which are not themselves gaming activities. Yet almost every letter the CFTC has received in support of the proposed RSBIX NFL Futures Contracts is from a casino, sports book, or an individual or group with financial ties to commercialized gambling interests. This list of endorsers includes a letter of support from the national lobbying group for casino gambling and their partners, the American Gaming Association. But the proponents want the Commission and the public to conclude these event contracts are not related to gambling per Commission regulation 40.11(a)(1).

These are just a few of the multitude of reasons that commercialized gambling is no ordinary commodity and why event contracts involving the business were prohibited by Congress and should remain so.

Question 5: Could the trading of these contracts that involve sports gambling create incentives to influence the outcome of a sporting event or other outcomes related to sporting events? What mechanisms would be available to the Commission or to the DCM to surveil for, and guard against, manipulation of these contracts through manipulation of sporting events or other outcomes related to sporting events?

Those who stand to profit from sports betting in U.S. continue to bankroll the myth that *dramatically expanding the amount of money bet on sports will better protect* the integrity of

⁶ "The Hypocrite Hall of Fame," March 2020 <https://www.stoppredatorygambling.org/hypocrite-hall-of-fame/>

sports. But the facts from countries with commercialized sports betting have proven that claim to be a hollow public relations talking point.

Europol, the joint police body of the European Union, investigated the possibility of major soccer games being fixed and found evidence of over 680 “suspicious games” in 5 continents over a three-year period, including a Champions League match in England and several World Cup qualifying matches.⁷ According to one German investigator, this widespread corruption is “on a scale and in a way that threatens the very fabric of the game.”⁸

The same is true for tennis. Tennis has been engulfed by a “tsunami” of corruption involving “serious and substantial” match-fixing.⁹ A survey of 3,200 players at all levels of the professional game found that 14.5% had first-hand knowledge of match-fixing – 464 players in total.¹⁰

If the CFTC allows U.S. sportsbooks to use event contracts to lay off sports bets, the amount of money bet will be far greater and will inevitably generate the scale of corruption in sports that we have seen in these other countries.

If you need any additional information about the comments we have presented or on why the CFTC should soundly reject the listing of the Contracts, please call (202) 567-6996 or email mail@stoppredatorygambling.org.

Thank you for your attention to what is at stake in this matter and for the work you and your staff members do.

Sincerely,



Les Bernal
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Washington, DC

⁷ "Investigation uncovers possible fixing of soccer games worldwide," *Los Angeles Times*, Feb. 4, 2013
<https://www.latimes.com/sports/soccer/la-xpm-2013-feb-04-la-sp-soccer-match-fixing-20130205-story.html>

⁸ "Investigation uncovers possible fixing of soccer games worldwide," *Los Angeles Times*, Feb. 4, 2013
<https://www.latimes.com/sports/soccer/la-xpm-2013-feb-04-la-sp-soccer-match-fixing-20130205-story.html>

⁹ "Tennis has 'serious integrity problem' with betting, says independent review," *The Guardian US Edition*, April 25, 2018
<https://www.theguardian.com/sport/2018/apr/25/tennis-serious-integrity-problem-betting-match-fixing-independent-review>

¹⁰ *Ibid.*