



August 7, 2024

Chairman Rostin Benham
Commissioner Kristin N. Johnson
Commissioner Christy Goldsmith Romero
Commissioner Summer K. Mersinger
Commissioner Caroline D. Pham

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

Re: RIN 3038-AF14 - 17 CFR Part 40 Event Contracts

Dear Members of the Commodity Futures Trading Commission (CFTC):

The Sports Betting Alliance (SBA) appreciates the opportunity to submit public comment on RIN 3038-AF14, which concerns the types of contracts that fall within the scope of Commodity Exchange Act (CEA) section 5c(c)(5)(C) and would classify contracts involving gaming as contrary to the public interest.

SBA is a coalition of the leading sports betting operators in the United States, including BetMGM, DraftKings, Fanatics, and FanDuel. Although SBA members are competitors in the marketplace, we are united in our commitment to working with U.S. federal, state, and tribal governments to create a viable, successful, and safe sports wagering industry. Given our collective expertise and investment in this industry, we find it imperative to comment on the proposed rule and respectfully object to the Commission's proposed determination that any contracts that involve gaming are categorically contrary to the public interest.

The rule in question was enacted at a time when the Professional and Amateur Sports Protection Act (PASPA) forbade states from legalizing sports betting. However, in *Murphy v. National Collegiate Athletic Association*, No. 16-476, 584 U.S. 453 [138 S. Ct. 1461], the Supreme Court overturned PASPA as unconstitutional. Since PASPA's repeal in 2018, more than 38 states plus the District of Columbia and Puerto Rico have legalized and regulated sports wagering. This has led to the development of a strictly regulated yet thriving industry that provides consumers with legal protections, combats offshore and unregulated operators, and supports local economies through tax revenue and job creation. Today, more than two-thirds of American adults live in a legal and operational sports betting jurisdiction, with more states likely to follow suit. The widespread impact and prevalence of the sports wagering industry



across nearly 40 states and jurisdictions underscore the critical importance of maintaining the stability of its operators and overall ecosystem.

To that end, the SBA makes three requests regarding the proposed rule. First, the SBA respectfully requests that the CFTC clarify that the proposed rule is not intended to conflict with gaming activity regulated by the states, in order to prevent any potential destabilization of state-regulated sports betting. Second, the CFTC should confirm that gaming itself is not contrary to the public interest, as demonstrated by the widespread adoption of the activity across the country.

Third, and finally, the Commission should allow for an institutional futures market accessible to licensed sports betting operators. Currently, the proposed rule overlooks the compelling economic purpose that an institutional futures market could serve in allowing operators to hedge commercial risks. Labeling any contracts involving gaming as categorically contrary to the public interest will limit the industry's hedging ability, a move that we believe has not been sufficiently considered by the CFTC. We object to the proposed rule to the extent it forecloses an institutional futures market for this purpose.

We strongly advocate for meaningful discussions between our members, other relevant companies within the sports wagering and sports industries, and the CFTC. These discussions are essential to address the complexities of the industry and ensure that any regulatory measures are well informed and balanced. Such collaborative engagement should precede the enactment of broad and categorical rules that may have far-reaching implications.

We respectfully urge the CFTC to refrain from approving this rule in its current form due to its unconditional nature and its potential harm to a multi-billion-dollar industry and the tens of millions of consumers that currently enjoy legal regulated betting on sporting events. We believe that with further examination and open dialogue, a more nuanced approach can be developed that safeguards the public interest while supporting the stability and growth of the regulated sports betting industry.

Thank you for considering our comments. We look forward to the opportunity to engage in constructive discussions with the Commission on this critical issue.

Sincerely,

A handwritten signature in black ink, appearing to read "JK", is written over a faint, light-colored signature line.

Jeremy Kudon

President, Sports Betting Alliance