

# Congress of the United States

Washington, DC 20515

May 3, 2024

Rostin Behnam  
Chairman  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1144 21<sup>st</sup> St NW  
Washington, D.C. 20581

Dear Commissioner Behnam:

We write to express concerns regarding the process the Commodity Futures Trading Commission (CFTC) is undertaking to propose a new rule regarding event contract markets and encourage any action by the Commission be undertaken in a deliberate and transparent manner.

We are concerned by reports that a draft proposed rule that would restrict event contracts is being considered by the CFTC to prohibit certain products. Limiting event contracts could stifle responsible and regulated innovation and encourage industry participants to move their trading overseas to work under the watch of foreign regulators who would not provide the level of safety standards, customer protections, and market oversight as the CFTC. Instead, the CFTC should embrace the authority Congress has already given it to encourage regulated and safe market activity on event contracts so the United States can continue to be a leader in financial market innovation.

During a House Agriculture Committee Hearing on March 6, 2024, you stated it was your goal to clarify the rules, derived from the *Commodity Exchange Act*, to ensure no new participant or company lists political event contracts. While you have made your position clear, we want to ensure that any rulemaking undertaken by the Commission properly examines all facts and details, and thoroughly considers the potential benefits this economic activity might have on nontraditional market participants, rather than arrive at a presupposed position.


You further stated that political event contracts were prohibited due to them being classified as gaming, as well as unlawful under state law and contrary to the public interest. As the Commission considers future action, we would encourage the Commission to consider if its reasoning here would also mean that other contracts currently being offered, such as contracts on market volatility, digital assets, oil, and even the weather, are equally “gaming” and not legitimate economic activity. In previous actions taken by the CFTC, the Commission stated it found political event contracts contrary to the public interest under a form of the “economic purpose test” that was removed through Congressional action in the *Commodity Futures Modernization Act of 2000*. Given Congress has determined this test no longer serves as a viable evaluation, we urge the Commission to clarify how it best determines these contracts run contrary to the public interest.

Lastly, we recognize the Commission is involved in ongoing litigation related to event contracts. We urge caution that this rulemaking, or any future rulemaking, does not influence ongoing legal proceedings. Given that this action has the potential to affect a large set of products, we believe it

is in the best interests of the public for the Commission to engage in a hearing or public roundtable before making a final determination.

We appreciate the Commission's commitment to a rules-based process and encourage you and your fellow commissioners to take a thoughtful and deliberate approach when considering event contracts. It is vital that stakeholders remain involved in these conversations and the Commission provides clear reasoning for any proposal put forward.

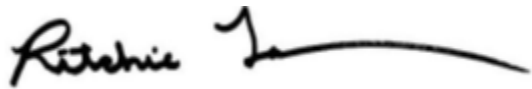
Sincerely,



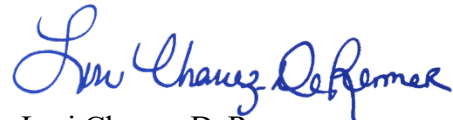
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Ritchie Torres  
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Derrick Van Orden  
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