

## **Alert | Futures & Derivatives/ Financial Regulatory & Compliance**



**April 2026**

### **Prediction Markets: A CFTC Enforcement Update**

#### **Go-To Guide:**

- Event contracts listed on prediction markets can fall within multiple subsections of the definition of “swap” under the Commodity Exchange Act (CEA), giving the Commodity Futures Trading Commission (CFTC) broad jurisdictional reach over prediction market participants and platforms.
- In his first public remarks as CFTC Division of Enforcement (DoE) director, on March 31, 2026, David I. Miller identified insider trading on prediction markets as one of five enforcement priorities,<sup>1</sup> stating that the DoE will treat misuse of material non-public information in trading on prediction markets the same as insider trading on any other CFTC-regulated market.
- Mr. Miller also stated that, in addition to insider trading, DoE is examining prediction markets for possible cases of fraudulent trading practices, market manipulation, and market abuse.

<sup>1</sup> In addition to insider trading, including in the prediction markets, Mr. Miller also identified the following enforcement priorities for the CFTC: market manipulation (particularly in the energy markets); (iii) market abuse/disruptive trading; (iv) retail fraud (including Ponzi schemes); and (v) willful violations of Anti-Money Laundering (AML) and Know-Your-Customer (KYC) laws and rules. Mr. Miller also indicated that the CFTC would rescind its current guidance on cooperation, issued in February 2025, and would issue a new Staff Advisory on Cooperation that would “further incentivize cooperation, to simplify our approach, and, hopefully, to be fairer to the parties with which [CFTC] interact[s].”

## Background

On March 31, 2026, David I. Miller, director of the DoE, delivered [remarks](#) at New York University Law School that included a detailed discussion of prediction markets. His remarks come at a time when prediction markets – on which event contracts are listed and traded – have grown rapidly since 2024. In fact, Mr. Miller characterized prediction markets and crypto assets as perhaps the two most dynamic markets in finance. This alert is intended to summarize Mr. Miller’s comments and the position taken by the CFTC.

## CFTC’s Jurisdiction Over Prediction Markets

Mr. Miller’s remarks highlighted several important jurisdictional and regulatory touchpoints concerning prediction markets:

- **Swap Definition** - Event contracts can fall within multiple subsections of the CEA’s definition of “swap.” This is significant because it means that a wide range of prediction market products and participants may be subject to CFTC oversight, including registration requirements, reporting obligations, and the CEA’s anti-fraud and anti-manipulation provisions.
- **Breadth of Markets Overseen** - The CFTC oversees derivatives markets spanning agriculture, metals, energy products, financial products, and the swaps markets, which have a notional value exceeding \$400 trillion. Prediction markets are explicitly identified within this broad oversight.
- **Designated Contract Market Obligations** – Prediction market trading platforms operating as designated contract markets (DCMs) that list event contracts have specific obligations under the CEA and CFTC rules, including market surveillance and the prevention of activities such as spoofing and wash trading. The CFTC has issued staff guidance specifically addressing DCM obligations in the prediction market context.

Mr. Miller stated that he believes DCMs are considered DoE’s first lines of defense against insider trading and market manipulation.

## Insider Trading in Prediction Markets

### *The Legal Framework*

As Mr. Miller discussed in his remarks, the CEA contains provisions that prohibit the misuse of material non-public information (MNPI) in connection with commodity interest trading. Specifically:

- The CEA prohibits the use of non-public information obtained in the course of employment for trading purposes by any commissioner or employee of the CFTC, as well as employees of DCMs, swap data repositories, and registered futures associations.
- The CEA’s broader anti-fraud and anti-manipulation provisions – including Sections 4b, 4c, 6(c), and 9(a) – provide additional statutory ground for insider trading prosecutions in appropriate circumstances.
- CFTC Rule 180.1, modeled in relevant part on SEC Rule 10b-5, further extends the prohibition on fraud and deception in connection with swaps and commodity interests.

In addition, Mr. Miller highlighted the prohibition on illegal use of government information to trade, as forbidden by the STOCK Act and Section 4c(a)(4) of the CEA, as well as Section 9(d) and (e), which

prohibit misuse of information by the CFTC’s own employees or those of exchanges or self-regulatory organizations. And, Mr. Miller noted that, in addition to insider trading, the CFTC also has authority to bring cases relative to the prediction markets under other provisions of the CEA – including for market manipulation, market abuse, and other fraudulent trading practices.

### *Prior Enforcement Actions*

In his remarks, Mr. Miller referenced prior CFTC enforcement actions involving misuse of non-public information in event contract trading. These cases have involved:

- Traders who possessed material non-public information concerning the outcome of events underlying prediction market contracts and traded on that information.
- Conduct alleged to violate the CEA’s prohibition against trading on non-public information as well as wire fraud statutes, reflecting the CFTC’s practice of coordinating with the Department of Justice.
- Consent orders and guilty pleas resolving such charges, establishing an enforcement record on which the DoE intends to build.

### *What Constitutes ‘Inside Information’ in the Prediction Market Context*

The application of insider trading concepts to prediction markets raises specific and complex questions, including:

- What categories of information are sufficiently “material” and “non-public” to give rise to liability in the event contract context, where the underlying “asset” is the outcome of a real-world event rather than a security or commodity in the traditional sense.
- Whether and how the breach of duties of confidentiality or trust constitute misappropriation in prediction markets. For example, Mr. Miller stated, “those who hold MNPI are often subject to a web of legal and confidentiality obligations...chances are that trading on information you learn from work is going to breach duties of trust and confidence and subject you to insider trading liability.”
- How the CFTC will treat information obtained by individuals who are positioned to influence or have prior knowledge or information regarding the outcome of events underlying event contracts, for example, government officials, corporate insiders, or individuals with access to non-public polling or forecasting data.

Practically speaking, Mr. Miller stated that the CFTC’s DoE would “exercise...prosecutorial discretion and [would] not dedicate [its] resources to trivial cases or cases where there is no clear breach of duty.”

### **Ongoing Rulemaking Process Concerning Prediction Markets**

Mr. Miller’s remarks referred to a [recent CFTC Advance Notice of Proposed Rulemaking and a Staff Advisory](#) on prediction markets. Key points of that Notice include:

- CFTC’s view that event contracts fall within multiple subsections of the CEA’s definition of “swap,” suggesting a broad and inclusive approach to jurisdiction over these products.
- CFTC’s rulemaking process reflects its effort to develop a regulatory framework appropriate to the unique characteristics of prediction markets while preserving the anti-fraud and anti-manipulation requirements that apply across all CFTC-regulated markets.

## Conclusion

CFTC's DoE monitors media, chatrooms and other sources for indications of insider trading in event contracts, particularly those based on the actions or status of one person or a small group of people, which can be subject to market abuse. To quote Mr. Miller: "We are watching."

Market participants should expect the CFTC to continue developing the regulatory framework in this evolving space, through both enforcement actions and future rulemaking.

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