

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Airbus Helicopters: Docket No. FAA–2026–11814; Project Identifier MCAI–2026–00715–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by December 3, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus Helicopters Model AS350B3, AS355F, AS355F1, AS355F2, AS355N, AS355NP, EC130B4, and EC130T2 helicopters, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 6710, Main rotor control.

(e) Unsafe Condition

This AD was prompted by a report of the loss of the tightening torque between the upper ball bearing end and a main rotor (MR) servo-control. The FAA is issuing this AD to inspect the nut tightening torque of the upper ball bearing end of all the MR servo-controls and, if necessary, accomplish corrective actions. The unsafe condition, if not addressed, could result in the disconnection of the upper ball bearing end from the MR servo-control and loss of control of a helicopter.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with European Union Aviation Safety Agency (EASA) AD 2026–0132, dated July 8, 2026 (EASA AD 2026–0132).

(h) Exceptions to EASA AD 2026–0132

(1) Where EASA AD 2026–0132 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2026–0132 refers to flight hours, this AD requires using hours time-in-service.

(3) Where paragraph (5) of EASA AD 2026–0132 and the material referenced in EASA AD 2026–0132 specify to contact AH [Airbus Helicopters] for corrective actions and instructions, this AD requires accomplishing corrective actions in accordance with a method approved by the Manager,

International Validation Branch, FAA; or EASA; or Airbus Helicopters' Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(4) Where the material referenced in EASA AD 2026–0132 specifies discarding certain parts, this AD requires removing those parts from service.

(5) Where the material referenced in EASA AD 2026–0132 specifies “check”, this AD requires replacing that text with “inspection”.

(6) This AD does not adopt the “Remarks” section of EASA AD 2026–0132.

(i) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the following:

(1) Airbus Service Bulletin AS350–67–30–0002, dated 01 April 2026.

(2) Airbus Service Bulletin AS355–67–30–0001, dated 01 April 2026.

(3) Airbus Service Bulletin EC130–67–30–0001, dated 01 April 2026.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD and email to: AMOC@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(k) Additional Information

For more information about this AD, contact Aryanna Sanchez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (520) 990–9321; email: aryanna.t.sanchez@faa.gov.

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2026–0132, dated July 8, 2026.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: easa.europa.eu.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 10101 Hillwood Parkway, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

Issued on October 15, 2026.

Steven W. Thompson,

Acting Deputy Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2026–21387 Filed 10–16–26; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–AF82

Further Definition of “Swap”—Inclusions

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Consistent with its jurisdiction over swaps, the Commodity Futures Trading Commission (“Commission” or “CFTC”) is proposing to further define the term “swap” to explicitly include event contracts, including those based on sports-, politics-, cultural-, and weather-related events (the “Proposal”).

DATES: Comments must be received by November 18, 2026.

ADDRESSES: You may submit comments, specifically referencing “Further Definition of ‘Swap’—Inclusions” and RIN 3038–AF82, by any of the following methods:

- *Regulations.gov:* Go to <https://www.regulations.gov> and press the “Search” button, then proceed as follows:

1. Under Refine Documents Results—check the box to “Only show documents open for comment”;

2. Under Agency—select “See More” and check the box for “Commodity Futures Trading Commission,” then press the Apply button;

3. Identify this Proposal in the list of CFTC documents open for comment, press the “Comment” button to open the submission form, and follow the instructions on the form.

Alternatively, if you are viewing this Proposal on www.federalregister.gov, click the “Submit A Public Comment” button at the top of the page to open the comment form. Follow the instructions on the form to submit your comment to *Regulations.gov*.

- *Mail:* Send to—Christopher Kirkpatrick, Secretary of the

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

• *Hand Delivery/Courier*: Address to—CFTC Comment Submission, Attn: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

Please submit your comments using only one of these methods. To avoid possible delays with mail or in-person deliveries, submissions through *Regulations.gov* are encouraged. As required by the Administrative Procedure Act, a plain language summary of the rule is also available at *Regulations.gov*.¹

All comments must be submitted in English or, if not, accompanied by an English translation. Do not include in your comment text or attachments any personal identifying information or business information that you do not want published online. Comments (regardless of submission method) will be published without review for, and without removal of, any personal identifying information or information your business may consider confidential.

If you wish to submit confidential information for the Commission's consideration, please contact the CFTC personnel listed in this Notice under **FOR FURTHER INFORMATION CONTACT** before making any submission. Please also carefully review the Commission's procedures in 17 CFR 145.9 for requesting confidential treatment under the Freedom of Information Act (FOIA) of information submitted to the Commission.

The CFTC reserves the right, but shall have no obligation, to review, pre-screen, filter, or redact all or any part of your comment submission. The CFTC also reserves the right, without further notification, to refuse to publish or to remove from public view all or any part of your submission to the extent it contains content inappropriate for publication in a comment file, such as—without limitation—obscene language, threats of violence, solicitations for commercial sales or illegal activity, or obvious spam. If a submission that is refused for or withdrawn from publication because of inappropriate content also contains comments on the merits of this Proposal, such submission will be retained in the record for the matter and will be considered as required under the Administrative Procedure Act and other applicable

laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT:

Tyler S. Badgley, General Counsel; Aaron M. Levine, Deputy General Counsel for Regulation, *rulemaking@cftc.gov*, 202–418–5000, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) established a comprehensive regulatory framework for swaps.² Section 712(d)(1) of the Dodd-Frank Act provides that the Commission and the Securities and Exchange Commission (“SEC”), in consultation with the Board of Governors of the Federal Reserve System (the “Federal Reserve Board”), shall jointly further define, among other terms, the term “swap.”³ Pursuant to this requirement, in 2012, the Commission and the SEC, in consultation with the Federal Reserve Board, issued a final rule further defining the term “swap” and other terms.⁴

This Proposal seeks to clarify that event contracts, including those based on sports-, politics-, cultural-, and weather-related events, are swaps within the CFTC’s jurisdiction. The CFTC has historically recognized that many event contracts are covered by the Commodity Exchange Act’s (the “CEA”) swap definition.⁵ Under section

1a(47)(A) of the CEA, the term swap is defined “broadly.”⁶ As discussed further in this section below, CEA section 1a(47)(A)(ii) defines “swap” to include “any agreement, contract, or transaction . . . that provides for any purchase, sale, payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence.”⁷

The broad nature of clause (ii) of the swap definition is in keeping with the broad definition of the term “commodity” in the CEA. The 1974 amendments to the CEA expanded the definition of the term “commodity” to encompass “all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in.”⁸ In 2000, Congress reaffirmed the broad scope of the commodity definition in adding the term “excluded commodity” to the CEA—which, despite the name, is a commodity.⁹ This term includes, among other indices and measures, any “occurrence, extent of an occurrence, or contingency” of financial, commercial, or economic consequence that is beyond the control of any party to the relevant derivatives contract and is not based on a change in the price, rate, value, or level of a physical commodity.¹⁰ Derivatives

based swaps or other instruments subject to the SEC’s jurisdiction. *See* 7 U.S.C. 1a(47)(B) (providing “exclusions” from the definition of “swap” under the CEA, including for securities such as security based- swaps, certain options, and debt securities); *see also, e.g.*, 15 U.S.C. 78c(a)(68)(A) (defining “security-based swap” under the Securities Exchange Act of 1934). This Proposal does not propose to further define the term “security-based swap.”

⁶ *United States v. Phillips*, 155 F.4th 102, 113 (2d Cir. 2025).

⁷ 7 U.S.C. 1a(47)(A)(ii).

⁸ *See* CEA sec. 1a(9), 7 U.S.C. 1a(9) (defining “commodity”).

⁹ The definition of “excluded commodity” was adopted as part of an amendment to the CEA to exclude certain contracts based on financial commodities or commodities with an infinite supply from the requirement that contracts for the sale of a commodity for future delivery be traded on an exchange registered with the CFTC (the “exchange trading requirement”). *See infra* note 72 and accompanying text. Still, the “excluded commodities” are within the definition of “commodity.” *See United States v. Wilkinson*, 986 F.3d 740, 745 (7th Cir 2021) (futures based on “excluded commodities” “remain ‘commodities’ under the Act as a whole”).

¹⁰ CEA sec. 1a(19), 7 U.S.C. 1a(19). Specifically, the statute provides that the term “excluded commodity” includes “an occurrence, extent of an occurrence, or contingency (other than a change in the price, rate, value, or level of a commodity not described in clause (i)) that is—(I) beyond the control of the parties to the relevant contract,

Continued

¹ 5 U.S.C. 553(b)(4).

² *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376, 1641 (2010). The text of the Dodd-Frank Act is available at <http://www.cftc.gov/LawRegulation/OTCDERIVATIVES/index.htm>.

³ Dodd-Frank Act sec. 712(d)(1), 15 U.S.C. 8302(d)(1) (directing the CFTC and SEC to undertake joint rulemaking on covered topics). The CFTC shares jurisdiction over mixed swaps and security futures with the SEC, and the SEC has sole jurisdiction over security-based swaps. *See* Commodity Exchange Act (“CEA”) sec. 1a(44), 7 U.S.C. 1a(44), and secs. 3(a)(55) and 3(a)(68) of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. 78c(a)(55) and 78c(a)(68). The Commission has consulted with the Federal Reserve Board by sharing this Proposal.

⁴ Further Definition of “Swap,” “Security-Based Swap,” and “Security-Based Swap Agreement”; Mixed Swaps; Security-Based Swap Agreement Recordkeeping, 77 FR 48208 (Aug. 13, 2012) (“Further Definition Release”).

⁵ Event contracts might be structured as other instruments such as futures contracts, which are excluded from the statutory definition of “swap.” CEA section 1a(47)(B), 7 U.S.C. 1a(47)(B) (providing “exclusions” from the definition of “swap” under the CEA, including futures, options on futures, securities such as options on securities and indexes of securities, security-based swaps, and debt securities). Certain event contracts may be security-

contracts based on these “excluded commodities” are subject to the Commission’s jurisdiction just as derivatives based on other commodities are.

The definition of “excluded commodity” makes clear that events that fall within the definition, including those related to sports, politics, culture, and weather, are themselves commodities.¹¹ The CFTC has a long history of regulating event contracts. “Since 1992, Commission-regulated exchanges have listed for trading a variety of commodity futures and options contracts with payout terms based on” events “as diverse as regional insured property losses, the count of bankruptcies, temperature volatilities, corporate mergers, and corporate credit events,” and in subsequent years, event contracts encompassed “the accomplishment of certain scientific advances, world population levels, the adoption of particular pieces of legislation,” and even “the length of celebrity marriages.”¹² In 1993, the Commission issued a no-action letter to Iowa Electronic Markets, allowing the facility to list event contracts tied to U.S. and Canadian elections.¹³ In 2004, the CFTC designated the first contract market (“DCM”) dedicated to listing contracts based on events that are excluded commodities.¹⁴ Initially, these contracts were structured as commodity options known as “binary options,” the cash settlement of which was based on

agreement, or transaction; and (II) associated with a financial, commercial, or economic consequence,” where “clause (i)” refers to the first clause of the definition. CEA sec. 1a(19)(iv), 7 U.S.C. 1a(19)(iv).

¹¹ See CFTC, *Statement of Commissioner Brian D. Quintenz on ErisX RSBIIX NFL Contracts and Certain Event Contracts* (Mar. 25, 2021) (“When we think of commodities, we think of tangible things. . . . But what about an event? An election? Whether the Summer Olympics will occur in Japan? A . . . football game? Those, too, are commodities!”), available at <https://www.cftc.gov/PressRoom/SpeechesTestimony/quintenzstatement032521>.

¹² Concept Release on Appropriate Regulatory Treatment of Event Contracts, 73 FR 25669, 25670–71 (May 7, 2008).

¹³ CFTC Staff Letter No. 93–66 (June 18, 1993), available at <https://www.cftc.gov/sites/default/files/idc/groups/public/@lrllettergeneral/documents/letter/93-66.pdf>.

¹⁴ See CFTC Release No. 4894–04, *CFTC Designates HedgeStreet as a Contract Market and as a Registered Clearing Organization* (Feb. 20, 2004), and the related DCM Order of Designation for HedgeStreet, Inc. (Feb. 18, 2004), available at <https://www.cftc.gov/sites/default/files/opa/press04/opa4894-04.htm>. In 2009, HedgeStreet changed its name to North American Derivatives Exchange, Inc., or Nadex, and in 2025, Nadex transitioned to the *Crypto.com* platform. See summary of registration, available at <https://www.cftc.gov/IndustryOversight/IndustryFilings/TradingOrganizations/34536>. It continues to list contracts on foreign exchange, equity indices, commodity prices, and digital assets.

whether a specified event had occurred.¹⁵

Under the plain language of the CEA, event contracts are implicated by four clauses of the “swap” definition.

First, CEA section 1a(47)(A)(ii) defines “swap” to include “any agreement, contract, or transaction . . . that provides for any purchase, sale, payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence.”¹⁶

Second, CEA section 1a(47)(A)(i) includes binary options and other commodity options in the “swap” definition by including “any agreement, contract, or transaction . . . that is a put, call, cap, floor, collar, or similar option of any kind that is for the purchase or sale, or based on the value, of 1 or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind.”¹⁷

Third, CEA section 1a(47)(A)(iv) includes in the “swap” definition “an agreement, contract, or transaction that is, or in the future becomes, commonly known to the trade as a swap.”¹⁸

Finally, CEA section 1a(47)(A)(vi) makes clear that the “swap” definition includes “any combination or permutation of, or option on, any agreement, contract, or transaction described in any of clauses (i) through (v)” of CEA section 1a(47)(A).¹⁹

In addition to the “swap” definitions provided by the statute, the Dodd-Frank Act included several provisions that give the Commission authority to further define “swap.” First, Dodd-Frank Act section 712(d)(2), 15 U.S.C. 8302(d)(1), directs the CFTC and SEC, in consultation with the Federal Reserve Board, to “further define” the term “swap.”²⁰ Second, Dodd-Frank Act

¹⁵ See, e.g., Letter from HedgeStreet, Inc. to David Stawick, Sec’y, CFTC, Re: Rule Certification: *HedgeStreet’s listing of new Germany 30 Binary Hedgelet Contracts* (Oct. 30, 2008), available at <https://www.cftc.gov/sites/default/files/stellent/groups/public/@rulesandproducts/documents/ifdocs/rul103008hedgestreet001.pdf>.

¹⁶ 7 U.S.C. 1a(47)(A)(ii).

¹⁷ 7 U.S.C. 1a(47)(A)(i). A binary option is thus a type of swap which is an “option whose payoff is either a fixed amount or zero.” See CFTC, *Futures Glossary*, available at <https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/CFTCGlossary/index.htm#B>.

¹⁸ 7 U.S.C. 1a(47)(A)(iv).

¹⁹ 7 U.S.C. 1a(47)(A)(vi).

²⁰ As mentioned, the CFTC and SEC, in consultation with the Federal Reserve Board, first

section 721(b), 15 U.S.C. 8321(a)(2), permits the CFTC to define any term included in an amendment to the CEA in Subtitle A of the Wall Street Transparency and Accountability Act of 2010, which includes the term “swap.” Third, Dodd-Frank Act section 721(b), 15 U.S.C. 8321(b), directs the CFTC to further define “swap” to include transactions and entities that have been structured to evade Subtitle A.

In recent months, States have taken actions and courts have issued rulings that undermine the CFTC’s jurisdiction over event contracts. The State of Minnesota enacted a criminal prohibition on the operation or facilitation of a “prediction market,” which purports to make it a felony to offer event contracts on athletic events, elections, policymaking decisions, and a variety of other events.²¹ The State of Arizona filed a “twenty-count criminal information” against a DCM in Arizona Superior Court for offering event contracts on sports and elections in the State.²² The State of New York sought a temporary restraining order in State court that would prohibit a DCM from offering event “contracts relating to sports, culture, elections, and other events” “within or from New York or to persons in New York.”²³ Because that DCM is headquartered in New York, that relief threatens to prohibit it from offering event contracts nationwide. That same DCM has also been ordered by State trial courts to geofence its offering of sports-related event contracts in the States of Michigan, Washington, and Nevada.²⁴

further defined “swap” in a 2012 joint rulemaking. Further Definition Release, 77 FR 48208. In that rulemaking, the CFTC and SEC noted that, while “[t]he statutory definitions of the terms ‘swap’ and ‘security-based swap’ are detailed and comprehensive, . . . the definitions could be read to include certain types of agreements, contracts, and transactions that previously have not been considered swaps or security-based swaps, and nothing in the legislative history of the Dodd-Frank Act appears to suggest that Congress intended such agreements, contracts, or transactions to be regulated as swaps or security-based swaps.” The CFTC and SEC thus used their authority “to further clarify the treatment under the definitions of certain types of agreements, contracts, and transactions.” *Id.* at 48211.

²¹ *United States v. Minnesota*, Nos. 26–cv–2661, 26–cv–2778, 26–cv–2841, __ F. Supp. 3d __, 2026 WL 2150211, at *4–5 (D. Minn. July 27, 2026) (citing Minn. Stat. 609.7615, subd. 1(e)).

²² *KalshiEX LLC v. Johnson*, 832 F. Supp. 3d 954, 958 (D. Ariz. 2026).

²³ *People of the State of New York v. KalshiEX LLC*, Index No. 453272/2026, Doc. 3 at 2 (N.Y. Sup. Ct. July 31, 2026); see *People of the State of New York v. KalshiEX LLC*, No. 1:26-cv-06550, Dkt. No. 1 (S.D.N.Y. July 31, 2026) (removed to Federal court).

²⁴ *Nessel v. KalshiEX LLC*, No. 26–1087–CZ at 3–4 (30th Jud. Dist. Circuit Ct. June 29, 2026); *State of Washington v. KalshiEX, LLC*, No. 26–2–10264–3 SEA (King Cnty. Superior Ct. Aug. 12, 2026); *State*

To date, three Federal courts of appeals have issued rulings concerning whether an event contract whose underlying is related to an outcome of a sporting event is a swap under CEA section 1a(47)(A)(ii). In April 2026, a divided panel of the United States Court of Appeals for the Third Circuit held in *KalshiEX, LLC v. Flaherty* that because “sports-related event contracts are traded on a CFTC-licensed DCM and depend on event outcomes associated with economic consequences, they fit within the Act’s definition of ‘swaps’ subject to the CFTC’s jurisdiction.”²⁵ The dissenting judge also agreed that a “plain reading of the Act’s text suggests that [] sports-event contracts fit comfortably within the statutory definition.”²⁶

In August 2026, the United States Court of Appeals for the Ninth Circuit adopted the opposite interpretation of CEA section 1a(47)(A)(ii).²⁷ After acknowledging that “the CEA expressly preempts state law regulating swaps ‘traded or executed on’ a DCM,” the court rejected the “dictionary definitions” and “plain-language appeal” of the Third Circuit’s interpretation and concluded that, as used in the CEA, “event” means something different from “a thing that happens or takes place.”²⁸ The court stated that the “substance” of the sports event contracts at issue was “sports gambling, regardless of whether [the DCM] calls them swaps” (and, by inference, regardless of whether the CFTC regulates them as swaps).²⁹ It expressed concern that the plain-text interpretation of the definition swap would subject bingo games and ping-pong matches to the CFTC’s jurisdiction.³⁰ For these and other reasons involving the court’s understanding of the CEA’s “context” and “history,”³¹ the court ultimately “conclude[d] that these sports event contracts are likely not swaps under the CEA.”³² The Ninth Circuit did not address whether sports event contracts could qualify as swaps under other prongs of the CEA swap definition, including sections 1a(47)(A)(i) and (iv).

of Nevada ex rel. Nevada Gaming Control Board v. KalshiEX, LLC, No. 260000050–1B (1st Jud. Dist. Ct. Nev.).

²⁵ 172 F.4th 220, 228 (3d Cir. 2026) (citing 7 U.S.C. 2(a)(1)(A), 1a(47)(A)(ii)).

²⁶ *Id.* at 223 (Roth, J., dissenting).

²⁷ *KalshiEX, LLC v. Assad*, No. 25–7516, ___ F.4th ___, 2026 WL 2543846, at *8–*15 (9th Cir. Aug. 28, 2026).

²⁸ *Id.* at 8. The court did not offer a competing definition of “event.”

²⁹ *Id.* at 10.

³⁰ *Id.* at 11 (quoting *Flaherty*, 172 F.4th at 228).

³¹ *Id.* at 9 (citation omitted).

³² *Id.* at 15.

A petition for rehearing and rehearing en banc has been filed in that case.³³

In September 2026, a panel of the United States Court of Appeals for the Sixth Circuit also held that sports-related event contracts are not “swaps,” albeit for somewhat different reasons than the Ninth Circuit panel.³⁴ Unlike the Ninth Circuit, the Sixth Circuit acknowledged that “[d]ictionaries commonly define an ‘event’ to include an ‘outcome,’ ” and “nothing in the statutory text provides a clear indication that the event must be defined to exclude outcomes.”³⁵ Thus, “it would be reasonable to describe the Giants winning the Super Bowl” as an “event,” even if it is also “the outcome of the game.”³⁶ However, the court held that sports events are not “associated with a potential financial, economic, or commercial consequence,” explaining that the relevant event must be “inherently associated with a ‘financial, economic, or commercial consequence.’ ”³⁷

As the above discussion demonstrates, there is widespread confusion and disuniformity about the definition of swap. The Commission therefore proposes to exercise its statutory authority to “further define” swap and expressly clarify that event contracts, including those based on sports-, politics-, cultural-, and weather-related events, are swaps.

Statutory Authority

Section 712(d)(1) of the Dodd-Frank Act provides that the Commission and the SEC, in consultation with the Federal Reserve Board, shall jointly further define, among other terms, the term “swap.”³⁸ Section 712(d)(2)(A) further empowers the Commission and the SEC, in consultation with the Federal Reserve Board, to “jointly adopt such other rules regarding such definitions as the [CFTC and SEC] determine are necessary and

³³ *KalshiEX LLC v. Assad*, No. 25–7516, Dkt. No. 206.1 (9th Cir. Sep. 9, 2026); Fed. R. App. P. 41(b) (mandate does not issue until 7 days after entry of an order denying timely petition for panel rehearing or rehearing en banc).

³⁴ *KalshiEX LLC v. Schuler*, Nos. 26–3196, 26–5235, ___ F.4th ___, 2026 WL 2884087 (6th Cir. Sept. 25, 2026).

³⁵ *Id.* at *9.

³⁶ *Id.*

³⁷ *Id.* at *11 (emphasis added).

³⁸ Dodd-Frank Act sec. 712(d)(1), 15 U.S.C. 8302(d)(1) (directing the CFTC and SEC to undertake joint rulemaking on covered topics). This release proposes a rule of the CFTC that addresses matters within the exclusive jurisdiction of the CFTC. The SEC joins in proposing this rule in satisfaction of the statutory requirement in section 712(d)(1). The Proposal does not address or otherwise relate to matters within the jurisdiction of the SEC.

appropriate, in the public interest, and for the protection of investors.”³⁹

II. Proposed Rule

The Commission is proposing to further define the term swap in the context of event contracts. Specifically, the Commission proposes to add new paragraph (2)(i)(G) to the definition of “swap” in § 1.3 of the Commission’s regulations.⁴⁰ This proposed addition identifies as swaps event contracts, including, in a non-exhaustive list, those based on sports-, politics-, cultural-, and weather-related events.⁴¹ As discussed in more detail below, event contracts, including those based on sports-, politics-, cultural-, and weather-related events, are financial instruments that are commonly known to the trade as swaps, structured as binary options, and/or structured to make payment dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence. It is the Commission’s view that the best reading of the statute is that event contracts based on sports-, political-, cultural-, or weather-related events qualify as swaps under each of these statutory prongs. In addition, the Commission’s exercise of its express statutory authority to “further define” the term “swap” provides an independent legal basis to deem these contracts as swaps.⁴²

First, the Commission believes that event contracts, including those based on sports-, politics-, cultural-, and weather-related events are “commonly known to the trade as a swap” within the meaning of prong (iv) of the swap definition.⁴³ The Commission

³⁹ Dodd-Frank Act sec. 712(d)(2)(A), 15 U.S.C. 8302(d)(2)(A).

⁴⁰ 17 CFR 1.3.

⁴¹ As described above in note 5, event contracts might be structured as other instruments such as futures contracts, which are excluded from the statutory definition of “swap.” Additionally, certain event contracts may be security-based swaps or other instruments subject to the SEC’s jurisdiction. The event contracts at issue in this Proposal are those that are within the definition of “swap” subject to the CFTC’s jurisdiction, and not those that might be futures or SEC-regulated instruments. Furthermore, the proposed addition would not reach casino-style gambling products, which, as the Commission describes in a separate rulemaking, are not swaps subject to the Commission’s jurisdiction.

⁴² *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 395 (2024) (“In a case involving an agency, of course, the statute’s meaning may well be that the agency is authorized to exercise a degree of discretion. . . . For example, some statutes ‘expressly delegate[]’ to an agency the authority to give meaning to a particular statutory term.” (quoting *Batterton v. Francis*, 432 U.S. 416, 425 (1977)); *id.* at 395 n.5 (citing examples)).

⁴³ CEA sec. 1a(47)(A)(iv), 7 U.S.C. 1a(47)(A)(iv).

understands the phrase “commonly known to the trade as a swap” as a residual, catch-all prong intended to cover instruments that, in the market’s view, are swaps.⁴⁴ The Commission further understands “the trade” in this context to mean those who participate in the derivatives markets, including the CFTC, its registrants, and traders, rather than some broader group, such as the general public.⁴⁵ Furthermore, the Commission notes that this standard does not require universal recognition—“commonly known” is not the same as “universally known.” In this regard, the scope of prong (iv) should be informed by the actual practice of market participants and the longstanding regulatory treatment of instruments by the CFTC.

For decades, the CFTC’s position has been that event contracts are derivatives subject to its jurisdiction, whether as “swaps” or as “binary options” (which are themselves swaps).⁴⁶ The CFTC’s 1993 no-action letter to Iowa Electronic Markets allowed the facility to list event contracts tied to U.S. and Canadian elections.⁴⁷ The CFTC issued a concept release in 2008 acknowledging its regulatory-oversight responsibility for event contracts.⁴⁸ It approved event contracts on box-office receipts in 2010.⁴⁹ The Commission also issued an order penalizing Blockratize, Inc. (d/b/a *Polymarket.com*) for offering event contracts on various economic, political, and sports events without registering with the Commission, explaining that the event contracts “constitute swaps under the CFTC’s jurisdiction.”⁵⁰

Furthermore, the CFTC has filed civil-enforcement actions and obtained civil penalties against persons that engage in insider trading or manipulative activity around event contracts.⁵¹ The United States has also brought commodity-fraud charges for insider trading of event contracts on the theory that event contracts are swaps under the CEA.⁵²

Market participants have also overwhelmingly recognized that event contracts are swaps by complying with the CFTC’s swap regulatory regime just as they do when listing, clearing, or trading other swaps. For example, over the past several years, DCMs have self-certified thousands of event contracts based on sports, politics, cultural events, and weather to the Commission.⁵³ This includes both new entrants into the market and longstanding exchanges like CME Group (“CME”), which has self-certified numerous event contracts based on sports and elections as swaps.⁵⁴ And in comments to the CFTC, CME has recognized that “event contracts and swaps are not new and have been subject to the existing regulatory scheme for years without issue,” and that the CEA’s “Core Principles[] provide[] the proper structure to regulate these products.”⁵⁵ Cboe Global Markets has likewise stated in comments that event contracts “generally fall within the CEA’s broad definition of ‘swap,’” absent a statutory exception.⁵⁶ Consistent with this commonly held

market view, such Commission registrants have not sought to register at the State level or offer products under State gambling laws. Instead, they offer event contracts for multilateral trading on a national, competitive market, just like other derivatives.

Other market participants likewise treat event contracts as swaps and trade them as they do other derivatives products. For example, institutional traders act as market makers on prediction markets—earning revenue by capturing the bid-ask spread directly from peer-to-peer trading volume, unlike traditional sports betting where centralized sportsbooks extract a static “vig” from fixed odds. Similar to how such firms provide liquidity in other financial markets, these participants support price discovery based on shifting supply and demand rather than odds manually adjusted by a bookmaker.⁵⁷ And a wide array of market participants⁵⁸ have looked to prediction markets to hedge various risks, including those related to sports, weather, and legislative outcomes.⁵⁹ Together, the Commission preliminarily concludes that this market practice provides compelling evidence that such event contracts are, in fact, commonly known to the trade as swaps, satisfying prong (iv).⁶⁰

⁵⁷ *Susquehanna Starts Trading Desk for Event Contracts on Kalshi*, Bloomberg Law (Apr. 3, 2024), available at <https://news.bloomberglaw.com/crypto/susquehanna-starts-trading-desk-for-event-contracts-on-kalshi>; Citadel Securities Looks at Prediction Markets as Trading Scales, Bloomberg (Apr. 16, 2026), <https://www.bloomberg.com/news/articles/2026-04-16/citadel-securities-looks-at-prediction-markets-as-trading-scales>.

⁵⁸ E.g., *Prediction Markets Take a Swing at Hedging for US Small Business*, Reuters (Aug. 28, 2026), available at <https://www.reuters.com/business/prediction-markets-take-swing-hedging-us-small-businesses-2026-08-28/>.

⁵⁹ *Goat herding hedge: How Susquehanna and Kalshi are helping this company offset a change in California law*, CNBC (Aug. 13, 2026), available at <https://www.cnbc.com/2026/08/13/how-a-california-goat-herding-company-is-hedging-against-risk-of-higher-wages.html>; *Insurer Uses Kalshi to Hedge \$3 Million LSU Coaching Bonus*, ProgramBusiness (Sept. 9, 2026), <https://programbusiness.com/news/insurer-uses-kalshi-to-hedge-3-million-lsu-coaching-bonus/>; *Kalshi and the Weather Co. join forces on climate trades*, Wall Street Journal (Aug. 27, 2026), available at <https://www.wsj.com/finance/kalshi-and-the-weather-co-join-forces-on-climate-trades-76b7e307?msoclid=0138621f0143697837f9753100d168d7>.

⁶⁰ This industry position is reinforced by experts in the field, including scholars and financial trade publications, who refer to event contracts as swaps. See, e.g., Aaron Klein, Sam Henry Lazarus, & Siddharth Singh, *Five highlights from Brookings’ prediction market events*, The Brookings Institution (June 25, 2026), available at <https://www.brookings.edu/articles/five-highlights-from-brookings-prediction-market-events/>. See also Justin Wolfers & Eric Zitzewitz, *Prediction Markets*, 18 J. Econ. Persp. 107 (2004) (examining event contracts as financial instruments that function as contingent

⁴⁴ See *Coinbase Fin. Mkts., Inc. v. Raoul*, No. 1:25-cv-15406, 1:26-cv-03659, 1:26-cv-07363, 2026 WL 2969682, at *7 (N.D. Ill. Oct. 2, 2026) (the CEA’s “[s]tructure elsewhere,” including the prong (iv) “clause includ[ing] contracts ‘known to the trade as a swap,’” “reinforces [the statute’s] breadth”).

⁴⁵ The Commission and the SEC said as much when they further defined the term “swap” to include non-deliverable forwards (“NDFs”). See Further Definition Release, 77 FR at 48254–56. That release noted that “at least some market participants view NDFs as swaps today, and thus NDFs also may fall within clause (A)(iv) of the swap definition.” *Id.* at 48255, n. 537 (emphasis added).

⁴⁶ See *supra* notes 12–15 and accompanying text; Prediction Markets; Public Interest Determinations, 91 FR 35806, 35813–17 (June 12, 2026) (recounting history).

⁴⁷ CFTC Staff Letter No. 93–66 (June 18, 1993), available at <https://www.cftc.gov/sites/default/files/idc/groups/public/@lrllettergeneral/documents/letter/93-66.pdf>.

⁴⁸ 73 FR at 25670–73.

⁴⁹ Statement of the Commission approving certain MDEX contracts (June 14, 2010) (MDEX Statement) at 1, available at <https://www.cftc.gov/idc/groups/public/@otherif/documents/ifdocs/mdexcommissionstatement061410.pdf>.

⁵⁰ CFTC, *Order Instituting Proceedings Pursuant to Section 6(c) and (d) of the Commodity Exchange Act, Making Findings, and Imposing Remedial Sanctions* (Jan. 3, 2022).

⁵¹ *CFTC v. Van Dyke*, No. 1:26-cv-3369 (S.D.N.Y.) (U.S. servicemember who used sensitive nonpublic information to trade event contracts related to the ouster of Venezuelan President Nicolás Maduro); *CFTC v. Spagnuolo*, No. 1:26-cv-4419 (S.D.N.Y.) (Google employee who used nonpublic information to trade event contracts related to Google’s Year in Search list); CFTC, *Order Instituting Proceedings Pursuant to Section 6(c) and (d) of the Commodity Exchange Act, Making Findings, and Imposing Remedial Sanctions*, at 5 (July 31, 2026) (imposing penalties on former Congressman George Santos for manipulative activity around State of the Union event “contract that is commonly known to the trade as a swap”); CFTC, *Order Instituting Proceedings Pursuant to Section 6(c) and (d) of the Commodity Exchange Act, Making Findings, and Imposing Remedial Sanctions*, at 5 (Aug. 28, 2026) (imposing penalties on a former presidential teleprompter operator for insider trading presidential speech event “contracts that are commonly known to the trade as swaps”).

⁵² *United States v. Van Dyke*, No. 1:26-cr-156 (S.D.N.Y.); *United States v. Spagnuolo*, No. 1:26-mj-02020 (S.D.N.Y.).

⁵³ See CFTC, *Designated Contract Market Products*, available at <https://www.cftc.gov/IndustryOversight/IndustryFilings/TradingOrganizationProducts?>

⁵⁴ *Id.*

⁵⁵ Letter from Jonathan Marcus to Christopher Kirkpatrick (Apr. 30, 2026) at 2.

⁵⁶ Letter from Patrick Sexton to Christopher Kirkpatrick (May 5, 2026) at 3, available at <https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=115665&SearchText=cboe>.

Second, the Commission believes that event contracts, including those based on sports-, politics-, cultural-, and weather-related events, fall within prong (ii) of the swap definition, which encompasses any agreement, contract, or transaction whose underlying is an occurrence or contingency “associated with a potential financial, economic, or commercial consequence.”⁶¹ The Third Circuit’s *Flaherty* decision adopted this conclusion in the context of sports-related event contracts, and the reasoning applies more generally as well. Applying the plain text of the statute, the court held that “[t]he outcome of a sports event certainly can be associated with a potential financial, economic, or commercial consequence,” and that sports-related event contracts traded on a CFTC-licensed DCM “fit within the Act’s definition of ‘swaps’ subject to the CFTC’s jurisdiction.”⁶² In reaching that conclusion, the court expressly endorsed the district court’s identification of the broad range of economic stakeholders—including sponsors, advertisers, television networks, sports franchises, and local and national communities—whose financial interests are directly affected by sporting event outcomes, finding that identification of such stakeholders was sufficient to satisfy the “associated with a potential financial, economic, or commercial consequence” standard.⁶³ Even the dissent conceded that a plain reading of the Act’s text suggests that sports-related event contracts fit comfortably within the statutory definition.⁶⁴ And the court confirmed that the Commission’s statutory authority to further define “swap” would be valuable in this area.

While the Sixth and Ninth Circuit panels took a different view of section 1a(47)(A)(ii) of the CEA, their reasoning was substantially based on the concern that treating sports event contracts as swaps would also subject casino-style gambling to the CFTC’s jurisdiction.⁶⁵ As the Commission explains in a separate Interim Final Rule, the swap definition does not encompass casino-style gambling wagers, sports or otherwise.⁶⁶ Additionally, the Ninth

Circuit relied on CFTC Rule 40.11 to conclude that “gaming-related contracts” are “bar[red]” from “being listed on a DCM.”⁶⁷ Even assuming that premise, the Commission notes that CFTC Rule 40.11 does not provide a basis to conclude that event contracts are not swaps or that event contracts could be subject to State gambling law. Indeed, as the concurrence and other courts have recognized, the statutory provision that undergirds CFTC Rule 40.11 affirmatively contemplates that event contracts are swaps subject to the CFTC’s exclusive jurisdiction.⁶⁸ Regardless, to the extent that the Ninth Circuit panel’s reasoning was based on a CFTC regulation, this Proposal would serve to clarify by federal regulation that event contracts are swaps. Accordingly, there would no longer be a valid basis to interpret CFTC regulations to conclude that event contracts are not swaps.

Third, the Commission believes that event contracts may independently satisfy the first prong of the swap definition. The Commission’s preliminary reasoning is based on a plain reading of section 1a(47)(A)(i) of the CEA. Section 1a(47)(A)(i) explicitly defines a swap to include any agreement, contract, or transaction that is a “put, call, cap, floor, collar, or similar option of any kind” that is “based on the value[] of 1 or more . . . commodities . . . or other financial or economic interests or property of any kind.”⁶⁹ In this regard, the Commission notes that many event contracts are structured as binary options, meaning that the contract’s payout is a predetermined fixed amount (typically, one dollar) if the underlying condition is satisfied, and zero if it is not. Courts⁷⁰ and the CFTC⁷¹ have repeatedly

affirmed that binary option event contracts are a type of swap subject to the Commission’s jurisdiction. Because, as described above, an event (such as a sports-, politics-, cultural-, or weather-related event) is an excluded commodity, a binary option event contract referencing such an event is a swap within the Commission’s jurisdiction.

The term “excluded commodity,” including “an occurrence, extent of an occurrence, or contingency . . . that is—(I) beyond the control of the parties to the relevant contract, agreement, or transaction; and (II) associated with a financial, commercial, or economic consequence,” has long been interpreted broadly. This definition was added to the CEA by the Commodity Futures Modernization Act of 2000 (“CFMA”).⁷² The CFMA provided for a near-complete exemption from the exchange trading requirement for swaps in an “excluded commodity” between institutional traders.⁷³ In other words, these commodities are defined as “excluded” because the CFMA exempted swaps involving them from the exchange trading requirement.

However, swaps in excluded commodities remained within the jurisdiction of the CFTC. The CEA, as amended by the CFMA in 2000, provided that off-exchange swaps in “excluded commodities” between institutional traders would remain subject to CEA sections 5b and 12(e)(2).⁷⁴ Notably, CEA section 12(e)(2) provided at that time that the CEA “shall supersede and preempt the application of any State or local law that prohibits or regulates gaming or the operation of bucket shops (other than antifraud provisions of general applicability) in the case of . . . (B) an agreement, contract, or transaction that is excluded from this chapter under section . . . 2(d) . . . of this title . . . (regardless of whether any such agreement, contract, or transaction is otherwise subject to this chapter).”⁷⁵ Thus, in 2000, Congress clarified that the CFTC’s exclusive jurisdiction

claims to aggregate information and forecast uncertain events); Anthony M. Diercks, Jared D. Katz, & Jonathan H. Wright, *Kalshi and the Rise of Macro Markets*, Fed. Rsv. Bd., Fin. & Econ. Discussion Series 2026–010 (Feb. 2026).

⁶¹ CEA sec. 1a(47)(A)(ii), 7 U.S.C. 1a(47)(A)(ii).

⁶² *Flaherty*, 172 F.4th at 227–228.

⁶³ *Id.* at 227.

⁶⁴ *Id.*

⁶⁵ *Assad*, 2026 WL 2543846, at 11–12; *Schuler*, 2026 WL 2884087, at *14–15.

⁶⁶ See Further Definition of “Swap” to Exclude Casino-Style Gambling Products (Oct. 9, 2026), available at <https://www.cftc.gov/media/14726/>

IFREventContractsSwapExclusion100926/download.

⁶⁷ *Schuler*, 2026 WL 2884087, at *13; see 17 CFR 40.11.

⁶⁸ *Assad*, 2026 WL 2543846, at *19 (Lee, J., concurring); see 7 U.S.C. 7a–2(c)(5)(C).

⁶⁹ 7 U.S.C. 1a(47)(A)(i).

⁷⁰ See, e.g., *CFTC v. Banc de Binary*, No. 2:13–cv–00992, Dkt. No. 169–1 at 18 ¶ 65 (D. Nev. Feb. 26, 2016) (Consent Order for Permanent Injunction) (noting that “Dodd-Frank defined an option as a swap” and that “[t]he binary options offered by Banc de Binary are ‘commodity options.’”); *CFTC v. Trade Exchange Network Ltd.*, 117 F. Supp. 3d 29, 36 (D.D.C. 2015) (noting that “limited risk contracts based on a simple yes/no market proposition like will the markets go up by the end of the trading week . . . possess all the characteristics of contracts that are known to the trade as ‘binary options.’”).

⁷¹ See, e.g., *In re Blockratize, Inc.*, CFTC Dkt. No. 22–08, at 4 (Jan. 3, 2022) (Order Instituting Proceedings) (noting that “[s]uch event contracts, each of which is composed of a pair of binary options, constitute swaps under the CFTC’s jurisdiction”), available at <https://www.cftc.gov/>

[media/6891/enfblockratizeorder010322/download](https://www.cftc.gov/media/6891/enfblockratizeorder010322/download); see also CFTC Staff Letter No. 25–23 (July 22, 2025) (granting CME no-action relief from certain swap data reporting requirements for certain binary options), available at <https://www.cftc.gov/PressRoom/PressReleases/9099-25>.

⁷² Public Law 106–554, app. E, 114 Stat. 2763A–365 (2000). The definition of “excluded commodity,” CEA sec. 1a(19), 7 U.S.C. 1a(19), has remained unchanged since enactment.

⁷³ 7 U.S.C. 2(d) (2000 Main Ed.).

⁷⁴ 7 U.S.C. 2(d)(1) (2000 Main Ed.) (referring to 7 U.S.C. 7a–1 and 7 U.S.C. 16(e)(2)(B)).

⁷⁵ 7 U.S.C. 16(e)(2)(B) (2000 Main Ed.). The term “this chapter” refers to Chapter I of Title 7 of the U.S. Code, where the CEA is codified.

preempted State law—even as to off-exchange transactions—by explicitly providing that State gaming laws would not apply to off-exchange swaps in excluded commodities between institutional traders.

The CFMA was driven by the November 1999 report of the President's Working Group on Financial Markets, which was composed of the Secretary of the Treasury, and the Chairs of the CFTC, the SEC, and the Federal Reserve Board ("PWG Report").⁷⁶ The PWG Report concluded, among other things, that off-exchange swaps between institutional traders should be excluded from the CEA, unless the swap involves a non-financial commodity with a finite supply.⁷⁷ The "excluded commodity" definition enacted in the CFMA was therefore intended to encompass all types of swaps except for those based on non-financial commodities with a finite supply.

In 2010, the Dodd-Frank Act created a framework within the CEA for the on-exchange execution, clearing and reporting of the previously over-the-counter ("OTC") swap markets. Among other things, the Dodd-Frank Act repealed the exclusion that had been added by the CFMA to CEA section 2(d),⁷⁸ and required retail swap transactions (*i.e.*, transactions not between eligible contract participants ("ECPs")) to be entered into on a DCM.⁷⁹

Finally, the Special Rule added by Dodd-Frank to the CEA clarifies that the CFTC has jurisdiction over "[e]vent contracts," including event contracts based on non-financial commodities. The Special Rule provides that "[i]n 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) of this title), 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.⁸⁰ This rule confirms that the term "excluded commodities" includes "occurrence[s]" that "involve" various non-financial events, including but not limited to terrorism, assassination, war, and gaming. It also confirms that "swaps" can be "based upon" such non-financial activities. Thus, the notion that the "event" referred to in the second prong of the "swap" definition must "be one inherently associated with a financial, economic, or commercial consequence" is incompatible with the text of the Special Rule.⁸¹

The Special Rule has particular significance for sports-related event contracts. Applying the plain text of the statute, sports are a type of "gam[e]."⁸² Accordingly, sports-related event contracts are "based upon" an "occurrence, extent of an occurrence, or contingency" that "involve[s]" "gaming." Far from exempting sports-related contracts from the CFTC's jurisdiction, this provision confirms that such instruments can be "swaps" in "excluded commodities" and that they are within the CFTC's jurisdiction.⁸³

Some courts and States have expressed the view that some, but not all, event contracts are swaps on the theory that certain underlying sports, political, cultural, or weather events are not associated with a potential financial, economic, or commercial consequence.⁸⁴ This argument would at most affect the applicability of the first and second prongs of the "swap" definition, but it would not affect the fourth prong, *i.e.*, that the contracts are commonly known to the trade as a

"swap." Furthermore, to the extent there is uncertainty about whether particular underlying sports, political, cultural, or weather events have potential financial consequences, the Commission's exercise of its power to further define "swap" confers on the Commission the authority to determine which contracts qualify as "swaps."

The Commission also notes that it retains authority under the Special Rule to prohibit event contracts involving "gaming" that are contrary to the public interest, and that the Commission has proposed to consider whether a contract has utility for price discovery, hedging, and economic decisions in making public-interest determinations.⁸⁵ Indeed, that proposal distinguishes between sports event contracts "depend[ing] on the aggregate performance over an extended period of play"—which "may serve price discovery functions and provide meaningful information"—from "event contracts settling on the type of a specific play called for or executed by a specific player or team, the type or outcome of a specific pitch thrown by a specific pitcher, the outcome of a specific shot taken by a specific player, or whether a specific player or team commits a specific foul or penalty"—which, among other things, "do not provide meaningful information."⁸⁶

The Commission also preliminarily believes there typically are potential financial, economic, or commercial consequences associated with underlying sports, political, cultural, and weather events that are the subject of event contracts. Importantly, the statute uses the word "potential," which is broad.⁸⁷ So even if the financial consequences of a particular event are not felt right away—indeed, even if they never *actually* occur—an event contract remains a swap so long as there is potential for commercial ramifications.⁸⁸ For example, it may be difficult to empirically verify that there are financial consequences associated with a particular city reaching a temperature of 97 to 98 degrees on a given day, as opposed to 95 to 96 degrees. By inserting the word "potential" into the swap definition, Congress signaled that it did not wish

⁷⁶ Report of The President's Working Group on Financial Markets, *Over-the-Counter Derivatives Markets and the Commodity Exchange Act*, 17 (Nov. 1999), available at <https://home.treasury.gov/system/files/236/Over-the-Counter-Derivatives-Market-Commodity-Exchange-Act.pdf>.

⁷⁷ *Id.* at 1.

⁷⁸ Dodd-Frank Act sec. 723(a)(1), 7 U.S.C. 2 (striking and replacing CEA sec. 2(d)).

⁷⁹ CEA sec. 2(e), 7 U.S.C. 2(e). The term "eligible contract participant" is defined in CEA sec. 1a(18), 7 U.S.C. 1a(18).

⁸⁰ 7 U.S.C. 7a-2(c)(5)(C)(i) (emphases added).

⁸¹ *Schuler*, 2026 WL 2884087, at * 11.

⁸² *KalshiEX LLC v. CFTC*, No. 23-cv-3257, 2024 WL 4164694, at * 12 (D.D.C. Sept. 12, 2024).

⁸³ *Flaherty*, 172 F.4th at 231 ("Congress gave the CFTC exclusive jurisdiction over trades on DCMs, provided for continued rate regulation of trades conducted off DCMs, and recognized that while event contracts could involve gaming, the CFTC has discretionary power to review and prohibit those contracts."); *Minnesota*, 2026 WL 2150211, at * 13 ("In combination with the congressional decision to give the CFTC exclusive jurisdiction over swaps, allowing the CFTC to either permit event contracts in these categories or declare them contrary to the public interest suggests, at least preliminarily, that Congress intended DCM-based transactions over these prediction markets to be governed by the CFTC."); *KalshiEX LLC v. Johnson*, 832 F. Supp. 3d 954, 965 (D. Ariz. 2026) ("By directing the CFTC to review event contracts and prohibit those contrary to the public interest, Congress placed event contracts under the CFTC's exclusive authority."); *Raoul*, 2026 WL 2969682, at * 10 (The Special Rule "belies that the Commodity Exchange Act has nothing to do with" sports event contracts.).

⁸⁴ *E.g.*, *Minnesota*, 2026 WL 2150211, at * 15.

⁸⁵ 91 FR at 35829–30.

⁸⁶ *Id.* at 35835–37.

⁸⁷ *Alabama Power Co. v. Costle*, 636 F.2d 323, 353 (D.C. Cir. 1979) (recognizing that "potential . . . will always and inherently exceed actual").

⁸⁸ *Minnesota*, 2026 WL 2150211, at * 12 ("The occurrence of the event in question does not have to ultimately result in a financial, economic, or commercial consequence to meet the definition. It is enough that such consequences are foreseeable future possibilities.").

for the Commission to engage in this exercise. Temperature has the potential to cause financial consequences for agriculture, energy usage, participation in outdoor activity, and more—event contracts based on temperature therefore satisfy the “potential financial, economic, or commercial consequence” requirement.

Sports events likewise can be associated with potential economic consequences. Most obviously, when a team succeeds in the postseason, that team is able to play more home games, which generates additional ticketing revenue for the franchise and economic opportunity for nearby businesses like restaurants and hotels.⁸⁹ For example, the New York Knicks’ 2026 championship-winning postseason run generated around \$380 million for New York City’s economy.⁹⁰ Similarly, after the Milwaukee Bucks won the 2021 NBA Finals, the City of Milwaukee estimated that the team’s postseason performance generated \$2.7 million in economic impact to the city in the first round, \$12.8 million in the second round, \$14.1 million in the third round, and \$28 million in the final round—thus, each time the Bucks won a round of the playoffs, there were concrete economic consequences for Milwaukee.⁹¹ Postseason success also affects a sports team’s valuation. Madison Square Garden Sports, the Knicks’ parent company, doubled in market value over the course of a year because of the team’s championship-winning performance.⁹² At least at some level of generality, it is inescapably true

that sports events are associated with potential economic consequences.

The result of single regular-season games are associated with potential economic consequences, too. Studies have verified that a single win in a college football game can result in millions of dollars in additional revenue to the program.⁹³ And when a team wins a game, that has direct commercial consequences for businesses around the stadium, as fans are more likely to spend money at those establishments in celebration.

In-game events and contingencies are also associated with potential economic consequences. For example, a close game is more likely to have higher television viewership than a blowout, and thus, the spread of a game is associated with potential economic consequences.⁹⁴ Player contracts often have bonuses associated with specific statistical results, like the number of touchdowns scored or receptions made, so player performance within a game has potential economic consequences.⁹⁵

Business promotions can amplify these economic consequences. For example, a furniture store in Houston, Texas, runs a regular promotion in which customers who spend a minimum amount will get their purchases refunded if the Houston Astros win the World Series, creating a direct link between the outcome of the World Series and financial consequences for numerous furniture purchasers in Houston.⁹⁶ Similarly, a New York bar promised free drinks to patrons if the Knicks won the first NBA Finals game, which also linked the outcome of the game to an economic

consequence.⁹⁷ Businesses also structure promotions around whether particular events occur within a game. For example, when the Cincinnati Reds hit a home run in the 4th inning, ticketholders get a reward from Chick-fil-A,⁹⁸ when the Minnesota Vikings intercept a pass, Caribou Coffee offers a buy-one-get-one drink deal,⁹⁹ and Delta Air Lines’ loyalty program customers earn one mile for each Seattle Seahawks passing yard in a season.¹⁰⁰

The list of examples could extend indefinitely. The salient point is that many sports-, politics-, cultural, and weather-related events are associated with potential economic consequences, and thus event contracts that are predicated on those events are swaps subject to the Commission’s exclusive jurisdiction. To the extent a sports-, politics-, cultural-, or weather-related event is not associated with a potential economic consequence and does not satisfy any other prong of the swap definition, the Commission retains authority to stay the listing of that contract.¹⁰¹

For these reasons, the Commission is proposing to amend the “swap” definition to explicitly identify event contracts, including those based on sports-, politics-, cultural-, and weather-related events, as swaps within the Commission’s jurisdiction. Specifically, the Commission proposes to add paragraph (2)(i)(G) to § 1.3’s definition of “swap”¹⁰² to provide that the term swap includes “[e]vent contracts, including those based on sports-, politics-, cultural-, and weather-related events.” And, as set forth in a separate Interim Final Rule,¹⁰³ the Commission does not intrude upon existing regulation of in-person and online casino-style gambling by doing so. Rather, the Commission proposes, consistent with its clear statutory mandate, to regulate only event contracts, including those based on

⁸⁹ For example, as the Northern District of Illinois recently recognized, “[a]t a financial level, sports [event contracts] can resemble credit default swaps” in their potential financial, economic, or commercial consequences. *Raoul*, 2026 WL 2969682, at * 11. “Broadcasters depend on the total number of games played in a best-of-seven matchup like the NBA Finals and the World Series,” with a “difference in advertising revenue between a four-game series and a seven-game series . . . cost[ing] NBC between \$25 million and \$35 million,” and affecting “[a]rena and concession companies,” who “often get paid a percentage of sales during games, meaning their revenue correlates with the number of games, too. Meanwhile, sponsors’ returns on endorsements depend on players performing well.” *Id.*

⁹⁰ CNBC, *Knicks’ postseason run brought \$380m in economic activity, says NYCEDC’s Jeanny Pak* (June 18, 2026), available at <https://www.cnbc.com/video/2026/06/18/knicks-postseason-run-brought-380m-in-economic-activity-says-nyceds-jeanny-pak.html>.

⁹¹ Visit Milwaukee, *Economic Impact Data for Milwaukee Bucks Championship* (Dec. 9, 2021), available at <https://www.visitmilwaukee.org/press-releases/post/2885682-economic-impact-data-for-milwaukee-bucks-championship/>.

⁹² Jack Pitcher & Andrew Beaton, *The Only Thing Hotter Than the Knicks Is Their Stock Price*, Wall Street Journal (June 8, 2026), available at <https://www.wsj.com/sports/basketball/knicks-nba-finals-msg-stock-b0f2dd31>.

⁹³ Doug J. Chung, *How Much is a Win Worth? An Application to Intercollegiate Athletics*, *Management Science* 63, no. 2, at 548–565 (February 2017).

⁹⁴ Austin Karp, *CFP First Round viewership falls 7% in second year amid blowouts, NFL doubleheader gains*, *Sports Business Journal* (Dec. 24, 2025), available at <https://www.sportsbusinessjournal.com/Articles/2025/12/24/cfp-first-round-viewership-falls-7-in-second-year-amid-blowouts-nfl-doubleheader-gains/>; *NFL’s wild-card ratings tumble amid blowouts*, *Reuters* (Jan. 15, 2025) <https://www.reuters.com/sports/nfls-wild-card-ratings-tumble-amid-blowouts-flm-2025-01-16/>.

⁹⁵ Zach Kruse, *How Packers WR Christian Watson can make another \$15M in contract incentives*, *Packers Wire* (June 19, 2026), available at <https://packerswire.usatoday.com/story/sports/nfl/packers/2026/06/19/christian-watson-contract-packers-incentives-catches-yards-touchdowns-pro-bowl/90619346007/>.

⁹⁶ Chad Washington, *‘Mattress Mack’ uses a prediction market to wager on the Astros’ postseason hopes*, *KTSM 9 News*, available at <https://www.ksm.com/news/state-news/mattress-mack-uses-a-prediction-market-to-wager-on-the-astros-postseason-hopes/amp/>.

⁹⁷ Catherina Gioino, *This NYC bar just covered everyone’s tabs because the Knicks won, and used Kalshi to hedge their bets*, *Fortune* (June 3, 2026), available at <https://fortune.com/2026/06/03/nyc-bar-knicks-kalshi-win-prediction-market/>.

⁹⁸ Chick-fil-A Free Chicken Promotion, available at <https://www.mlb.com/reds/tickets/specials/chick-fil-a-runs> (last visited Oct. 14, 2026).

⁹⁹ BOGO Ball Presented by Caribou Coffee, available at <https://www.vikings.com/fans/promos/caribou-coffee-promo> (last visited Oct. 14, 2026).

¹⁰⁰ *First and 10: 12Status program kicks off a decade of awarding Seattle Seahawks fans*, *Delta News Hub* (Aug. 28, 2026), available at <https://news.delta.com/first-and-10-12status-program-kicks-decade-awarding-seattle-seahawks-fans>.

¹⁰¹ See 17 CFR 40.2(c).

¹⁰² 17 CFR 1.3.

¹⁰³ See *supra* note 66.

sports-, politics-, cultural-, and weather-related events.

The classifications proposed here are for purposes of the Commodity Exchange Act. Federal tax treatment and associated information reporting, withholding, registration, and payment obligations are determined under the Internal Revenue Code and applicable Treasury regulations and Internal Revenue Service guidance.

III. Request for Comment

The Commission welcomes public comments from all interested persons regarding any aspect of the Proposal.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ¹⁰⁴ (“RFA”) requires Federal agencies, in proposing rules, to consider the impact of those rules on small entities, and to provide a regulatory flexibility analysis with respect to such impact.¹⁰⁵ The regulations proposed herein would directly affect DCMs, swap execution facilities (“SEFs”), swap dealers, major swap participants, and ECPs. The Commission has previously determined that that DCMs are not considered “small entities” for purposes of the RFA.¹⁰⁶ Similarly, the Commission previously concluded that SEFs are not small entities for the purpose of the RFA.¹⁰⁷ The Commission has also previously stated its belief in the context of relevant rulemakings that SEFs’ market participants, which are all required to be ECPs ¹⁰⁸ as defined in section 1a(18) of the CEA,¹⁰⁹ are not small entities for purposes of the RFA.¹¹⁰ Likewise, the Commission has previously concluded that Swap Dealers and Major Swap Participants are not small entities for purposes of the RFA, due in part to the minimum capital and margin requirements applicable to such entities.¹¹¹

For these reasons, under section 3(a) of the RFA,¹¹² the Chairman, on behalf of the Commission, certifies that this Proposal will not have a significant economic impact on a substantial number of small entities. The Commission nonetheless invites comment on this determination. This document serves as notification to the Small Business Administration of the Commission’s certification of no effect.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (“PRA”) ¹¹³ imposes certain requirements on federal agencies, including the Commission, in connection with conducting or sponsoring any “collection of information,” as defined by the PRA. Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number from the Office of Management and Budget (“OMB”).¹¹⁴ The PRA is intended, in part, to minimize the paperwork burden created for individuals, businesses, and other persons as a result of the collection of information by Federal agencies, and to ensure the greatest possible benefit and utility of information created, collected, maintained, used, shared, and disseminated by or for the Federal government.¹¹⁵ The PRA applies to all information, regardless of form or format, whenever the Federal government is obtaining, causing to be obtained, or soliciting information, and includes required disclosure to third parties or the public, of facts or opinions, when the information collection calls for answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons.¹¹⁶

This Proposal would not impose any new collection of information requirements that require approval of OMB under 44 U.S.C. 3507(d), nor would it amend or otherwise revise any existing collection of information subject to the PRA. The Proposal clarifies the definition of “swaps” to, consistent with its jurisdiction, explicitly include event contracts, including those based on sports-,

politics-, cultural-, and weather-related events.

The Proposal does not establish any new reporting requirement under the CEA or the Commissions’ regulations applicable to any Commission registrant or market participant; establish any new recordkeeping requirement beyond those already imposed under the CEA and the Commission’s existing regulations, which are currently approved by OMB under existing control numbers; impose any new third-party disclosure obligation; or modify the substantive scope, frequency, form, or content of any existing information collection of the Commission currently approved by OMB.

The Proposal does not alter the burden associated with existing collections currently approved by OMB. Any incremental activity that may occur as an indirect consequence of registrants electing to conduct business within the federal regulatory perimeter clarified by this proposed rule reflects the application of existing, previously approved information collections to a new class of underlying transactions and does not itself constitute a new or revised collection of information within the meaning of the PRA.

Accordingly, the requirements of the PRA do not apply to this rulemaking. The Commission invites public comment on its determination that no additional recordkeeping or information collection requirements, or changes to existing collection requirements, would result from the Proposal.

C. Consideration of Benefits and Costs

1. Introduction

The Commission is mindful of the economic effects, including the benefits and costs, of the Proposal. Section 15(a) of the CEA requires the Commission to consider the benefits and costs of its actions before promulgating a regulation under the CEA or issuing certain orders.¹¹⁷ As required by section 15(a), the Commission evaluates these benefits and costs evaluated in light of five broad areas of market and public concern: (1) protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations.

The Proposal further defines the term “swap” under CEA section 1a(47) to include event contracts, including those based on sports-, politics-, cultural-, and weather-related events.¹¹⁸ It is the

¹⁰⁴ 5 U.S.C. 601 *et seq.*

¹⁰⁵ See 5 U.S.C. 603. The RFA applies to rules subject to notice-and-comment rulemakings issued pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b), or any other law. *Id.*

¹⁰⁶ See Policy Statement and Final Establishment of Definitions, 47 FR 18618 (Apr. 30, 1982).

¹⁰⁷ SEF Core Principles Final Rule, 78 FR 33476, 33548 (June 4, 2013) (citing 47 FR at 18621) (discussing DCMs); A New Regulatory Framework for Clearing Organizations, 66 FR 45604, 45609 (Aug. 29, 2001) (discussing registered DCOs).

¹⁰⁸ 17 CFR 37.703.

¹⁰⁹ 7 U.S.C. 1a(18).

¹¹⁰ Opting Out of Segregation Final Rule, 66 FR 20740, 20743 (Apr. 25, 2001) (stating that ECPs by the nature of their definition in the CEA should not be considered small entities).

¹¹¹ Swap Dealer and Major Swap Participant Recordkeeping, Reporting, and Duties Rules; Futures Commission Merchant and Introducing Broker Conflicts of Interest Rules; and Chief

Compliance Officer Rules for Swap Dealers, Major Swap Participants, and Futures Commission Merchants Final Rule, 77 FR 20128, 20194 (Apr. 3, 2012).

¹¹² 5 U.S.C. 605(b).

¹¹³ 44 U.S.C. 3501 *et seq.*

¹¹⁴ See 44 U.S.C. 3507(a)(3); 5 CFR 1320.5(a)(3).

¹¹⁵ See 44 U.S.C. 3501.

¹¹⁶ See 44 U.S.C. 3502(3).

¹¹⁷ 7 U.S.C. 19(a).

¹¹⁸ See 7 U.S.C. 1a(47).

Commission's preliminary belief that the Proposal would not change the legal rights or obligations of market participants under the CEA because the Commission already treats event contracts as swaps under existing law. Instead, the Commission preliminarily believes that the Proposal will reduce interpretive uncertainty and facilitate uniform nationwide treatment of event contracts under the exclusive jurisdiction of the Commission.

The Commission qualitatively discusses the benefits and costs of the Proposal below because it is not practicable to quantify the effect of greater regulatory certainty on market participant behavior.

2. Baseline

The baseline against which the benefits and costs of the Proposal are measured consists of the current regulatory framework and the current state of the event contracts market.

a. Regulatory Baseline

The Commission has exclusive jurisdiction to regulate transactions involving swaps (other than security-based swaps, which the SEC regulates, and mixed swaps, over which it shares jurisdiction with the SEC).¹¹⁹ The Commission preliminarily believes that under the plain language of the CEA, event contracts, including event contracts based on sports-, politics-, cultural-, and weather-related events, are swaps.¹²⁰ For example, CEA section 1a(47)(A)(ii) defines "swap" to include "any agreement, contract, or transaction . . . that provides for any purchase, sale, payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence."¹²¹ It is the Commission's preliminary belief that this comprehensive definition captures many event contracts, which are a type of swap where payment is triggered by "the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial

consequence," such as a political election or a sporting event.¹²²

Accordingly, it is the Commission's preliminary belief that event contracts, including those based on sports-, politics-, cultural-, and weather-related events, are subject to Federal law concerning swaps, including that retail participants may only trade swaps on a DCM.¹²³ DCMs listing event contracts must comply with the substantive and procedural requirements that apply to a DCM's listing of derivative contracts for trading.¹²⁴ In particular, these requirements include adherence to the Core Principles for DCMs, including listing only contracts that are not readily susceptible to manipulation, preventing market disruption, and protecting of markets and market participants.¹²⁵

However, certain State regulators have asserted that certain event contracts—particularly those based on sports-related events—are subject to their laws regulating gaming and other matters. These other legal regimes have various, sometimes conflicting, requirements that states have purported to apply to event contracts.¹²⁶

b. Current Event Contract Markets

The number of DCMs listing event contracts and the volume of trading in such contracts have increased significantly in recent years. For example, as of September 1, 2026, at least seven DCMs registered with the CFTC offer contracts that include event contracts based on sports-related events to U.S. persons. More than fifteen pending DCM applications have been filed since 2025. Many of these newly designated DCMs and platforms with pending applications have stated they intend to offer contracts that could be considered event contracts. In August 2026, average monthly trading volume in event contracts was about \$1.5 billion across all DCMs reporting to the Commission.¹²⁷ Of that volume,

approximately \$1.2 billion was in event contracts based on sports-related events; approximately \$11 million was in event contracts based on politics-related events, including elections-related event contracts; and approximately \$4 million was in event contracts based on weather-related events.¹²⁸

3. Benefits

Because the Commission does not expect the Proposal to change the legal rights or obligations of market participants under the CEA, it is the Commission's preliminary belief that the primary benefit of this Proposal would be added certainty that event contracts, including those based on sports-, politics-, cultural-, and weather-related events, are swaps that are subject to the exclusive jurisdiction of the CFTC. Although the extent of the benefit may be limited by the ongoing efforts of certain state regulators to assert their jurisdiction over certain event contracts, market participants—including DCMs listing event contracts—may benefit by spending less time and fewer resources determining which regulatory regime applies and by saving the costs of complying with various State regulatory regimes.

4. Costs

It is the Commission's preliminary belief that there should be negligible costs from codifying that event contracts, including those based on sports-, politics-, cultural-, and weather-related events, are swaps subject to the Commission's exclusive jurisdiction, as there would be no expected changes required of market participants under the CEA or the Commission's regulations.

However, the Proposal may result in indirect costs to the extent that market participants respond to the added certainty by shifting activity toward the CFTC swaps framework. For example, States might receive less fee and other revenue if entities choose to structure their business operations as DCMs instead of structuring their operations within State regulatory frameworks. It is also possible that costs could also result from the potential transition, generating short-term frictions. For example, market participants could incur reconciling costs where Federal and State regulatory regimes overlap during the transition, such as unwinding or

Volume on Prediction Markets Has Soared in Recent Months, Pew Research Center (May 27, 2026), available at <https://www.pewresearch.org/?p=306935>.

¹²⁸ Estimated based on nonpublic daily trade and reporting data reported by DCMs under CFTC Rule 16.02, 17 CFR 16.02.

¹¹⁹ See 7 U.S.C. 2(a)(1)(A).

¹²⁰ See 7 U.S.C. 1a(47); *supra* section I; *see also*, e.g., *Flaherty*, 172 F.4th at 227 (holding that a "plain reading of the Act's text suggests that Kalshi's sports-event contracts fit comfortably within the statutory definition"). *But see Assad*, 2026 WL 2543846.

¹²¹ 7 U.S.C. 1a(47)(A)(ii); *see supra* note 15 and accompanying text. Other clauses in the statutory definition of the term "swap" are also relevant. *See supra* notes 16–18.

¹²² As described above, such contracts may also be swaps under other prongs of the definition.

¹²³ See 7 U.S.C. 2(e) (requirement that persons other than ECPs transact swaps on a DCM). The term "eligible contract participant" is defined in CEA sec. 1a(18), 7 U.S.C. 1a(18), and generally includes only institutional investors. In addition to DCMs, an SEF may make any swap, including an [event contract] that is a swap, available for trading. *See* CEA sec. 5h, 7 U.S.C. 7b–3. However, swap trading on an SEF is not available to the general public, but rather only to ECPs.

¹²⁴ *See generally* CEA sec. 5, 7 U.S.C. 7. SEFs are subject to similar requirements. *See* CEA sec. 5h, 7 U.S.C. 7b–3.

¹²⁵ *See* 7 U.S.C. 7(d).

¹²⁶ *Compare Flaherty*, 172 F.4th at 227, with *Assad*, 2026 WL 2543846.

¹²⁷ Estimated based on nonpublic daily trade and reporting data reported by DCMs under rule 16.02. *See* 17 CFR 16.02; *see also* Kaitlyn Radde, *Trading*

maintaining State licenses in parallel with CFTC-regulated obligations during the transition.

5. Section 15(a) Factors

a. Protection of Market Participants and the Public

The Commission preliminarily believes that classification certainty provided by the Proposal may allow market participants to more readily operate within the Federal swaps framework and its attendant protections. Insofar as this certainty leads to an increase in the number of event contracts listed on DCMs, the protection of market participants and the public may be advanced by application of the Core Principles to the market. However, certainty provided by the Proposal could be perceived as a safety signal by retail participants. This may raise risk appetite for certain categories of event contracts as retail market participants may update their beliefs about oversight of these products and under-weigh their inherent risk and increase their exposure to these products without parallel improvements in disclosure or education that could improve comprehension of risks related to event contracts based on sports-, politics-, cultural-, or weather-related events.

b. Efficiency, Competitiveness, and Financial Integrity of Futures Markets

The Commission preliminarily believes that the Proposal is unlikely to affect the efficiency or financial integrity of the futures markets, but there could be effects on the swaps market. To the extent that firms restructure their operations from State regimes to the Federal swaps regime, the Proposal could facilitate direct competition between CFTC-regulated DCMs and State-regulated businesses. However, because the Federal swaps regime requires infrastructure with fixed costs, certainty provided by the Proposal might favor incumbent DCMs with established infrastructure and customer bases. Furthermore, the Commission preliminarily believes that clarifying that event contracts are swaps may advantage exchanges already configured for Federal compliance relative to state-licensed platforms, shifting costs unevenly where new entrants may face higher fixed costs to reach swaps compliance scale, potentially reducing competitive pressure on fees, service quality, and innovation diversity at the margin.

c. Price Discovery

The Commission preliminarily believes that price discovery for event contracts will not be materially affected

because the Proposal does not alter trading rules, exchange requirements, or information-dissemination obligations for the contracts it covers, which the Commission already expects to trade on DCMs subject to existing Core Principles.

d. Sound Risk Management Practices

The Commission preliminarily believes that risk management practices will not be materially affected because the Proposal does not alter the application of Commission requirements regarding risk management, including DCM risk-management Core Principles.

e. Other Public Interest Considerations

Codification of the Commission's understanding that event contracts, including those based on sports-, politics-, cultural-, and weather-related events, are swaps may improve legal predictability and administrability, consistent with the CEA's purpose of encouraging effective self-regulation of trading facilities, clearing systems, and market participants. The Commission preliminarily believes that the Proposal may reduce the resources market participants devote to complying with various, sometimes-contradictory State regulatory regimes.

But, insofar as the certainty provided by the Proposal increases the volume of event contracts listed on DCMs, the Commission preliminarily believes that retail market participants could be harmed because some event contract trading characteristics (such as outcomes occurring at unpredictable intervals, perception of skill-based decision making, near-miss experiences, and potential for loss-chasing behavior) can be associated with addictive potential. It is possible that these characteristics can lead to financial harm to participants who accumulate losses through high-frequency trading, allocate disproportionate resources to trading activity, and have trouble disengaging voluntarily.

6. Regulatory Alternatives

Given the Proposal seeks to articulate the Commission's existing jurisdiction over swaps, the Commission has not identified any viable regulatory alternatives.

D. Antitrust Laws

Section 15(b) of the CEA requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of the CEA as well as the policies and purposes of the

CEA, in issuing any order or adopting any Commission rule or regulation (including any exemption under section 4(c) or 4c(b)), or in requiring or approving any bylaw, rule, or regulation of a contract market or registered futures association established pursuant to section 17 of the CEA.¹²⁹

The Commission preliminarily believes that the public interest to be protected by the antitrust laws is the promotion of competition. The Commission has considered this Proposal to determine whether it is anticompetitive and has identified no anticompetitive effects. Having done so, it also has not identified any less anticompetitive means of achieving the purposes of the CEA.

E. Executive Orders 12866, 13563, and 14192

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select those regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; and distributive impacts). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as any regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, or the President's priorities.

OMB has determined that this action is a significant regulatory action as defined under section 3(f) of Executive Order 12866 and therefore this action has been reviewed by OMB, consistent with Executive Order 14215.

This Proposal, if finalized as proposed, is not expected to be an Executive Order 14192 regulatory action, because it imposes no more than *de minimis* net costs.

List of Subjects in 17 CFR Part 1

Swaps.

For the reasons set forth in the preamble, the Commodity Futures

¹²⁹ 7 U.S.C. 19(b).

Trading Commission proposes to amend 17 CFR part 1 as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

■ 1. The authority citation for part 1 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 5, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6l, 6m, 6n, 6o, 6p, 6r, 6s, 7, 7a–1, 7a–2, 7b, 7b–3, 8, 9, 10a, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23, and 24 (2012).

■ 2. In § 1.3, in the definition of the term, *Swap*, revise paragraphs (2)(i)(E) and (F) and add paragraph (2)(i)(G) to read as follows:

§ 1.3 Definitions.

* * * * *

Swap. * * *

(2) * * *

(i) * * *

(E) A forward rate agreement;

(F) A non-deliverable forward involving foreign exchange; and
(G) Event contracts, including those based on sports-, politics-, cultural, and weather-related events.

* * * * *

Issued in Washington, DC, on October 15, 2026, by the Commission.

Christopher Kirkpatrick,
Secretary of the Commission.

NOTE: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Further Definition of “Swap”—Inclusions—Commission Voting Summary

On this matter, Chairman Selig voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2026–21377 Filed 10–16–26; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–1162]

RIN 1625–AA00

Safety Zone; FRL Inaugural Invitational eFoil Exhibition Race, Miami Marine Stadium Basin, Miami, FL

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for

certain navigable waters in the Miami Marine Stadium Basin in connection with the FRL Inaugural Invitational eFoil Exhibition Race. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with eFoil race operations. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless specifically authorized by the Captain of the Port, Sector Miami. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before November 18, 2026.

ADDRESSES: To submit comments and view available documents, go to <https://www.regulations.gov> and search for USCG–2026–1162.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rule, contact MST2 Elliot Cortes, Sector Miami Waterways Management Division, U.S. Coast Guard; telephone 786–295–9051, or email SectorMiamiWaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background and Authority

The Coast Guard was notified that an organization will be hosting the FRL Inaugural Invitational eFoil Exhibition Race on November 15, 2026, at the Miami Marine Stadium Basin, Miami, FL. Hazards from eFoil racing include high-speed blunt force impacts, propeller lacerations, and lithium battery failures. The Captain of the Port Sector Miami (COTP) has determined that potential hazards associated with eFoil racing are a safety concern for anyone within 100 yards of race operations. Therefore, the COTP is proposing this rule under the authority in 46 U.S.C. 70034, which is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone.

III. Discussion of the Rule

This proposed rule would establish a safety zone on November 15, 2026, from 8:00 a.m. until 9:00 p.m. The safety zone would cover all navigable waters within 100 yards of the race area. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or their

designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

A. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons.

Vessel traffic will be able to safely transit around this regulated area. This regulation will only impact a small area for a few hours. In addition, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16, which will allow small entities to adjust their transit plans.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this proposed rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247).