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Christopher Kirkpatrick,
Secretary of the Commission,
Commodity Futures Trading Commission,
Three Lafayette Centre,
1155 21st Street NW,
Washington, DC 20581

Secretary,
Securities and Exchange Commission,
100 F Street NE,
Washington, DC 20549-1090

July 16, 2026

Dear Mr. Kirkpatrick and SEC Secretary:

This letter is addressed to the Commodity Futures Trading Commission ("***CFTC***") and the Securities and Exchange Commission ("***SEC***" and jointly with the CFTC, the "***Commissions***"). This letter is a response to the Commissions' "Joint Request for Comment on Further Definition of 'Swap' and 'Security-Based Swap' and on Alternative Compliance" (RIN 3038-AF71) (File Number S7-2026-21) (the "***Joint Request for Comment***").

I am a professor of business law at Seton Hall Law School, and, among other things, previously practiced derivatives law in regulatory and transactional capacities at Sullivan & Cromwell LLP and Sidley Austin LLP. My scholarship focuses on derivatives and other financial markets, and my recent research has focused on prediction markets and their regulation by the CFTC.[1] I am also a user of prediction markets, including Kalshi.com. I write in my personal capacity, and the views expressed in this letter represent only my personal views.

I am writing this letter to respectfully request guidance concerning event contracts for the benefit of customers and counterparties. In this letter, I address some, but not all of the questions

[1] Ilya Beylin, *Event Contracts Are a Step Too Far for Derivatives Regulation*, 4 UNIV. CHI. BUS. L. REV. 77 (2025); Ilya Beylin, *Exchanges are Using Federal Derivatives Law to Provide Gambling Products to Retail Traders: A Descriptive Account with Suggestions for Regulatory Intervention* (forthcoming REV. BANK. FIN. L. 2026) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5282276; Ilya Beylin, *Regulation of Prediction Markets in the U.S.*, COMMODITY INSIGHTS DIGEST 2-3 (Summer 2026).

posed in the Joint Request for Comment. The questions are referenced in italics with my responses following in non-italicized text, however, certain responses are relevant to more than one question.

Question 1 concerns, among other things, the interpretation of the term "swap".

My first request is to provide additional clarity on whether and under what conditions the contracts that Kalshi and other exchanges offer qualify as "swaps". The Commissions previously promulgated the following rulemaking "Further Definition of 'Swap,' 'Security-Based Swap,' and 'Security-Based Swap Agreement'; Mixed Swaps; Security-Based Swap Agreement Recordkeeping", 77 Fed. Reg. 48208 (Aug. 13, 2012) (the "***Product Definitions Adopting Release***"). The Product Definitions Adopting Release explained that the term "swap" and related terms were meant to capture instruments that contributed to the Great Financial Crisis of 2007-08.[2] In its discussion, the Product Definitions Adopting Release carved out a variety of common consumer transactions from the scope of the term "swap" and related terms:

> "The Commissions are stating that certain customary consumer and commercial transactions that have not previously been considered swaps or security-based swaps do not fall within the statutory definitions of those terms. Specifically with regard to consumer transactions, the Commissions are adopting as proposed the interpretation that certain transactions entered into by consumers (natural persons) as principals or their agents primarily for personal, family or household purposes would not be considered swaps or security-based swaps."[3]

The Commissions' interpretation appears to carve out wagering transactions from the definitions of "swap", "security-based swap" and "mixed swap." These transactions long predate the Dodd-Frank Act, having been offered, e.g., in Nevada, Atlantic City, and Native American casinos. These transactions did not contribute to the Great Financial Crisis of 2007-08. At the time of the Dodd-Frank Act and subsequently, no one expected these transactions to be treated as swaps. Among other things, if these transactions are swaps, the counterparties need to be eligible contract participants when they are entered into away from a designated contract market (DCM). Imposing the eligible contract participant requirement on wagering transactions would be absurd and upend the gambling industry.

Notwithstanding the foregoing analysis, platforms such as Kalshi.com have certified wagers on the outcomes of sporting events and other occurrences as swaps. There is extensive empirical evidence that users trade in these contracts overwhelmingly for personal entertainment purposes.[4] Please clarify the application of the carveout for consumer transactions in the Product Definitions Adopting Release to wagering transactions (i.e., event contracts) such as those offered through Kalshi.com.[5] Please further clarify whether transactions that are not offered on DCMs but economically resemble event contracts made on DCMs are swaps.

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[2] Further Definition of "Swap", "Security-Based Swap," and "Security-Based Swap Agreement"; Mixed Swaps; Security-Based Swap Agreement Recordkeeping, 77 Fed. Reg. 48208, 48308-18 (Aug. 13, 2012).
[3] Id. at 48318.
[4] *Supra* note 1.
[5] Event contracts offered through DCMs may instead be styled as "futures", which reduces the impact of applying the jointly adopted interpretation of "swap" with its carveout for consumer transactions as discussed in this letter.

Question 3 concerns the clarity of definitions of the terms swap, SBS, and mixed swap. Relatedly, Question 7 concerns circumstances within which swaps satisfy the SBS Event Contract Prong.

In using prediction markets, I and other users have experienced confusion as to the appropriate regulatory classification of certain contracts. As noted in the Joint Request for Comment, an event contract ceases to qualify as a swap if it is based on the "occurrence, nonoccurrence, or extent of the occurrence of an event relating to a single issuer of a security or the issuers of securities in a narrow-based security index, provided that such event directly affects the financial statements, financial condition, or financial obligation of the issuer."[6] I refer to such event contracts as those satisfying the "SBS Event Contract Prong". These event contracts may be security-based swaps or mixed swaps rather than swaps.

Please provide clarity as to when an event contract meets the SBS Event Contract Prong. In formulating guidance, please consider whether the following contracts currently certified as swaps are truly swaps or should instead be treated as security-based swaps or mixed swaps.

First, Kalshi currently lists contracts based on whether Tesla will achieve a specified quarterly vehicle delivery target. Although Kalshi treats these products as swaps, it is unclear as to whether this contract satisfies the SBS Event Contract Prong because it is based on the occurrence of an event relating to a single issuer. In this case the contract is event based, with the event being whether Tesla will report more than a specified amount of vehicle deliveries (e.g., 460,000) in a certain quarter (e.g., Q2 2026). This event relates to a single issuer, Tesla Inc. Vehicle deliveries directly affect the financial condition of the issuer because they translate into sales figures (the average revenues Tesla receives from a sale of a car are approximately known). Are these contracts truly swaps? A strong argument exists that quarterly vehicle deliveries directly affect Tesla's financial condition because deliveries are one of Tesla's principal operating metrics, largely determine revenues, and significantly influence the company's reported financial results. If this contract is not a security-based swap or mixed swap, how should market participants identify the characteristics that do make a contract a security-based swap or mixed swap?

Second, Kalshi currently lists a contract asking whether Apple will release the baseline iPhone 19 before a specified date. Because the contract is based on the occurrence or non-occurrence of a product launch by a single issuer, it raises similar questions under the SBS Event Contract Prong. There is potential for direct financial impact from such an event, as it could affect revenues, quarterly financial results, and Apple's overall financial condition and competitive position.

Third, Kalshi currently lists a contract regarding whether Tesla and Space X will merge by a stated date. A merger or acquisition results in substantial changes to the acquiring (surviving) company's assets, liabilities, goodwill, financial statements, capital structure, cash flow, and overall financial condition. The SEC regulates some public company M&A transactions. How should contracts that settle on merger or acquisition events be characterized as between swaps, security-based swaps and mixed-swaps?

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[6] 15 U.S.C. 78c(a)(68).

These examples demonstrate the uncertainty surrounding the SBS Event Contract Prong when applied to issuer-specific event contracts. I respectfully request that the Commissions provide guidance that, among other things, can be used to determine whether contracts based on issuer-specific sales, product launches, M&A, and similar corporate events (e.g., IPOs) are to be typically classified as swaps, security-based swaps, or mixed swaps.

It would also help for the Commissions to clarify whether the results of a match or competition involving one or more professional sports teams qualify under the SBS Event Contract Prong. The outcome of games and tournaments can have profound financial results for the firm operating a professional sports team. For example, the excellent performance of the Knicks this last year has redounded to the benefit of MSG Sports.[7] Event contracts on the outcomes of sporting events in some cases can have meaningful and direct consequences for the financial statements, financial condition, or financial obligations of an issuer. Again, I respectfully request guidance to help classify these and other contracts that impact the financial performance of issuers.

Finally, please provide guidance sufficient to understand if event contracts that settle based on the outcome of drug trials run by pharmaceutical companies are swaps, security-based swaps or mixed swaps. In many cases, the outcome of FDA testing will have major effects on the financial statements, financial condition, or financial obligations of an issuer engaged in developing the pharmaceutical.

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I appreciate the Commissions wrestling with difficult questions towards providing clarity to market participants and a consistent regulatory regime. I would be glad to hear from you at ilya.beylin@shu.edu to discuss these and related matters further whether via setting up a call or through correspondence.

Sincerely,

Ilya Beylin

Professor Ilya Beylin

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[7] Paul Mueller, *The Knicks Playoff Run is a Billion-Dollar Slam Dunk for New York*, FAST COMPANY (June 5, 2026) online at https://www.fastcompany.com/91553396/the-knicks-are-printing-money-during-their-historic-playoff-run.