

## CFTC's Advisory on Exchange-Listed Sports Event Contracts

October 2, 2025



By Peter Y. Malyshev  
Partner | Financial Regulation

On September 30, 2025, the Commodity Futures Trading Commission (“**CFTC**”) staff issued an [advisory](#) (the “**Advisory**”) in anticipation of the impending government shutdown. However, in essence, the Advisory has very little to do with the preparation for the government shutdown, but instead specifically addresses what CFTC-regulated market participants should consider in connection with “facilitating the trading and clearing of sport-related event contracts for customers, market participants, and clearing members.” This guidance is very welcome given that to this date the CFTC has not opined on the topic of listed sports event contracts and a much-anticipated CFTC roundtable on sports event contracts did not take place on February 5, 2025 (see footnote 4 of the Advisory).

Indeed, much has changed since the beginning of this year. Several designated contract markets (“**DCMs**”) have listed sports event contracts, derivatives clearing organizations (“**DCO**”) are clearing these contracts, and many introducing brokers (“**IBs**”) are introducing their customers to futures commission merchants (“**FCMs**”) that facilitate the trading in these contracts on DCMs. In just a few months, this market has grown tremendously. All these contracts have been self-certified by the DCMs and not specifically approved by the CFTC.

Not surprisingly, a number of individual State attorneys general (“**AGs**”) and Native American Tribes have sued at least one DCO where these contracts are primarily listed, claiming that these are illegal sports gambling contracts offered to their State residents in violation of State gambling laws and that these contracts are not automatically federally preempted under the Commodity Exchange Act (“**CEA**”) even though they are listed on federally-registered DCMs. As these cases are making their way through the courts and the appellate process, it is becoming clear that some courts will be more sympathetic to the federal preemption arguments under the CEA, while others to the State sovereignty arguments that these contracts are illegal gambling contracts under individual State laws.

Given this growing uncertainty as to the eventual outcome of State and Federal litigation, the CFTC advised that DCMs, DCOs, FCMs, IBs and the National Futures Association (the “**NFA**”) to caution that “State regulatory actions and pending and potential litigation, including enforcement actions, should be accounted for with appropriate contingency planning, disclosures, and risk management procedures” and specifically that these State actions may result in “termination of sports-related event contract positions.” The Advisory goes on to state that “FCMs and DCOs should ensure that their customers and clearing members are aware of liquidation or close-out policies and procedures that the FCMs and DCOs may deploy for sports-related event contracts as well as how the FCM or DCO will handle any necessary disposition of customer or clearing member funds and property.”

Politically, this Advisory is a very astute move on CFTC’s part as it never took any action to either overtly sanction or prohibit sports-related event contracts and now is merely advising market participants of the events that are taking place in State and Federal courts. It appears, however, that the CFTC is becoming more uncomfortable with the blurring of the lines between commodity derivatives contracts and gambling. In fact, to this date the CFTC has not withdrawn its [proposed rulemaking](#) on gambling that was issued in May 2024, which is indicative that the CFTC is reserving for itself an opportunity to not only regulate, but potentially prohibit a category of event contracts under its Regulation § 40.11 and CEA § 5c(c)(5)(C)(i). Undoubtedly there will be a lot more to come on this topic.