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Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581
Re: Sports Event Contracts

Transmitted Electronically via PDF

Dear Acting Chair Pham and Commissioners,

My name is Alexander Kane, I am the Founder and CEO of Sporttrade Inc. Thank you for the opportunity to comment on this incredibly important topic. As I will detail below, Sporttrade is a sports betting prediction market licensed and operating in New Jersey, Virginia, Colorado, Iowa, and Arizona.

As the only business that offers the exchange product under the state by state regulatory framework, we're uniquely qualified to speak on how recent developments regarding sports event contracts have affected our business.

In this letter, I will start by introducing Sporttrade, describe how our platform operates, and overview the pathway we took to bringing our exchange product to the state-by-state regulated environment. I will close with some thoughts on potential solutions that allow the Commission to embrace innovation within the prediction vertical while creating a level playing field given the speed at which sports event contracts have been introduced to participants in all 50 states.

Introducing Sporttrade

By background, I came into the sports betting industry from being a retail trader in college. I became fascinated with how the stock market and other forms of electronic trading transformed from a fragmented, costly, and opaque market structure to a place where I could buy a stock from my phone at essentially no spread.

As I began to learn more about sports betting, I realized that the sports betting ecosystem looked a lot like where the financial industry had come from: extremely wide spreads, no transparency, and severe fragmentation— all wrapped in a pricing format (known as 'American Odds')- that obfuscates many participants' understanding of how poor the execution quality can

be. And even worse: no volume occurred on exchanges. Participants have no ability to bid or offer their own price or see at what quantity a bet is available. Bettors that demonstrate an ability to beat the sportsbook over time are effectively removed from bookmaking platforms¹.

While financial trading has undergone a transformational shift, the sports betting industry has not evolved towards furthering efficiency, transparency, or consumer protection.

Thus, the founding thesis for Sporttrade was born; to leverage principles and technology from electronic financial trading to elevate the sports betting industry and put the consumer first.

The Sporttrade Product

Sporttrade is a prediction market. As we detail in our house rules², participants buy and sell contracts of events that the exchange lists via a central limit order book construct. Sporttrade lists events such as “Who will win the Masters?”, “Over/Under 0.5 runs scored in the 1st Inning of the Phillies/Giants Game”, “Eagles to win by three or more points versus the Falcons”. We list about five to ten thousand outcomes per day on our platform.

One contract trades between \$0 and \$100, and settles at \$0 if the underlying outcome is deemed to have not occurred, and at \$100 if the underlying outcome is deemed to have occurred. Sporttrade charges a commission on the activity on the platform. Participants can place limit orders to buy or sell contracts of any outcome, at a price of their choosing.

Participants can go long or short, and add or reduce risk on any outcome. Participants can see where outcomes were last traded, the bid and ask prices of any outcome, and can otherwise do exactly what is available on a federally-regulated event contract market.

In effect, the product we created was meant to be a catalyst toward a “financialization” of sports betting. A product that makes material strides toward collapsing spreads, increasing transparency and efficiency, and furthering the protection of sports betting customers from the predatory practices of sportsbooks.

Regulatory Approach: A Commitment to Rigorous Compliance

At the time when we began building the Sporttrade platform, we built it in a way that would set us up for how we thought the market would evolve. We raised capital from some of the most

¹ Even in the regulated US online sports betting market, operators ban winners, and regulators are trying to figure out how to deal with that:

https://www.espn.com/sports-betting/story/_/id/41231266/espn-sports-betting-news-sportsbooks-defend-practice-limiting-sharp-customers

² <https://legal.getsporttrade.com/house-rules-nj/>

prominent electronic market makers and marketplaces, such as Jump Capital, Nasdaq, DL Trading, Chicago Trading Company, Tower Research, and others.

We built our exchange using a structure that closely mimicked that of the “Island” matching engine that, at the time, still powered several registered US equity exchanges. We used a protocol similar to ITCH/OUCH such that electronic market makers and brokers could plug into our platform and route orders to the venue. We even integrated Nasdaq’s market surveillance platform directly to our exchange, becoming the first regulated sports betting platform in history to do so.³

Despite the financial DNA and nature of Sporttrade, we made a decision that, at the time, the event contracts we would list involved gaming and as such, we would need to be regulated as a sports betting operator. We did not see any other way of bringing our product to market, and this was confirmed by every state gaming regulator that we spoke with.

Per our understanding of the CEA and associated CFTC regulations, it appeared that the ability by which DCMs could successfully list for trading event contracts involving gaming would be based on the discretion of the current Commission as opposed to objective criteria. Even before we launched Sporttrade, we recognized the immense advantages the CFTC structure would afford the exchange model, which would benefit from several pillars of the vibrant futures ecosystem, such as broker intermediation. I personally worked with a CFTC attorney, David Aron, on an analysis of the legal and regulatory challenges regarding sports markets.

While David focused on a legislative and case law analysis, I introduced a different argument. It was not about whether or not the CFTC could regulate this sort of activity, given the existing rules, but rather if we wanted to put the sports betting consumer first, the CFTC should regulate this activity even if it required statutory changes to enable such oversight. That federal oversight under the CFTC would in effect be in the public interest versus a state-by-state framework that created “barriers to entry that disadvantage entrepreneurs and benefit incumbents”.⁴

Put another way, I argued that a CFTC-led regulatory approach for exchanges could foster a healthy and competitive environment, devoid of the monopolistic forces that dominate the state-by-state framework, encouraging a market structure that looks much more like futures trading than online casino regulation. As we look towards listing a subset of sports event contracts nationally, it is in this area we plan to highlight as part of a broader “public interest” argument.

Sporttrade spent ample time engaged in deep research before ultimately embarking on what has been an extraordinary challenge to bring all that is great about a marketplace under the

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<https://www.nasdaq.com/press-release/sporttrade-to-leverage-nasdaq-surveillance-technology-to-bolster-market-integrity-of>

⁴ David Aron’s views expressed are his own and did not represent those of any agency or organization.
<https://news.bloomberglaw.com/us-law-week/insight-federal-regulation-could-sweeten-the-sports-betting-pot>

statutes and regulations of online sports betting. We are still a financial technology company that has had to adapt how our platform operates in order to comply with how sports betting is regulated.

Before Sporttrade, the concept of an “orderbook”, a “bid”, an “offer”, a “market maker”, a “limit order”, or a “market order” had not existed in the minds of U.S. gaming regulators. Our challenge is not only in interfacing with regulators in an effort to communicate how our platform operates, but also fitting our model within a rigid, rules-based structure by which the vast majority of regulators oversee their jurisdictions.

We are equal parts an exchange, broker, and clearinghouse. As a broker, we scrutinize the activity of each of our retail traders to ensure players are playing responsibly, with their own funds, on their own devices, and are not engaging in money laundering or other nefarious activities. As an exchange, we leverage market surveillance and integrity monitoring service partners to advance a fair and orderly market. And as a clearinghouse, we hold all participant funds, on a segregated basis, and act as the legal counterparty to all activity on our platform.

We produce over 100 reports daily ranging from compliance, revenue, responsible gaming, and reconciliation reporting to ensure compliance with various state and federal requirements. In no way am I suggesting that we are unhappy with how we’re currently operating. We are proud to be regulated by the regulators in Iowa, Arizona, Virginia, Colorado, and New Jersey. Regulatory compliance is a critical aspect of how we want to operate our business.

We do this with a team of just twenty-four people based in the United States. We are the leanest team in the regulated online sports betting industry in the U.S. It would be fair to estimate that Sporttrade has invested over \$50 million to date in satisfying the above requirements, only to launch in just five states.

The Recent Emergence of Sports Event Contracts

On December 23, 2024, Crypto.com filed select event sports contracts for self-certification on its registered DCM. Since then, a second DCM Kalshi has filed for self-certification more event contracts that reference or rely on sports events results on its venue. For example, “Who will win between the Philadelphia baseball team and the Tampa Bay baseball team on Date X”.

Suddenly, Sporttrade finds itself having competitors that are offering the same exact products it offers (event contracts traded on an exchange). Sporttrade and said venues demonstrate on a daily basis that they’re advancing a fair and orderly market, ensure the integrity of the activity on the platform, and keep participant funds segregated from operating funds of the platform. And just like the venues operating under CFTC oversight, Sporttrade publishes all necessary volume, risk, reconciliation, and financial reporting to validate the fairness of the system on a daily basis.

Given the congruence, Sporttrade should be provided the opportunity to demonstrate its ability to operate on a level playing field with venues that now offer the same product nationwide to list for trading the same menu of sports contracts.

Proposed Solution: Regulatory Parity and Fair Competition

Congress has, by virtue of 17 CFR 40.11, delegated significant latitude and discretion to the Commission to determine what “gaming” and “public interest” mean.

Per then-Commissioner Quintenz⁵ in 2021 speaking on a panel hosted by the Federalist Society, such latitude amounts to ‘unconstitutional delegation’:

“The sole requirement from Congress for the CFTC to arbitrarily undertake decisions on whether or not contracts...would be allowed solely based on a generic ‘public interest’ determination with no other requirements or refinements or guidance in the Statute...The Commission was given complete discretion around an arbitrary process on how to legalize or prohibit otherwise lawful economic and financial market activity because it permits but did not require the Commission to make these determinations, provide no guidance to the Commission in terms of how to do that, and it’s silent on any applicable rules on how to govern that process.”

Assuming the views of the then-Commissioner and likely soon-to-be Chairman of the CFTC haven’t changed, it’s difficult to anticipate that an effective rule-making by the Commission could take place, and even then, such a rule-making would still be subject to the discretion of the Commission.

In other words, absent clarity from Congress, the permissance of sports event contracts and the incredibly large industry that would result at the federal level hinges on how one Commission, versus the next, asserts its discretion regarding “public interest”. Suffice it to say: it may take some time before the CFTC determines, one way or another, whether sports event contracts are expressly permissible. This uncertainty disproportionately harms Sporttrade in our attempt to fairly compete with federally regulated DCMs.

I believe that an extended period during which: a) the Commission believes it may need clarity from Congress in the form of an articulated process that the Commission must take in evaluating whether sports contracts are within the public interest, and b) certain DCMs continue to offer sports contracts, together in tandem present irreparable harm to Sporttrade despite the relentless effort to operate our business in a legal and regulated fashion.

The current uncertainty regarding even the medium-term outlook for sports event contracts renders the typical process of applying for and receiving approval for a DCM of roughly 12 to 18 months unrealistic. In our view, the “exchange-style” offering for sports offered by the existing DCMs will gain immense popularity, as participants will realize the model is better for them in relation to alternatives for the same reasons why the stock market has matured into an open,

⁵ <https://youtu.be/3vMgP7W8RQ4?si=fb1-RwcUrcLTcO5H>

fair and transparent ecosystem where spreads are essentially zero. It would be unfortunate if Sporttrade wasn't allowed to participate in catalyzing the shift towards a more efficient market given what we stand for as a company. For the time being, those select DCMs are beginning to create what will end up being an insurmountable market advantage over Sporttrade even though we stand ready to offer the exact same consumer experience in the same regulated and compliant manner.

There are two potential solutions to the current uneven playing field. One would involve barring DCMs from offering sports contracts, at least for some period of time. We would not endorse this approach, as we feel the exchange concept offered to players who want to speculate on sports outcomes is fairer and more transparent than sportsbook alternatives.

Instead, we would ask the CFTC to apply discretion given the extraordinary unique circumstances to provide no action relief towards Sporttrade given our track record of operating a compliant event contract exchange under the regulatory scrutiny of multiple state gaming regulatory bodies. We would expect that such relief would require evidence that Sporttrade can satisfy all CFTC reporting requirements and Core Principles, which is something we are prepared to do. In a gap analysis to understand our current regulatory obligations versus what would be required of a DCM, we believe there is a significant overlap.

No other venue outside of Sporttrade could reasonably request similar relief. Sporttrade is the only exchange platform that's regulated on a state-by-state basis in the United States by gaming regulatory bodies. All other state-regulated venues that offer sports betting are sportsbooks, which offer a different product and operating model relative to an exchange. Sportsbooks are not offering a congruent product to sports contracts in the way that Sporttrade is.

At the time of writing, Sporttrade is preparing a formal no-action relief request that in effect will demonstrate that Sporttrade can satisfy all Core Principles and reporting requirements to list a small, select set of sports contracts that we can demonstrate are within public interest. The CFTC has numerous times in the past granted no action relief to exchange venues to accept trades on event contracts without formal federal registration, most notably with Iowa Electronic Markets and Victoria University of Wellington.

This approach would encourage an open and fair capacity to offer sports event contracts, giving consumers choice among like options that all provide safe, regulated, and compliant experience. I look forward to engaging with the Commission on this topic.

Sincerely,

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