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Prediction Markets Legislation in the 119th Congress

Prediction markets are exchange platforms that specialize in offering **event contracts** (i.e., contracts that allow parties to trade on the occurrence or nonoccurrence of specific events). Prediction markets have rapidly expanded in recent years, **facilitated** by judicial decisions and changes in regulatory posture, with significant growth in the subject matter of available contracts, including geopolitical events, elections, and sports. The expansion into sports since early 2025 has led to **conflict** and **litigation** between prediction markets and state regulators overseeing traditional sports gambling. Certain well-timed trades related to government action have also sparked **concern** that government officials or others with access to material nonpublic information may use that information for private gain through prediction market trading. Some prediction markets, such as Kalshi, are exchanges **registered** with the Commodity Futures Trading Commission (CFTC). Others, such as Polymarket's international exchange, are not **domiciled** in the United States and claim to block U.S. users.

Congress has taken an **interest** in prediction markets. This In Focus summarizes some of the most pertinent federal law applicable to prediction markets as well as legislation introduced in the 119th Congress that would amend existing law to restrict trading of event contracts involving certain subject matter and regulate trading in prediction markets by certain officials. Within each heading, bills are listed by date of introduction.

Prohibitions Based on Subject Matter

Under the **Commodity Exchange Act (CEA)**, exchanges registered with the CFTC may **self-certify** that certain event contracts comply with the Act and CFTC regulations and list them without prior CFTC approval. **Section 5c(c)(5)(C)** of the CEA—often called the “Special Rule”—gives the CFTC authority, however, to determine that event contracts are contrary to the public interest if they involve activity that is unlawful under federal or state law, terrorism, assassination, war, gaming, or other similar activity. If the CFTC makes such a determination, the event contracts **cannot** be listed or made available for clearing or trading on CFTC-regulated exchanges. Although the CFTC has prohibited by **regulation** the listing of contracts within the enumerated categories, it has administered the Special Rule using a **two-step process** in which it evaluates whether a specific event contract (1) falls within those categories and, (2) if so, is contrary to the public interest. Accordingly, while the CFTC's regulations by their terms include a **per se ban** of contracts falling within the enumerated categories, agency practice appears to reflect a less categorical approach that also incorporates public interest considerations into regulatory decisions. In addition, under current leadership, the CFTC has **not yet utilized** the

Special Rule to **review** event contracts that exchanges have self-certified as compliant.

Several bills introduced in the 119th Congress would augment or alter the CEA to directly prohibit specific categories of event contracts.

H.R. 7477 would add a new provision to the CEA to define a “casino-style game” and a “sporting event or athletic competition” and to directly prohibit CFTC-regulated exchanges from facilitating contracts based on either category of events.

H.R. 7840 would replace the existing provisions concerning event contracts in Section 5c with a *per se* prohibition of event contracts that relate to activity that is unlawful under federal or state law; terrorism; assassination; war; gaming; U.S. elections; conduct by any level, branch, instrumentality, or personnel of local, state, or federal government; and other similar activities identified by the CFTC. The bill includes a broad definition of “gaming” that would encompass sports but would create an exemption permitting gaming-related event contracts in a state if the state expressly permits it.

S. 4035/H.R. 7942 would add language to Section 5c directly prohibiting CFTC-registered exchanges from listing event contracts related to terrorism, assassination, war, or any similar activity, as well as contracts that relate to an individual's death or could be construed as correlated closely to an individual's death.

S. 4115/H.R. 7955 would prohibit any person from placing, accepting, or facilitating “wagers” regarding particular categories of events, including terrorism, assassination, and war. An additional prohibited category would consist of events where the “primary underlying characteristic” is not “financial, commercial, or economic” and the event is (1) an action undertaken by a government, intergovernmental organization, or government official; (2) an event for which the outcome is under the complete control of any person; or (3) an event for which the outcome is known by any person in advance. The term “wager” is defined, with insurance-related exceptions. The bill would amend several criminal and financial statutes related to illegal gambling to enforce the prohibitions. By directly prohibiting individuals from placing wagers on the specified categories of events, the bill might extend to individuals who place such wagers on offshore exchanges. The bill also would add language to Section 5c of the CEA prohibiting CFTC-registered exchanges from offering contracts involving the same categories of events.

S. 4160 would add language to Section 5c defining a “casino-style game” and a “sporting event or athletic competition,” directly prohibiting CFTC-registered exchanges from listing event contracts related to those categories of events, and stating that nothing in the CEA preempts state laws that regulate or prohibit contracts involving those categories. This bill differs from **H.R. 7477** in the location of the added text and the inclusion of the savings clauses regarding preemption.

H.R. 8123/S. 4226 would add language to Section 5c directly prohibiting CFTC-registered exchanges from listing event contracts involving any political election or contest; action taken by the executive, legislative, or judicial branch of the United States; sporting event or contest; or military action taken by the United States or foreign countries. An exception would permit contracts related to actions taken by the federal branches if such contracts are used for hedging or mitigating commercial risk, as determined by the CFTC. The bill would also require the Government Accountability Office to conduct a study on certain aspects of prediction markets and would provide the “sense of Congress” on the original intent of the CEA, preemption, and future CFTC enforcement.

Ethics in Government Concerns

The **Ethics in Government Act (EIGA)** and the **Stop Trading on Congressional Knowledge (STOCK) Act** require financial disclosures from certain federal officials and employees and affirm the application of insider trading laws and regulations to those individuals. The degree to which such provisions cover event contracts is uncertain. In recent years, some Members of Congress have **proposed reforms** that would prohibit the purchase, sale, or ownership of certain financial instruments by Members of Congress and other specified congressional officers and employees. Several bills introduced in the 119th Congress would provide disclosure obligations or prohibitions for certain federal officials or employees specific to event contracts.

H.R. 7004 would prohibit elected officials of the federal government, employees of the House and Senate, political appointees, and executive employees from purchasing, selling, or exchanging “prediction market contracts” related to government policy, government action, or a political outcome if they possess relevant material nonpublic information (MNPI) or may reasonably obtain such information in the course of performing official duties.

S. 4017 would add language to Section 5c of the CEA prohibiting the President, Vice President, and Members of Congress from trading event contracts. It would also prohibit senior executive branch officials from trading in event contracts related to any matters in which the official personally and substantially participates as a government officer or employee. These prohibitions would be enforced by the Attorney General via civil action, with a nonexclusive, per violation civil penalty of \$10,000 or the profit from the offending transaction, whichever is greater. Foreign boards of trade would be required to report quarterly to the CFTC on any transactions violating the prohibitions, subject to revocation of the registration of the foreign board. The CFTC would be required to issue a

general rule on insider trading in event contracts. The bill would also amend the EIGA to require certain executive and legislative branch elected officials and employees to disclose transactions in event contracts (including transactions by a spouse or dependent child).

H.R. 8076 would add new provisions to the EIGA that would prohibit Members of Congress (as well as their spouses, dependents, and fiduciary representatives), employees and officers of Congress, the President and Vice President, political appointees, GS-15 executive branch staff and equivalents, and judicial officers and employees from trading on prediction market contracts dependent on a “specific political event.” The term “specific political event” is not defined and is to be interpreted by the supervising ethics office.

S. 4188 would add a new provision to the EIGA that would make it unlawful for the President, Vice President, Members of Congress, House and Senate employees, political appointees, and employees of executive or independent regulatory agencies to use MNPI derived from their position or gained from the performance of their official responsibilities as a means for profiting from a prediction market transaction. Violators would be subject to a fine of the greater of \$500 or double the profit of the transaction. Supervising ethics offices would administer penalties, establish implementing procedures and forms, and, in conjunction with the CFTC, issue appropriate rules and guidelines. The bill would also require the covered individuals to submit a report to their supervising ethics office within thirty days concerning any event contract transactions exceeding \$250, including specific information on the event contract.

Other Approaches

S. 4060 would create a new regulatory framework for prediction markets under the Attorney General and the states. The bill would prohibit event contracts that (1) are susceptible to manipulation or fraudulent activities; (2) relate to war, military action, or death; (3) violate state or federal law; or (4) relate to other matters that are contrary to the public interest as determined by the Attorney General. Prediction markets would not be able to operate in a state unless the state authorized a state wagering program approved by the Attorney General that incorporates state regulatory oversight, prohibitions on certain types of sports-related contracts, market integrity standards, consumer protection standards, and advertising restrictions. Prediction markets could not accept wagers from or advertise to individuals under 21 years of age. The bill would also establish a national self-exclusion list and require the Attorney General to implement prohibitions on fraud and manipulation in prediction markets.

H.R. 8148 would state that Sections 4(c) and 6(c) of the CEA apply to illegal trading practices related to “prediction market contracts.” **Section 6(c)** includes prohibitions on fraud and manipulation. It is **unclear** if the bill intends to reference **Section 4(c)**, concerning certain public interest exceptions in futures trading or **Section 4c**, which includes prohibitions on the misuse of nonpublic government information.

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