Katten

BOOK



Turning Uncertainty Into Prices: The Emergence of Federally Regulated Event Contract Markets

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Katten has co-authored the "Turning Uncertainty Into Prices: The Emergence of Federally Regulated Event Contract Markets" chapter for the *Thomson Reuters* book *Regulation of Swaps and SEC-Based Swaps, 2026 edition*.

Note: As we finalized this chapter, the prediction markets industry reached a milestone: the US Commodity Futures Trading Commission (CFTC) issued a Notice of Proposed Rulemaking (NPRM) to clarify the regulatory framework for event contracts, highlighting the agency's ongoing focus on this rapidly growing sector.

The chapter examines the legal and regulatory landscape governing prediction markets, tracing their development from academic origins to mainstream financial products, analyzing key statutory and judicial questions under active consideration, and identifying the regulatory framework that will guide market participants, exchanges, and their advisors. This includes:

- **Theoretical Foundations of Prediction Markets**
- **How the CFTC Has Shaped the Rise of Prediction Markets**
  - Early No-Action Relief Legitimizes Academic Prediction Markets
  - The CFTC Adopts a Specialized Regulatory Framework for Event Contracts
  - The CFTC Codifies Its Role in Rulemakings
  - The CFTC Expands the Relief Framework for Additional Prediction Markets
  - The CFTC's Proposed Rulemaking, Litigation, and the CFTC's Federal Authority
- **Key Legal and Regulatory Issues**
  - Establishment of the Commission

- Overview of the Commodity Exchange Act and Part 40 Requirements
  - What Is an Event Contract Under the CEA?
- **Litigation over Prediction Markets**
  - Arguments Being Made in Active Litigation
  - Preemption
  - Customer Protection and Surveillance
  - Federal Gaming Statutes and Tribal Sovereignty
- **Additional Considerations Beyond Jurisdictional and Preemption Questions**
  - Why Prediction Markets Operate Differently: Discontinuous Prices and Gap Risk
  - Self-Clearing Classification for Reduced Swap Regulatory Reporting
  - Security-Based Swaps
  - Material Nonpublic Information
  - Market Integrity Standards
  - Considerations for AML and OFAC Control
  - Regulatory Reporting
  - High Number of Listed Contracts on Prediction Markets
  - Prediction Market Trade Surveillance Considerations for DCMs and Intermediaries
- **Participating in Prediction Markets**
  - Designated Contract Markets and Derivatives Clearing Organizations
  - Futures Commission Merchants
  - Introducing Brokers
  - Market Makers
  - Commodity Pool Operators and Commodity Trading Advisors

"Regulation of Swaps and SEC-Based Swaps, 2026 edition," *Thomson Reuters*, 2026

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