

Bloomberg Quotes Carl Kennedy on Pushback the CFTC is Facing Over Prediction Markets

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Partner and Financial Markets and Regulation Co-Chair Carl Kennedy was quoted in a *Bloomberg* article about pushback the US Commodity Futures Trading Commission (CFTC) is facing from state governments regarding its bid to be the sole regulator of prediction markets.

CFTC Chairman Michael Selig has asserted that the agency holds "exclusive jurisdiction" over prediction market exchanges, positioning them as federally-regulated derivatives rather than state-regulated gambling platforms. Carl, a former senior regulator with the CFTC, offered his perspective on the agency's stance, noting that it was no surprise that Selig is defending the agency's turf and underscoring that Congress gave the CFTC and the Securities and Exchange Commission (SEC) broad authority to work together to define the term "swap." "He's thinking of that clear mandate," Carl said.

The regulatory tension has since escalated quickly. In a Wall Street Journal op-ed piece, Selig wrote that the CFTC would file an amicus brief supporting a prediction market exchange in a Ninth Circuit case, stating: "The CFTC will no longer sit idly by while overzealous state governments undermine the agency's exclusive jurisdiction over these markets." The CFTC filed its amicus brief in the case on February 17.

Selig, sworn in as Chairman in December, has pivoted from calling prediction markets a "complex issue" to actively embracing the industry, including publicly disagreeing with the views of others that such contracts violate state laws. Meanwhile, state regulators continue to push back.

CONTACTS

For more information, contact your Katten attorney or any of the following attorneys.



Carl E. Kennedy

+1.212.940.8544

carl.kennedy@katten.com

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