

Carl Kennedy and Daniel Davis Discuss Insider Trading Risks in Prediction Markets

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Partners and Financial Markets and Regulation Co-Chairs Carl Kennedy and Daniel Davis spoke with *Law360* regarding the regulatory challenges posed by the rapid expansion of prediction markets and the growing concerns over insider trading.

As trading platforms like Kalshi and Polymarket have exploded in popularity — offering event contracts that pay based on the outcome of everything from political shakeups to Super Bowl ad placements — regulators and law enforcement face increasing pressure to address newly expanded opportunities for insider trading. US Attorney Jay Clayton for the Southern District of New York recently stated he foresees prosecutions addressing prediction market trading, noting that "because it's a prediction market doesn't insulate you from fraud."

Carl explained that the Commodity Futures Trading Commission (CFTC) has the statutory and regulatory tools necessary to police prediction markets for insider trading. Drawing on the agency's track record, he noted that the Commission has historically formed internal task forces to tackle emerging issues. "We've seen that in the past, the commission pulling together the resources internally to put together task forces, cross-operational division task forces to work and focus on specific issues," Carl said. "I think that they have those tools here, statutory tools, the regulatory tools."

Looking ahead, Carl anticipates that Chairman Michael Selig will take action to address concerns relating to insider trading in prediction markets. "I think [Selig] will address concerns relating to insider trading, whether that's [through] an interpretation or guidance or an explanation of how the CFTC's existing authority addresses these concerns," Carl said.

Daniel emphasized that while prediction markets present novel challenges — such as determining who has a duty not to disclose nonpublic information in the context of sports or entertainment events — CFTC attorneys will not be starting from scratch. He noted that attorneys at the agency will have ample analogies in both the securities and trade secrets contexts to untangle which information

should have been kept confidential. "You're always going to have edge cases," Daniel said. "But those two areas of law are going to give people a pretty kind of hefty set of precedent to think through when they're analyzing a particular question as to whether information that was used for a prediction market contract was, in fact, done so in violation of a duty."

["Prediction Markets Expand Wall St. Cops' Insider Trading Beat,"](#) *Law360*, February 6, 2026

For more of Katten's analysis on prediction markets, see our recent article, "[Know the Outcome? Don't Trade: CFTC Puts Prediction Markets on Notice.](#)" Additional articles [available here.](#)

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