

United States Senate

May 10, 2024

The Honorable Rostin Behnam
Chair
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

Dear Chairman Behnam:

We write to express concern regarding the Commodity Futures Trading Commission's (CFTC or Commission) consideration of a rulemaking proposal that would ban the offering of broad categories of contracts including political and sports-based event contracts. As members of the Senate Committee on Agriculture, Nutrition, and Forestry, we want to ensure that the CFTC's rulemaking process continues to be guided by proper market oversight and integrity without stifling innovation.

Since its inception, the CFTC has been the global standard for sound derivatives market regulation, providing certainty to market participants and allowing for agriculture producers and commodity traders alike to hedge risk through a wide variety of practices. The CFTC, based on its Congressional mandate, has long fostered innovation by allowing the offering of novel products and allowing the market to evaluate the utility of such products, even while other government agencies fall short.

For this reason, we are concerned about the Commission proceeding with a rule that may limit the use of a critical investment tool. Elections have tangible impacts on markets and the businesses of derivatives markets users, and political event contracts can serve as a valuable tool to protect against these risks. These markets also provide valuable data on trends in the sentiment of the voting public with legitimate public and academic utility. Other emerging asset classes, such as sports-related interests, have expressed needs for similar risk management products, and your rulemaking would seemingly prejudge the validity of those products as well.

Furthermore, American investors have demonstrated a clear desire to participate in these markets, and it is far preferable that they do so on platforms that benefit from the oversight and protections provided by the American regulatory structure. The CFTC prohibiting the use of these markets in the U.S. will only serve to drive American investors to participate in offshore markets where they are left with inadequate safeguards.

Just as our farmers benefit from key agriculture futures contracts listed on U.S. exchanges serving as global benchmarks, event contracts, particularly on U.S. elections, should be subject to U.S. regulation. This benefits the CFTC as well, as market activity taking place on

a U.S. exchange improves the CFTC's ability to facilitate a well-functioning market. If we turn a blind eye to these markets, the CFTC has no say in the integrity and customer protection requirements.

It is not a typical occurrence for the CFTC to place a blanket restriction on multiple asset classes through a single rulemaking, and we feel that, should the CFTC move forward with such a proposal, it should be done with an abundance of public feedback. We would recommend that the CFTC, beyond its typical open meeting process, consider a hearing or public roundtable to allow the public to offer views on the value of event contracts.

In addition, the timing of this rulemaking is especially concerning, as the CFTC is still engaged in multiple lawsuits related to political event contracts. A blanket ban on such contracts has the potential to inappropriately influence the Judicial Branch's consideration of these issues, which we feel is an improper use of the Commission's regulatory authority and sets a concerning precedent of influencing the courts through regulation.

As you consider any rulemaking proposal, we urge you to consider the value of these innovative contracts and the negative consequences of banning entire classes of products instead of considering contracts by their individual merits. The CFTC has developed a well-earned and admirable reputation, both for transparency in its dealings with Congress and the markets it regulates and for openness to innovation, including in novel products in carbon and digital asset markets. Especially amid ongoing litigation, we urge you to continue this trend and engage with the public before considering any blanket ban on products that hold value to the American people.

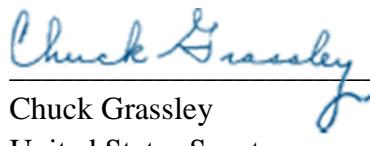
Thank you for your consideration of this matter,



Roger Marshall, M.D.
United States Senator



Cindy Hyde-Smith
United States Senator



Chuck Grassley
United States Senator