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Mr. Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: "Event Contracts" RIN number 3038-AF14 | Notice of Proposed Rulemaking, 89 FR 48968

Dear Mr. Kirkpatrick,

Thank you for providing an opportunity for public comment. I am writing to express opposition to both the categorical classification of contracts involving "gaming" as contrary to the public interest and the resulting prohibition that would engender for certain types of swaps.

A subset of professional sports teams are currently considering a category of OTC swaps that are being developed to help those teams mitigate the financial risk of player underperformance. These swaps, which would be executed between Eligible Contract Participants, would settle based on the longitudinal, statistical performance of an athlete whose contract would be hedged. They are being designed as an alternative to Disability Insurance that goes beyond just injury protection, allowing teams to hedge against the financial risks of player underperformance, regardless of the source of that underperformance.

I believe the listing for trading and availability for clearing of those swaps through registered Swap Execution Facilities would provide a more efficient market for a legitimate form of business risk hedging, the utility of which would be in the public interest. I further believe that, at least for that category of contracts, hedging utility should be a considered factor when determining whether a contract is contrary to public interest.

What we do:

Reifi is seeking to build products that mitigate financial risk inherent to pro athlete contracts. Athlete salaries are often guaranteed and as a result, teams undertake large, long-term financial risks when signing professional athletes to contracts. A player could experience a career-ending injury early on in their contract or they could simply fail to live up to performance expectations for a plethora of reasons outside of the team's and player's control.

These are not hypothetical occurrences: particularly in Major League Baseball where collective bargaining has secured guaranteed, full payment of player contracts, regardless of the player's eventual performance. Prior to the 2020 MLB season, the Washington Nationals signed pitcher [Stephen Strasburg to a \\$245M, 7-year contract](#). An injury severely hampered the first two seasons of that contract and then effectively ended Strasburg's career mid-way through the following season. In 2014, the Boston Red Sox signed [Rusney Castillo to a \\$72.5M, 7-year contract](#). Castillo did not face any major injury concerns, but failed to perform up to expectations for two seasons before being moved down to the minor league system for the remainder of the contract. This all leads to highly inefficient salary spend for pro sports teams. According to Reifi analysis, MLB teams spent a projected \$1.6B (*or 33% of total payroll spend*) on injured or underperforming players during the 2023 season.

The only product that teams currently have access to for hedging these risks comes in the form of Disability Insurance which protects against the risk of some injury-related underperformance, but not against the risk of other forms of underperformance. Team executives have told Reifi that the Disability Insurance market has been drying up over the last decade. In addition to rising prices, policies have generally started to exclude certain injuries and require waiting periods of 60-90 days+. In the case of Stephen Strasburg, it is reported that the [Nationals were unable to secure Disability Insurance due to the prohibitive cost of such coverage](#). In the case of Rusney Castillo, there are no currently available products that can protect teams from the financial sunk costs of uninjured, underperforming players. Team executives have also told Reifi that they have even requested insurers build them a product based on player performance and not just injury, but that the underwriters noted (*among other reasons*) that their insurance products are poorly structured to account for multi-variable outcomes such as player performance (*as opposed to binary outcomes such as injury*).

These inefficient salary expenses are ultimately passed on to consumers in the form of increased ticket, merchandise, and concession prices as well as a saturation of ads distracting from the onfield entertainment product. As a result, an inability to hedge these business risks is contrary to the public interest.

It is in this market vacuum that Reifi has been working to build financial products that help pro sports teams mitigate the financial risks of athlete underperformance. It is in the context of player performance, a multivariable outcome with economic implications, that Reifi seeks to utilize a derivatives contract to handle situations that insurance is poorly structured to solve. With the proposed product, teams would pay a premium to institutional investors at the beginning of the season to hedge against the underperformance of one of their players against a predetermined benchmark; if the player meets that benchmark during the season, the investor keeps the premium, but if the player falls short, the investor reimburses the team an amount proportional to the shortfall.

Beyond just mitigating risk and ensuring fiscal stability, the goal of the product would be to enable teams to sign franchise-altering players that can drive more wins, clinch playoff berths, and get fans into the seats, while also rebound financially if things don't go according to plan. For the institutional investors serving as counterparties, these products would offer the potential for a return that is uncorrelated with the broader market.

These products would be operationalized as swap contracts that settle based on the longitudinal, statistical performance of a player over the course of one or more seasons. They would be entered into solely by Eligible Contract Participants and league rules would prohibit teams from any secondary trading of those swap contracts. In order to prevent perverse incentives and the team's manipulation of a player's performance, the settlement amounts would be structured such that the economic benefit of player underperformance would always be less than the economic benefit of a performing player. Additionally, performance would be measured using a composite statistic that takes months for a player to accumulate. This prevents any "quick wins" where a team could negatively affect a player's aggregate performance statistics in a short period of time in order to secure a larger settlement amount. Any long-term attempts from a team to negatively affect player performance would generally be protected against in each league's respective Collective Bargaining Agreement.

Where current rule proposals would prohibit future activities in the public interest:

In the future, to operationalize the proposed product, Reifi would seek to register as a licensed broker-dealer and believes it would be beneficial to list the proposed contracts for trading and make them available for clearing on CFTC-registered Swap Execution Facilities. We expect that by soliciting multiple bids for each contract and by creating a secondary market, these contracts could be more competitively-priced, lowering costs for pro sports teams and making it easier to hedge their business risks related to player underperformance.

Reifi holds that these contracts, which would be entered into solely by Eligible Contract Participants on Swap Execution Facilities, and from which teams would be prohibited from trading, would avoid many of the concerns the Commission has voiced about other forms of contracts involving gaming.

Reifi Comments

The Commission elaborated on multiple public interest determinations with respect to contracts involving gaming and requested comments on "whether there are contracts that may involve gaming that do not raise [those] public interest concerns." Reifi believes that the contracts elucidated in the prior section would avoid those public interest concerns and would be in the public interest.

Namely, the Commission in effect noted that contracts involving gaming have the following public interest concerns which I have replied to in turn:

- **The economic impacts are generally too diffuse and unpredictable to correlate to direct and quantifiable changes in the price of a related derivative, limiting the hedging utility of that derivative.**
 - Decades of rigorous statistical analysis conducted by pro sports teams, particularly in the MLB, has generated a consensus on the monetary cost teams are willing to pay for a given unit of performance on the free agent market (e.g., *home runs, strike outs, wins above replacement*, etc.). Reifi's proposed contracts directly recycle that framework to enable teams to hedge against underperformance and the related costs with a swap that explicitly settles based on the player's statistical performance and the related monetary value of that performance. As a result, the price of Reifi's proposed contracts directly and linearly correlates with the observable, longitudinal, on-field performance of the player in question.

- **Such contracts will predominantly be traded “to enable gambling” or be used by speculators who either have no, or at best have only occasional, commercial or hedging interests.**
 - Reifi’s proposed contracts would be entered into solely by a team which is explicitly seeking to hedge business risks and one or more institutional investors, all of whom would be Eligible Contract Participants, with the transaction occurring through a CFTC-registered Swap Execution Facility.
- **Such contracts will have only a small universe of participants with predictable economic consequences in connection with a contest or game and that the majority of participants will only be seeking entertainment purposes.**
 - The plurality of participants in Reifi’s proposed contracts would be pro sports teams who explicitly seek to hedge business risks. The remaining participants would be institutional investors seeking a net-positive expected return that would be uncorrelated with the broader market.
- **The small universe of participants with predictable economic consequences in connection with a contest or game are likely to have access to information and/or influence that can be used to artificially move or manipulate the market**
 - The pro sports teams in question for Reifi’s proposed contracts would be prohibited from any secondary trading of such contracts.
- **The individuals who have influence in the outcome of the game or contest, even if prohibited from trading such contracts, will be vulnerable to pressure or persuasion by others who have taken a position in the contract**
 - For Reifi’s proposed contracts, the team’s coaching staff and the players themselves would be the prohibited-from-trading individuals who would have influence on the player’s longitudinal performance. The incentives of the institutional investors and both the player and the team’s coaching staff would be aligned. The institutional investor earns a net positive return when the player in question is healthy and performs well. The team’s coaching staff is charged with putting together a healthy team that performs well. If they fail to do so, they are generally fired and become progressively less hireable. A similar dynamic exists for the players themselves. Thus it is in the interest of the careers of both the players and the coaching staff for the players in question to remain healthy and perform well.
 - Furthermore, Reifi will reiterate that the settlement amounts would be structured such that the economic benefit of player underperformance would always be less than the economic benefit of a performing player. Additionally, performance would be measured using a composite statistic that takes months for a player to accumulate. This prevents any “quick wins” where a team could negatively affect a player’s aggregate performance statistics in a short period of time in order to secure a larger settlement amount. Any long-term attempts from a team to negatively affect player performance would generally be protected against in each league’s Collective Bargaining Agreement.
- **Such contracts would have no underlying cash market with bona fide economic transactions to provide directly correlated price forming information. Rather, price forming information is either nonexistent, or driven by informational sources that are unregulated, opaque, or unscientific.**

- The free agent market for signing pro athletes to contracts provides for an underlying cash market with clear, bona fide economic transactions for Reifi's proposed contracts. These would be the exact business costs teams would seek to hedge risk on. Price forming information, which comes in the form of historical player performance data, is transparent and widely publicly available on the internet, live tv or radio, and through a host of sports data vendors.
- **Such contracts could cause the general public to conflate gaming and investing which... could signal to others that derivative markets are appropriate venues for retail market participants to trade for entertainment purposes, which could minimize, for those investors, unique characteristics and risks of trading, more generally, in derivative markets.**
 - Reifi's proposed contracts would be entered into solely by a team which is explicitly seeking to hedge business risks and one or more institutional investors, all of whom would be Eligible Contract Participants, with the transaction occurring through a CFTC-registered Swap Execution Facility. Institutional investors have told Reifi they would generally be interested in such proposed contracts because the net-positive, expected returns would be uncorrelated with the broader market.
- **That gambling is overseen by state regulators with particular expertise, and governed by state gaming laws aimed at addressing particular risks and concerns associated with gambling. And that the Commission is not a gaming regulator and is not well placed to protect against gambling-specific risks.**
 - An aim of Reifi's commentary has been to demonstrate that Reifi's proposed contracts do not constitute what the Commission generally interprets to be gambling and that these proposed contracts would be in the public interest.

Conclusion

Reifi appreciates the opportunity to submit these comments with respect to the Commission's Proposed Rules around "event contracts" which would effectively prohibit contracts involving gaming. We respectfully request that the Commision consider that the contracts proposed by Reifi would be both in the public interest and would generally avoid the public interest determinations the Commission categorically believes applies to contracts involving gaming. As a result, Reifi hopes that the Commission would allow for the listing for trading and availability for clearing of such swaps through registered Swap Execution Facilities. We would welcome the opportunity to discuss these comments further should you require any additional information on any of the topics discussed herein.

Best,
Reifi, Inc.



Mark Grenader
Co-Founder and CEO