U.S. COMMODITY FUTURES TRADING COMMISSION
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CFTC Frequently Asked Questions Concerning Trios of States to Reaffirm its Exclusive Jurisdiction Over Prediction Markets

What are we doing?

- CFTC is filing three separate complaints in federal district court against the states of Arizona, Connecticut, and Illinois
- DOJ is partnering with us on this litigation, which will be captioned as *United States, et al. v. Arizona, et al.; United States, et al. v. Connecticut, et al.; United States, et al. v. Illinois, et al.*
- This unprecedented measure by the CFTC is necessary to protect the exclusive jurisdiction granted to the CFTC by Congress, as well as CFTC-regulated markets and market participants, from unprecedented overreach by some States.
- The CFTC intends to seek expedited resolution of these cases because they present pure issues of law, without disputed factual issues.

Why are we doing it?

- Both Connecticut and Illinois have issued cease and desist letters to CFTC-regulated DCMs to stop listing sports-related event contracts within their states, despite those DCMs acting in accordance with CFTC statute and regulations, and being exclusively governed by CFTC statute and regulations.
- Arizona, in addition to issuing cease and desist letters, has also brought criminal charges against a CFTC-registrant for complying with CFTC statute and regulations.
- Proactively confronting States that seek to intrude on the CFTC's exclusive jurisdiction could head off potentially destabilizing market effects from state efforts to regulate event contracts and prediction markets.
- The unprecedented regulatory overreach by these States requires the CFTC to affirmatively defend the authority granted to the Commission by Congress.

Why does this present a threat to the CFTC?

- Determinations that sports or political event contracts are not swaps, or that states can declare exchange-traded derivatives unlawful under state law, have the potential to disrupt United States derivatives markets.

- States, under the guise of regulating gambling, may attempt to assert authority over other derivatives that have long traded on CFTC markets without controversy.

Why not join existing registrant litigation?

- Affirmative litigation permits the CFTC to stake out its position on the preemptive scope of the CEA independently, with the goal of obtaining court rulings that affirm the CFTC's exclusive jurisdiction and correctly apply the CEA's statutory definition of "swap" to extend to event contracts.
- This approach is registrant-agnostic and helps to resolve the legal questions quickly, ending disruption in the markets caused by the States.

What are we seeking?

- A declaration that the CEA's exclusive jurisdiction provision, 7 U.S.C. § 2(a)(1), preempts application of state laws as applied to CFTC-regulated event contracts
- A permanent injunction prohibiting States from interfering with CFTC-registered event contract activity via state gambling laws.