

Profiting from prediction — the insider trading challenge in prediction markets

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Executive summary

When markets turn on inside information, the line between insight and illegality disappears overnight. In prediction markets — where real-world events become tradable contracts — that risk is no longer hypothetical and is driving an emerging wave of civil and criminal enforcement. The Commodity Futures Trading Commission (“CFTC”) and the Department of Justice (“DOJ”) have both put the market on notice with first-of-their-kind insider trading cases.

First, on April 23, 2026, the CFTC and the DOJ announced parallel civil and criminal insider trading charges involving event contracts against Gannon Ken Van Dyke, an active-duty enlisted serviceman in the U.S. Army, both filed in the Southern District of New York (“SDNY”).

Both agencies allege that Van Dyke used classified information about the military operation to capture former Venezuelan President Nicolás Maduro to trade event contracts related to Maduro’s removal from office (before it happened) on the prediction market platform Polymarket.com. Van Dyke’s trades allegedly generated more than \$400,000 in profits.

The CFTC seeks restitution, disgorgement, civil monetary penalties, trading and registration bans, and a permanent injunction against further violations of the Commodity Exchange Act (“CEA”) and CFTC regulations. The CFTC confirmed (<https://bit.ly/442YGTp>) that this case is the first time it has used the “Eddie Murphy Rule” to bring charges based on the misuse of government information.”

The U.S. Attorney’s Office for SDNY’s indictment (<https://bit.ly/3SDqOKj>) charges Van Dyke with five felonies — three counts of violating the CEA for the unlawful use of confidential government information for personal gain; theft of nonpublic government information, and commodities fraud; one count of wire fraud; and one count of an unlawful monetary transaction.

Each of the criminal charges carries a maximum potential sentence of 10 or 20 years of imprisonment.

Second, just over one month later, on May 27, 2026, the CFTC (<https://bit.ly/4usj6Qx>) and the DOJ (<https://bit.ly/3S55eyj>) again

announced parallel civil and criminal insider trading charges for trading event contracts on Polymarket (also filed in SDNY) — but this time against Michele Spagnuolo, a Switzerland-based software engineer at Google.

Regulators, including the CFTC and state attorneys general, and lawmakers are now racing to define the regulatory framework for prediction markets.

The agencies allege that Spagnuolo used sensitive, nonpublic information concerning Google’s official “Year in Search” list for 2025 — obtained through his employment — to trade event contracts tied to search-result outcomes prior to the list being published. Spagnuolo is alleged to have generated approximately \$1.2 million in profits between October and December 2025. The CFTC is seeking similar relief against Spagnuolo.

The U.S. Attorney’s Office for SDNY’s criminal indictment charges Spagnuolo with one count each of violating the CEA, wire fraud, and money laundering. Similarly, each of the criminal charges carries a maximum potential sentence of 10 or 20 years of imprisonment.

Prediction markets like Polymarket are increasingly popular trading platforms that draw in retail and nontraditional investors to “predict” the outcome of a real-world event, such as an election result, economic indicator, or sporting event. But they sit in a regulatory gray zone, with a growing wave of concern that these markets are susceptible to insider trading, manipulation, and other market abuses.

Regulators, including the CFTC and state attorneys general, and lawmakers are now racing to define the regulatory framework for prediction markets, even as there continues to

be sharply conflicting views on whether these platforms are legitimate derivatives markets or illegal gambling operations.

Against this backdrop, these first-of-their-kind insider trading cases should put all companies and individuals in the prediction market ecosystem on notice that CFTC and DOJ enforcement in this area is accelerating. Trading event contracts based on misappropriated information can lead to serious civil and criminal consequences.

Companies and individuals should therefore reassess their insider trading and information-use policies and practices with these enforcement actions in mind. As these cases demonstrate, no one with access to nonpublic information and a prediction market account is beyond enforcement reach.

Factual background

Van Dyke action

According to the CFTC's complaint and the DOJ's indictment, Van Dyke is an active-duty U.S. Army Master Sergeant assigned to U.S. Army Special Operations Command at Fort Bragg (North Carolina) since 2023.

Beginning on or about December 8, 2025, he participated in Operation Absolute Resolve ("OAR"), a classified operation targeting the apprehension of Maduro and his wife. Through his participation in OAR, Van Dyke allegedly received classified information that he agreed to keep confidential under a nondisclosure agreement.

On December 11, 2025, Polymarket listed an event contract for "Maduro Out by January 31, 2026?" (the "January Contract"), which would resolve to "Yes" if Maduro was removed from power (for any length of time) by that date.

In simple terms, a participant, like Van Dyke, who purchases "Yes" shares receives a payout if the event occurs as specified, while a participant who purchases "No" shares receives a payout if the event does *not* occur (but receives nothing if it does occur). Share prices fluctuate between listing and resolution based on market perceptions of how likely the event is to occur.

Leading up to Maduro's January 3, 2026 capture, "Yes" shares allegedly traded "low" for most of the time, specifically below \$0.13 from 10:00 a.m. ET on December 29, 2025 through 1:15 a.m. ET on January 3, 2026.

Both agencies allege that between December 30, 2025 and January 2, 2026, Van Dyke purchased over 436,000 "Yes" shares of the January Contract at an average price of approximately \$0.074, investing about \$32,538, funded through digital assets, using the Polymarket account that he opened on December 26, 2025.

Following President Trump's public announcement of the January 3, 2026, captures of Maduro and his wife, "Yes" share prices spiked, and Van Dyke allegedly realized profits exceeding \$404,000 plus an additional \$5,000 from three other related Venezuela-focused contracts.

Van Dyke also allegedly took steps to attempt to conceal his identity, including: withdrawing most of his trading profits from Polymarket and routing them through a foreign cryptocurrency vault before depositing them into a recently created online brokerage account; asking Polymarket to delete his account based on the false claim that he had lost access to the associated email address; and changing the email registered to his cryptocurrency exchange account to a recently created email account not subscribed in his name.

Spagnuolo action

According to the CFTC's complaint and the DOJ's indictment, Spagnuolo is a software engineer employed by a subsidiary of Alphabet, Inc. (the parent company of Google) who resides in Switzerland. Through his employment, Spagnuolo had access to confidential nonpublic information concerning Google's official Year in Search list for 2025 — a proprietary ranking of the year's top search trends that Google had not yet released publicly.

On or about October 15 and November 27, 2025, Spagnuolo allegedly accessed this confidential information via an internal Google software tool bearing a "Google Confidential" label. Google's corporate policies, on which Spagnuolo was allegedly trained, further mandated that he maintain confidentiality of proprietary information.

Beginning on or around October 14, 2025, Polymarket listed event contracts that would resolve based on the rankings in Google's 2025 Year in Search list — including, e.g., contracts in the categories of "#1 Searched Person on Google this year" and "#1 Searched TV Show."

Both agencies allege that between approximately October 15, 2025 and December 4, 2025 — the date Google publicly released the 2025 Year in Search list — Spagnuolo, operating under the Polymarket handle "AlphaRaccoon," purchased "Yes" or "No" shares on at least 23 of these contracts with "near-perfect accuracy."

When the contracts resolved in or about December 2025, the AlphaRaccoon account allegedly received approximately 3.9 million USDC.e (a stablecoin pegged 1:1 to the U.S. dollar) and generated approximately \$1.2 million in profits.

In or about December 2025, after online news reports raised suspicion about trading activity by the user "AlphaRaccoon," Spagnuolo allegedly changed his Polymarket handle.

Legal analysis

Event contracts as swaps

A threshold legal issue in these cases — and in the broader regulation of prediction markets — is whether event contracts traded on platforms like Polymarket constitute "swaps" (or futures contracts) exclusively regulated by the CFTC under the CEA, which would bring them within the CFTC's anti-fraud authority.

In simple terms, a “swap” is an agreement between two parties to exchange cash flows, assets, or risks based on an underlying factor (e.g., interest rates, currency values, or commodity prices), subject to certain exclusions (e.g., insurance policies).

The CFTC (<https://bit.ly/4gh3Sue>) has taken the position that “[e]vent contracts are typically structured as swaps”, deriving their value from the outcome of the underlying event. It has also acknowledged that like other swaps, event contract trading can be used to hedge risk and as a means for speculative trading.

For example, the CFTC’s complaint against Van Dyke alleges that the Maduro-related contracts are swaps because they are agreements, contracts, or transactions providing for a purchase, sale, payment, or delivery dependent on the occurrence or nonoccurrence of an event or contingency — namely, Maduro’s removal from power — associated with a potential financial, economic, or commercial consequence.

The complaint specifically notes the potential impacts on global crude oil prices, Venezuelan government bonds, and the Venezuelan bolívar as support for the event contracts at issue constituting swaps.

While event contract trading has only more recently dominated headlines, the CFTC’s regulation of this product is not new. The CFTC first recognized event contracts in 1992 through no-action relief granted to the Iowa Electronic Markets.

In 2004, the CFTC approved Hedge Street Inc. to be the first designated contract market (“DCM”) offering binary options, which functioned similarly in nature to event contracts. (A DCM is a type of trading venue that operates under the regulatory oversight of the CFTC, where participants can trade CFTC-regulated products, including futures, options, and swaps).

Then in 2010, in response to the financial crisis, Congress strengthened the CFTC’s authority in this area through the Dodd-Frank Act, by authorizing the CFTC to prohibit certain event contracts involving war, terrorism, gaming, and other areas that may be contrary to public interest.

Insider trading in prediction markets

Compared to the U.S. Securities and Exchange Commission (“SEC”), the CFTC has historically brought far fewer insider trading cases.

Both the Van Dyke and Spagnuolo actions include alleged violations of Section 6(c)(1) of the CEA and CFTC Regulations 180.1(a)(1) and (3) — the CFTC’s general antifraud provisions. These provisions are modeled on Section 10(b) of the Securities Exchange Act and SEC Rule 10b5 and are similarly broad enough in scope to cover allegations of insider trading as well other types of fraud.

Specifically, the rules prohibit both intentional and reckless conduct, making it “unlawful for any person, directly or indirectly, in connection with a swap” to: “use or employ, or

attempt to use or employ, any manipulative device, scheme, or artifice to defraud” or “[e]ngage, or attempt to engage, in any act, practice, or course of business, which operates or would operate as a fraud or deceit upon any person.”

Under the CFTC’s framework, the critical question is not merely whether the defendant traded on material nonpublic information — which by itself may not be problematic in a market designed to reward informed views — but whether the defendant obtained or used that information in breach of a duty of trust and confidence.

The precise circumstances giving rise to an actionable duty are not clear. However, anyone who intentionally or recklessly trades an event contract using information they are not permitted to use in that manner — such as in breach of a non-disclosure agreement or employer confidentiality policy — faces potential fraud liability under the CEA (and potentially parallel criminal charges).

Insider-trading liability under the CEA is not limited to government employees or the misuse of nonpublic government information, as the Spagnuolo case demonstrates. Where government employees are involved, however, additional statutory provisions may apply: in Van Dyke, the CFTC also alleges violations of CEA Sections 4c(a)(3) and 4c(a)(4)(C).

Section 4c(a)(3) makes it unlawful for any employee or agent of a federal department or agency to use nonpublic information obtained through that employment that may affect the price of a swap, for personal gain, to enter into a swap.

Section 4c(a)(4)(C) makes it unlawful for any person to steal, convert, or misappropriate nonpublic information held by a federal department or agency and use that information to enter into a swap, where the person knows or acts in reckless disregard of the fact that the information has not been publicly disseminated.

Together, these provisions are commonly referred to as the “Eddie Murphy Rule.” The rule takes its name from the 1983 film *Trading Places* in which Eddie Murphy’s character, Billy Ray Valentine, profits by trading on a stolen government crop report.

Significance and broader context

First-of-their-kind enforcement actions aligned with enforcement priorities

The Van Dyke and Spagnuolo actions are the first CFTC insider trading actions involving a prediction market, and in the case of Van Dyke, the first involving the Eddie Murphy Rule. However, these actions did not emerge in isolation.

Although the CFTC has generally signaled its departure from technical or compliance-based enforcement, CFTC Chairman Michael Selig and agency staff have emphasized that the CFTC will continue to prioritize fraud-based cases — consistent with the broader federal enforcement posture under the Trump Administration.

As Chairman Selig stated in the press release announcing the Van Dyke action, “anyone who engages in fraud, manipulation, or insider trading in any of our markets will face the full force of the law.”

Beyond the government’s stated focus on policing fraud-based misconduct generally, there were several other signals that insider trading in prediction markets was on the enforcement horizon.

First, on February 25, 2026, the CFTC’s Division of Enforcement issued a Prediction Markets Advisory (<https://bit.ly/4v8meCc>) following two enforcement matters handled internally by KalshiEX, a CFTC-regulated DCM, involving alleged misuse of nonpublic information in event contract trading.

One case involved a political candidate allegedly trading on his own candidacy; the other involved a YouTube channel editor allegedly trading on advance knowledge of video content before it was publicly posted.

Second, in his March 31, 2026, remarks (<https://bit.ly/4v9xU7X>) delivered at NYU Law School, CFTC Director of Enforcement David I. Miller emphasized the agency’s intent to focus its enforcement resources specifically on insider trading in prediction markets.

Director Miller explained that market participants are “absolutely entitled to trade on [material nonpublic information (‘MNPI’)] that [they] rightfully own,” but not on information obtained or used in violation of a legal duty, such as a nondisclosure agreement.

Within this discussion, Director Miller highlighted “the illegal use of government information to trade” and noted that many government employees — including members of Congress and executive branch personnel — are already subject to statutory restrictions on trading based on nonpublic information obtained through their positions. He further foreshadowed the CFTC’s potential use of the “Eddie Murphy Rule.”

Third, earlier this year, Jay Clayton, U.S. Attorney for SDNY — the office that indicted both Van Dyke and Spagnuolo — previewed that his office was similarly looking into fraud in the prediction markets.

It is also worth noting that concerns about insider trading in prediction markets have arisen internationally as well. In February 2026 (<https://n.pr/4xrzcMX>), Israeli authorities charged two individuals in connection with using classified information to place bets on Polymarket about military operations in Iran.

While the CFTC’s complaint is silent as to whether Spagnuolo was physically present in the United States when he executed the event contracts at issue and the DOJ’s indictment alleges Spagnuolo was “in the Southern District of New York and elsewhere outside of the jurisdiction of any particular State or district of the United States,” the actions against Spagnuolo demonstrate both the CFTC and DOJ’s intent to pursue alleged bad actors anywhere in the world.

Broader prediction market landscape

The enforcement actions against Van Dyke and Spagnuolo are just one dimension of the intensifying regulatory and enforcement scrutiny surrounding event contracts and prediction markets.

CFTC rulemaking. On March 12, 2026, the CFTC issued its Advance Notice of Proposed Rulemaking (“ANPR”) seeking public comment on whether new or amended regulations concerning event contracts traded on CFTC-registered prediction markets are needed. The ANPR notes that while “event contracts” are not defined in the CEA, they “can fall within multiple subsections of the CEA’s definition of ‘swap.’”

Following the ANPR’s public comment period, which closed on April 30, 2026 and generated over 3,500 comments, on June 10, 2026, the CFTC published a Notice of Proposed Rulemaking (“NPR”) seeking comment on proposed amendments to the applicable rule.

The proposed amendments would, for the first time, define the term “gaming” and the circumstances under which an event contract “involves” an Enumerated Activity (i.e., terrorism, assassination, war, gaming, or activity unlawful under federal or state law).

Where an event contract may involve an Enumerated Activity, the proposed amendments would require a case-by-case analysis — applying certain factors addressing, among other things, price-discovery utility, manipulation susceptibility, settlement integrity, and the prediction market’s self-regulatory capacity — to determine whether the contract is contrary to the public interest and therefore impermissible.

The public comment period for the NPR concludes 45 days after the NPR is published in the Federal Register.

Government scrutiny. Due largely to concerns for nontraditional retail participants trading event contracts, legislators, regulators, and state attorney generals are actively debating the legality and compliance infrastructure governing event contracts.

The aim of these actions is to generally: (1) limit or prohibit the types of event contracts which can be offered; (2) raise the age limit of those who can participate in prediction markets; (3) prohibit certain public officials from participating in prediction markets; (4) create new tax requirements for both prediction market platforms and participants; or (5) assert legal authority, governance, and oversight over prediction markets.

Earlier this year, various U.S. Senators and Representatives sent letters to Chairman Selig calling on the CFTC to tighten its policing efforts of prediction markets.

On March 23, 2026, U.S. Senators John Curtis (R-UT) and Adam Schiff (D-CA) introduced the *Prediction Markets Are Gambling Act* (<https://bit.ly/4eeNyaQ>) to prohibit CFTC-registered entities from listing any prediction contract that resembles a sports bet or casino-style game.

On April 16, 2026, Chairman Selig testified at a U.S. House Committee on Agriculture oversight hearing where he discussed the agency's efforts to crackdown on insider trading in prediction markets.

In May 2026, House Oversight Committee Chair James Comer (R-KY) reportedly launched an investigation into the potential misappropriation of insider information by traders on platforms like Polymarket and KalshiEx.

Jurisdictional conflict. These enforcement actions also arrive amid an escalating jurisdictional conflict between the CFTC and states over whether event contracts are federally regulated derivatives or state-regulated gambling products.

On April 2, 2026 — just three weeks before the Van Dyke complaint — the CFTC filed (<https://bit.ly/4uAnWeO>) preemption suits in the federal District Courts for the District of Arizona, the District of Connecticut, and the Northern District of Illinois, challenging those states' enforcement actions against prediction market platforms, including KalshiEx, Polymarket US, Crypto.com, and Robinhood Derivatives.

The CFTC's complaints advance the legal theory that the CEA's exclusive-jurisdiction provision — 7 U.S.C. § 2(a)(1)(A) — preempts state criminal and gambling laws as applied to federally registered DCMs offering event contracts, and that Congress long ago decided a national regulatory framework was preferable to a fragmented patchwork of state regulations.

In the press release announcing the suits, Chairman Selig stated that the CFTC “will continue to safeguard its exclusive regulatory authority over these markets and defend market participants against overzealous state regulators.”

The CFTC followed these initial filings with additional preemption suits: against the State of New York (<https://bit.ly/4xqXery>) on April 24, 2026, in SDNY, after New York sought to enforce state gambling laws through cease-and-desist letters and civil enforcement suits against CFTC-registered entities; against the State of Wisconsin (<https://bit.ly/4omt5FA>) on April 28, 2026, in the Eastern District of Wisconsin, after Wisconsin filed civil suits alleging felony violations of state law against five CFTC-regulated prediction market companies — KalshiEx, Polymarket, Crypto.com, Robinhood, and Coinbase; and against the State of New Mexico on June 12, 2026, in the District of New Mexico, after New Mexico filed a state court lawsuit against KalshiEx.

Of particular note, on May 19, 2026, the CFTC filed (<https://bit.ly/4fDap28>) a complaint in the U.S. District Court for the District of Minnesota against the State of Minnesota, Governor Tim Walz, Attorney General Keith Ellison, the Minnesota Department of Public Safety, and the Director of its Alcohol and Gambling Enforcement Division.

The complaint challenges SF 4760 — a new state law signed by Governor Walz on May 18, 2026, that makes operating or assisting in the operation of a “prediction market” in Minnesota a criminal felony — on preemption grounds.

Unlike other states that have sought to enforce existing gambling laws against sports-related event contracts, SF 4760 targets all event contracts — including contracts on government actions and weather events that have traded on CFTC-registered exchanges since the 1990s. Arguably, the law would prohibit weather-related swaps, which farmers in Minnesota have used as a hedge against crop production for years.

As such, the law's reach is notably broad, extending felony liability to those who identify or list events for use in wagers (potentially including news organizations); provide “verification services” (potentially including professional sports leagues); hold or direct funds for the purpose of taking positions on event contracts (potentially including banks and credit-card companies); and provide “supportive services” or advertise or market financial or technological products promoting event contract trading (potentially including blockchain and other technology firms as well as celebrities and influencers who publicly tout prediction markets).

The prediction markets, including KalshiEx, have also been actively involved in litigation against state gaming authorities across multiple jurisdictions, with mixed results. Federal courts in Nevada, New Jersey, and Tennessee granted preliminary injunctive relief in KalshiEx's favor, although the court in the Nevada action subsequently dissolved the preliminary injunction.

By contrast, federal and state courts in Maryland and Massachusetts, respectively, have ruled against the platform.

At the appellate level, on April 6, 2026, the Third Circuit issued a preliminary injunction against New Jersey, holding that KalshiEx's contracts are “swaps” under the CEA subject to federal preemption — though that ruling remains preliminary. Additional appeals involving the fate of prediction market regulation are pending before the Fourth, Sixth, and Ninth Circuits.

In many of these cases against the states where it was not the original plaintiff, the CFTC has filed *amici* briefs (e.g., Massachusetts, <https://bit.ly/449MzUw>), or sought intervention (e.g., Rhode Island, <https://bit.ly/4vM1m3H>), further arguing in support of its exclusive jurisdiction to regulate event contracts and prediction markets.

In light of the ongoing jurisdictional dispute, the issue appears poised for ultimate resolution by the U.S. Supreme Court.

Takeaways for market participants

Taken together, these enforcement actions, regulatory developments, and jurisdictional disputes carry concrete implications for a broad range of market participants — from individual traders to the platforms and institutions that support prediction market and event contract activity.

Prediction markets are squarely within regulatory and enforcement cross-hairs. These enforcement actions

reinforce that the CFTC views event contracts and prediction markets as CFTC-regulated products/markets subject to the same antifraud and insidertrading principles applicable in traditional derivatives markets.

Potential criminal exposure adds another layer of risk. Participants should not assume the novelty, decentralization, or nonfinancial subject matter lessens enforcement risk.

Possessionbased informational advantages are under heightened scrutiny. The CFTC has emphasized that insidertrading liability turns on the *misappropriation* of information when an individual owes a duty of trust and confidence to the source of the information.

While it remains to be seen how expansively the duty framework will be applied, individuals with early, restricted, or asymmetric access to information — particularly information tied to government action, sports performance, or operational outcomes, and where there is a clear expectation of confidentiality (whether memorialized in a nondisclosure agreement or otherwise) — should expect closer scrutiny.

Prediction market platforms and other entities in the ecosystem may face increased expectations. While these actions target an individual trader, they signal rising expectations for predictionmarket platforms and other regulated entities to implement surveillance controls capable of detecting unusual activity — such as suspicious trade timing relative to known decision points, anomalous volume, or outsized position sizing ahead of key events.

For financial institutions subject to the Bank Secrecy Act, surveillance findings may also trigger Suspicious Activity Report (SAR) filing obligations. More broadly, firms operating in this space should be prepared to respond promptly to red flags involving potential insider trading or misuse of nonpublic information.

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Cross-border trading does not insulate participants from U.S. exposure. Although prediction markets often operate globally, U.S. regulators and enforcement agencies have made clear they will assert jurisdiction where U.S. persons, U.S. platforms, or U.S. markets are involved — especially in cases alleging fraud or insider trading.

The Spagnuolo case, in which the CFTC charged a Switzerland-based defendant for trading on a U.S.-connected platform, reinforces this point.

Stay informed on the evolving state vs. federal regulatory landscape. The escalating jurisdictional conflict between the CFTC and states — particularly Minnesota's SF 4760, which extends felony liability far beyond prediction market platforms to encompass technology providers, financial institutions, verification services, media organizations, and even public figures who promote prediction markets — underscores the need for companies operating in or providing services to the prediction market ecosystem to carefully assess their potential exposure to state laws that may conflict with the federal regulatory framework while the preemption question remains unsettled.

Entities including DCMs, futures commission merchants, derivatives clearing organizations, technology providers, financial institutions, and media organizations should monitor these developments closely.

Review insider trading policies and training. Organizations employing individuals with access to nonpublic information — whether government agencies, sports leagues, corporations, or other entities — should evaluate whether their existing policies adequately address the risks posed by prediction market trading and consider refreshing compliance training and personal trading policies accordingly.