

Skadden

White Collar Defense and Investigations

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CFTC Declares DCMs' Use of Geographic Access Restrictions Inconsistent With Impartial Access Requirements

Executive Summary

- **What's new:** The CFTC issued interpretive guidance concluding that designated contract markets (DCMs) generally may not restrict access based on where traders are located within the U.S.
- **Why it matters:** The guidance targets DCMs that limit access to event contracts, such as sports and election markets, by state. It also makes DCMs responsible for ensuring that their intermediaries do not impose such restrictions.
- **What to do next:** DCMs and their intermediaries should consider reviewing their access criteria, rules and intermediary arrangements for geographic limitations, and inform the CFTC within 30 days if they are unable to comply with its requirements.

On November 5, 2026, the U.S. Commodity Futures Trading Commission (CFTC) approved an interpretation of the requirement in CFTC Regulation 38.151(b) that designated contract markets (DCMs) provide competitive, open, fair and impartial access to their markets. The guidance comes in response to the decision of some DCMs to restrict access to certain states in response to the threat of enforcement actions against prediction markets that offer sports event contracts and court decisions in Nevada, Michigan and Washington enjoining prediction markets from operating in those states.

The guidance instructs DCMs that the Commodity Exchange Act (CEA) and CFTC rules generally do not permit access restrictions based on a trader's location nor residence, emphasizing Congress' finding of a "national public interest" in derivatives markets that operate uniformly nationwide. According to the commission, barring participants in one state while admitting those in another arbitrarily treats similarly situated participants differently.

The commission identified practical harms from location-based restrictions in several categories:

- **Risk management.** A trader who opens a position in a permitted state and then travels to a restricted one may be unable to manage the position or meet margin calls, which could lead to forced liquidations.
- **Liquidity and price discovery.** Excluding entire states can fragment the national liquidity pool, widen spreads and raise trading costs for other participants.

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- **Hedging.** Excluding certain states or regions prevents traders from that region from being able to hedge their exposure to business and commercial risks, and deprives the market of price signals from that area.
- **Contracts with local interest.** Sports and election contracts may draw their most active and best-informed trading from participants in the state where the team is located or the election is being held. Excluding that state could undercut both liquidity in the market and the informational value of contract prices.

Notably, the guidance reaches beyond DCMs' own rules. The commission stated that DCMs must take reasonable steps to ensure that intermediaries, which must comply with DCM membership rules, do not impose geographic restrictions of their own. It grounded this obligation in DCMs' self-regulatory duties to enforce their rules and protect markets from abusive practices.

In conjunction with issuing the guidance, the CFTC instructed DCMs to cease the use of domestic geographic restrictions within 30 days, or to submit an explanation of why compliance with the impartial access rule is not feasible. DCMs that have used geographic restrictions to lessen the likelihood of state enforcement actions, or in response to injunctions prohibiting prediction markets from operating, should consider whether they are able to comply with the impartial access rule and the CFTC's guidance.