

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

NORTH AMERICAN DERIVATIVES
EXCHANGE, INC., d/b/a OG,

Plaintiff,

v.

LETITIA JAMES, in her official capacity as
Attorney General of New York; ROBERT
WILLIAMS, in his official capacity as
Executive Director of the New York State
Gaming Commission; BRYAN O'DWYER,
in his official capacity as Chair and
Commissioner of the New York State Gaming
Commission; JOHN A. CROTTY, in his
official capacity as Commissioner of the New
York State Gaming Commission; SYLVIA B.
HAMER, in her official capacity as
Commissioner of the New York State Gaming
Commission; MARTIN J. MACK, in his
official capacity as Commissioner of the New
York State Gaming Commission; PETER J.
MOSCHETTI, JR., in his official capacity as
Commissioner of the New York State Gaming
Commission; MARISSA SHORENSTEIN, in
her official capacity as Commissioner of the
New York State Gaming Commission;
JERRY SKURNIK, in his official capacity as
Commissioner of the New York State Gaming
Commission; NEW YORK STATE
GAMING COMMISSION,

Defendants.

Civil Action No.

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

North American Derivatives Exchange, Inc., d/b/a OG (“OG”)¹, by and through its undersigned counsel, brings this civil action for declaratory and injunctive relief, and alleges as follows:

INTRODUCTION

1. OG seeks declaratory and injunctive relief to restrain the Attorney General of New York (“Attorney General of New York” or “State Attorney General”), the New York Gaming Commissioners, and the New York Gaming Commission (“State Gaming Commission” or “Gaming Commission”) (collectively, “Defendants”) from improperly and under color of New York law assuming jurisdiction over and regulating OG’s listing of lawful derivatives contracts on its federally regulated market.

2. OG is a federally regulated designated contract market (“DCM”) that lists event contracts for trading in interstate commerce. On June 12, 2026, OG began offering sports event contracts to New York residents in the state of New York under the authority granted to it by the CFTC. The Attorney General of New York has purported to assert jurisdiction over two federally regulated markets by filing suit to enjoin their offering of event contracts: Gemini Titan, LLC (“Gemini”), a DCM, and Coinbase Financial Markets, Inc. (“Coinbase”), a futures contract market (“FCM”). Consistent with the actions against Gemini and Coinbase and Defendants’ public statements promising enforcement, Defendants will take the same actions against OG now that event contracts are available to New York residents. Gemini, Coinbase, and OG are regulated by the U.S. Commodity Futures Trading Commission (“CFTC”). The conduct that Defendants seek

¹ North American Derivatives Exchange launched OG in February of 2026 to provide a separate technology platform for users to access listed event contracts, distinct from the company’s other offerings. *See* N. Am. Derivatives Exch., *OG.com or OG is a New Brand Association with the Exchange’s Prediction Market Offering of Derivatives* (Feb. 4, 2026), <https://www.nadex.com/notices/og-com-or-og-is-a-new-brand-associated-with-the-exchanges-prediction-market>; Crypto.com, *Crypto.com Launches “OG”—a New Prediction Market Experience* (Feb. 3, 2026), <https://crypto.com/us/company-news/cryptocom-launches-og-a-new-prediction-market-experience>.

to regulate (and prohibit) involves the listing of contracts that are authorized to be traded under federal law and that by statute fall within the “exclusive jurisdiction” of the CFTC.

3. The crux of Defendants’ assertion of authority is their conclusion that, notwithstanding federal regulation, contracts traded on DCM exchanges are “unlawful gambling,” “sports wagering,” and “bets or wagers” subject to New York gaming laws. Complaint ¶ 12, *New York v. Gemini Titan, LLC*, No. 451603/2026 (N.Y. Sup. Ct., N.Y. Cnty. Apr. 21, 2026); Complaint ¶ 12, *New York v. Coinbase Financial Markets Inc.*, No. 451604/2026 (N.Y. Sup. Ct., N.Y. Cnty. Apr. 21, 2026). But Defendants ignore that Congress expressly conferred “exclusive jurisdiction” over DCMs, and the products they make available for trading, to the CFTC to ensure a uniform national derivatives market. 7 U.S.C. § 2(a)(1)(A). Amendments to the Commodity Exchange Act, 7 U.S.C. §§ 1 *et seq.* (“CEA”) have reinforced that policy decision over many years, with Congress affirmatively excluding state authorities like Defendants from playing any role in overseeing contracts traded on federally regulated derivatives exchanges. *See infra* ¶¶ 30-40. And federal courts have long recognized that the CFTC’s regulation of the national derivatives market is exclusive and preempts state involvement.² In a related action, the CFTC has also confirmed its

² *See, e.g., Thrifty Oil Co. v. Bank of Am. Nat’l Tr. & Sav. Ass’n*, 322 F.3d 1039, 1055-57 (9th Cir. 2003) (finding the CEA preempted California’s Bucket Shop Law as applied to swaps exempted from coverage by the CEA); *Bibbo v. Dean Witter Reynolds, Inc.*, 151 F.3d 559, 560, 563-64 (6th Cir. 1998) (noting that “[f]utures trading is conducted on exchanges designated as contract markets by the [CFTC], an independent agency created by Congress in 1974 to exercise *exclusive jurisdiction* over accounts, agreements, and transactions involving commodities futures contracts traded or executed on a contract market” and holding that a CEA regulation conflict preempted an Ohio statute that required payment to investors of any interest earned on collateral because it stood “as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress, as manifested in the language, structure and underlying goals of the CEA” (emphasis added)); *Am. Agric. Movement, Inc. v. Bd. of Trade of Chi.*, 977 F.2d 1147, 1155-57 (7th Cir. 1992) (holding the CEA preempted state law whose application “would directly affect trading on or the operation of a futures market”); *Leist v. Simplot*, 638 F.2d 283, 322 (2d Cir. 1980) (holding CEA “preempts the application of state law” to futures trading); *Rasmussen v. Thomson & McKinnon Auchincloss Kohlmeyer, Inc.*, 608 F.2d 175, 178 (5th Cir. 1979) (per curiam) (affirming dismissal of a claim that trading in futures contracts violated Georgia gambling statute “on the ground that the Commodity Exchange Act preempts all state laws inconsistent with its provisions”); *DGM Invs., Inc. v. N.Y. Futures Exch., Inc.*, No. 01-cv-11602, 2002 WL 31356362, at *5 (S.D.N.Y. Oct. 17, 2002) (dismissing state law claims as preempted by the CEA because they “would directly affect ‘trading on or the operation of a futures market’” (citation omitted)).

position that state enforcement of New York law against CFTC-designated contract markets violates the Supremacy Clause. *See United States v. New York*, No. 26-cv-03404 (S.D.N.Y. Apr. 24, 2026); *see also infra* ¶ 41.

4. OG brings this action to obtain declaratory and injunctive relief to protect its right to offer event contracts pursuant to federal law and regulation.

5. Over the years, many states have sought to regulate trading of such products under their state gaming laws based on their policy judgment that speculation on future events was, in effect, gambling. Congress, however, has always assumed control over the regulation of the derivatives markets at the federal level. And it consistently expanded the scope of the products covered by federal regulation, including to cover swaps and what are known as contracts on “excluded commodities.”

6. Congress could not have been more clear that its purpose was to create a single, national derivatives market subject to regulation at the federal level. The CEA itself recites Congressional findings that:

The transactions subject to this chapter are entered into regularly in interstate and international commerce and are affected with a national public interest by providing a means for managing and assuming price risks, discovering prices, or disseminating pricing information through trading in liquid, fair and financially secure trading facilities.

7 U.S.C. § 5. It also cites Congress’s intention for creating a regulated national market:

It is the purpose of this chapter to serve the public interests described [above] through a system of effective self-regulation of trading facilities, clearing systems, market participants and market professionals under the oversight of the Commission.

Id.

7. OG has operated as a federally regulated DCM since 2004.³ All of its products are certified pursuant to the CEA and established CFTC rules and are offered in compliance with CFTC regulations, including standards for contract specifications, market integrity, and trader protections. As a CFTC-registered self-regulatory organization, OG also administers a comprehensive market regulation program, functioning in a regulatory capacity to oversee trading in its markets. This program is subject to CFTC oversight and has been reviewed and approved by the CFTC.

8. Among OG's offerings are "event contracts," defined by the CEA and the CFTC as derivatives or swaps whose returns depend on the occurrence, non-occurrence, or extent of an occurrence of a specified event or contingency.⁴ At issue here are OG's event contracts, including its "Sports Event Contracts," with return profiles dependent on the occurrence of specified events associated with a sports event, for example, a certain team or participant winning or losing.

9. When it granted the CFTC exclusive jurisdiction over DCMs and the contracts traded on them, Congress authorized the agency to review certain event contracts and prohibit them if it determines that their trading would be contrary to "the public interest." 7 U.S.C. § 7a-2(c)(5)(C). The CFTC has adopted a 90-day review process for assessing whether an event contract should be suspended as contrary to public interest. *See* 17 C.F.R. § 40.11. None of the contracts listed on OG's market are currently under such review by the CFTC, and none of the Sports Event Contracts offered for trading on OG have been prohibited.

³ The CFTC's orders approving North American Derivative Exchange, Inc.'s designation as a DCM are publicly available on the CFTC's Industry Filings page. *See Industry Filings, N. Am. Derivatives Exchange, Inc.*, CFTC, <https://www.cftc.gov/IndustryOversight/IndustryFilings/TradingOrganizations/34536>.

⁴ *See* Commodity Exchange Act, 7 U.S.C. § 1a(47); *Industry Oversight: Contracts & Products*, CFTC, <https://www.cftc.gov/IndustryOversight/ContractsProducts/index.htm>. Examples of "event contracts" listed on the CFTC website include predicted corporate earnings, level of snowfall, and dollar value of damage caused by a hurricane. *Industry Oversight: Contracts & Products*, CFTC, *supra*.

10. Congress has expressly preempted state regulation of trading on DCMs by granting the CFTC “exclusive jurisdiction” to regulate trading on DCMs, including of options and “transactions involving swaps.” 7 U.S.C. § 2(a)(1)(A). A savings clause allows states to regulate conduct that does *not* fall within the CFTC’s exclusive jurisdiction, confirming that the CFTC’s exclusive jurisdiction is indeed exclusive. *See id.*

11. Congress has fully occupied the field of regulating federally registered DCMs, thereby preempting any overlapping state laws. Because OG’s event contracts are lawfully traded on a CFTC-registered DCM, federal law overrides state licensing or registration conditions that might otherwise apply, including those cited in the State Attorney General’s complaints filed against CFTC designated markets Gemini and Coinbase. *See New York v. Gemini Titan, LLC*, No. 451603/2026 (N.Y. Sup. Ct., N.Y. Cnty. Apr. 21, 2026), *removed*, No. 26-cv-03318 (S.D.N.Y. Apr. 22, 2026); *New York v. Coinbase Financial Markets Inc.*, No. 51604/2026 (N.Y. Sup. Ct., N.Y. Cnty. Apr. 21, 2026), *removed*, No. 26-cv-03300 (S.D.N.Y. Apr. 21, 2026). To the extent that New York law imposes regulations that overlap with the CEA’s framework, they are preempted under Article VI, Section 2 of the United States Constitution (“Supremacy Clause”).

12. Insofar as it would prohibit OG from listing contracts that are authorized under federal law, New York law is also preempted because it conflicts with the CEA’s framework. OG cannot comply with both its federal law obligations and any purported obligations under New York law. New York law also undermines the CEA’s goals of, among other things, creating a uniform system of derivatives trading.

13. The threat of Defendants’ enforcement of New York law poses a direct and imminent threat to OG’s business and its users and disrupts the comprehensive federal framework that places OG exclusively under the CFTC’s supervision.

14. A declaratory judgment and injunction are necessary to prevent Defendants' unlawful intrusion into a market which they have no legal authority to regulate.

JURISDICTION AND VENUE

15. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 because the claims in this case arise under the Constitution and the laws of the United States—specifically, whether New York law is preempted by the CEA as applied to OG's event contracts. The Court also has jurisdiction pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201, to declare the rights and legal relations of the parties.

16. Venue is proper in this District under 28 U.S.C. § 1391(b)(1) and 1391(b)(2). The individual defendants perform their duties and thus reside in this District. A substantial part of the events giving rise to the claims occurred in this District.

PARTIES

17. Plaintiff North American Derivatives Exchange, Inc., doing business as OG, is a financial services company with its principal place of business in Chicago, Illinois. OG operates a DCM and Derivatives Clearing Organization ("DCO") regulated by the CFTC under the CEA, where users can trade financial products, including event contracts.

18. Defendant Letitia James is the Attorney General of New York and is sued in her official capacity. The Attorney General of New York is the state's chief attorney.

19. Defendant Robert Williams is the Executive Director of the New York State Gaming Commission and is sued in his official capacity.

20. Defendant Bryan O'Dwyer is Chair and Commissioner of the New York State Gaming Commission and is sued in his official capacity.

21. Defendant John A. Crotty is a Commissioner of the New York State Gaming Commission and is sued in his official capacity.

22. Defendant Sylvia B. Hamer is a Commissioner of the New York State Gaming Commission and is sued in her official capacity.

23. Defendant Martin J. Mack is a Commissioner of the New York State Gaming Commission and is sued in his official capacity.

24. Defendant Peter J. Moschetti, Jr. is a Commissioner of the New York State Gaming Commission and is sued in his official capacity.

25. Defendant Marissa Shorenstein is a Commissioner of the New York State Gaming Commission and is sued in her official capacity.

26. Defendant Jerry Skurnik is a Commissioner of the New York State Gaming Commission and is sued in his official capacity.

27. Defendant State of New York Gaming Commission is the New York state regulatory and law enforcement agency that regulates gambling, lotteries, and sports wagering in New York.

28. Together, Defendants Attorney General Letitia James, Robert Williams, Bryan O'Dwyer, John A. Crotty, Sylvia B. Hamer, Martin J. Mack, Peter J. Moschetti, Jr., Marissa Shorenstein, Jerry Skurnik, and the State of New York Gaming Commission would be responsible for enforcing the New York state laws that are preempted by federal law.

FACTUAL ALLEGATIONS

29. Defendants have vigorously enforced state gambling laws against federally regulated exchanges and intermediaries subject to the CFTC's exclusive jurisdiction. The Attorney General of New York initiated lawsuits to enforce state gambling laws against two

different CFTC-regulated exchanges, Coinbase and Gemini. On June 12, 2026, OG began offering sports events contracts to New York residents in the state of New York under the authority granted to it by the CFTC. Consistent with public statements promising enforcement, Defendants will take the same actions against OG now that event contracts are available to New York residents on its exchange. Because the CFTC has exclusive jurisdiction over federally registered markets and intermediaries, Defendants' efforts to prohibit the trading of event contracts listed on federally regulated markets are preempted by federal law. OG is entitled to a judicial declaration that its activities are not subject to Defendants' oversight, regulation, or jurisdiction, as well as an injunction barring Defendants from any future enforcement efforts.

A. The CFTC Has Exclusive Jurisdiction to Regulate Derivatives Contracts on Federally Registered Markets.

30. Derivatives are financial instruments used to allocate risk between counterparties. The archetypal example is a grain futures contract, which allows buyers to lock in prices and manage volatility in agricultural markets by agreeing to buy or sell a specified amount of the crop at a fixed price on a future date.

31. As financial markets have matured, the category of derivatives has expanded significantly beyond futures based on agricultural commodities, enabling participants to hedge against volatility across a wide array of tangible and intangible areas, including commodities like gold, financial benchmarks such as interest rates, and even weather or credit risk. In principle, nearly any form of risk—economic, environmental, or event-driven—can be hedged if a CFTC-regulated market exists and a contract is available.

32. For more than a century, the federal government has regulated national derivatives markets in order to promote uniformity and integrity in national trading.

33. Before the adoption of the CEA and its predecessor, the 1922 Grain Futures Act, futures contracts were often viewed with suspicion by state legislatures. Because derivatives markets necessarily involve the exchange of money tied to uncertain outcomes, some states equated them to gambling and sought to restrict or prohibit their use. This led to a disjointed and often conflicting state-by-state approach.

34. The CEA, enacted in 1936, was intended to replace the fragmented system of state oversight with a uniform federal framework for regulating futures markets. It extended federal authority beyond grain to a broader class of commodities and created the Commodities Exchange Authority, a division within the Department of Agriculture charged with monitoring trading practices and prosecuting price manipulation. But the CEA did not initially establish an independent federal agency to comprehensively regulate the nation's derivatives markets. As markets grew more complex, lawmakers and industry participants became concerned that the lack of centralized enforcement would invite states to regulate futures trading on their own, leading to inconsistent standards across jurisdictions.

35. In response, Congress enacted sweeping amendments to the CEA in 1974 (the "1974 Act"), which established the CFTC as an independent federal agency charged with regulating the national derivatives markets. To eliminate the threat of conflicting state regulation, Congress expressly granted the CFTC "exclusive jurisdiction" over derivatives trading on federally regulated exchanges. 7 U.S.C. § 2(a)(1)(A).

36. Proponents of the 1974 Act warned that, absent a single national regulator, "states . . . might step in to regulate the futures markets themselves," subjecting national exchanges to "conflicting regulatory demands." *Am. Agric. Movement*, 977 F.2d at 1156; *see also Leist*, 638 F.2d at 322 ("The federal government has been vitally concerned with trading in futures since

1922; indeed, the courts have held that § 2(a)(1) of the CEA preempts the application of state law.”); *DGM Invs.*, 2002 WL 31356362, at *4 (“‘Congress’ intent to bring the markets under a uniform set of regulations’ followed from a fear that states might attempt to regulate futures markets themselves and thus ‘subject the national futures trading apparatus to conflicting regulatory demands.’” (citation omitted)); *Commodity Futures Trading Commission Act: Hearings Before the Senate Committee on Agriculture & Forestry*, 93rd Cong., 2d Sess. 685 (1974) (hereinafter “Senate Hearings”) (“different State laws would just lead to total chaos” (statement of Sen. Clark)). The House Agriculture Committee stressed the need to bring “all exchanges and all persons in the industry under the same set of rules and regulations for the protection of all concerned.” H.R. Rep. No. 93-975, at 82 (1974). To that end, the Senate deliberately removed a provision of the CEA that would have preserved state regulatory authority “in order to assure that [f]ederal preemption is complete.” 120 Cong. Rec. 30,464 (1974) (statements of Sen. Curtis, supported by Sen. Talmadge).

37. Congress’s intent to vest the CFTC with exclusive authority over derivatives markets is further demonstrated by subsequent amendments to the CEA, including the 1992 Futures Trading Practices Act (“FTPA”). That law authorized the CFTC, in order to promote innovation, to exempt certain financial instruments from the requirement that they be traded on a registered exchange. *See* 7 U.S.C. § 6(c). Because the preemption provision in 7 U.S.C. § 2 applies only to derivatives traded on CFTC-registered markets, Congress included a separate provision in the FTPA explicitly preempting “any State or local law that prohibits or regulates gaming” with respect to any agreement, contract, or transaction exempted from the exchange-trading requirement. 7 U.S.C. § 16(e)(2). That provision extended the scope of federal preemption

to off-exchange transactions under the CFTC's oversight, reinforcing Congress's intent to create a comprehensive and uniform federal framework for derivatives regulation.

38. The creation of the CFTC and the centralization of derivatives market regulation within a single independent federal agency reflect a clear exercise of Congress's authority to regulate interstate commerce and establish consistent national rules. As mandated by the CEA, which was significantly amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank Act"), the CFTC has adopted regulations setting out "Core Principles" that DCMs must follow. For example, one Core Principle requires DCMs to offer "impartial access" to their markets and services to users across the country. *See* 17 C.F.R. § 38.151(b). Compliance with a patchwork of differing state regulations would undermine this obligation and make it impossible for DCMs like OG to comply with the CFTC's impartial access rule.

39. Congress's decision to create a national market for derivatives products reflected a federal policy choice to permit their trading even if individual states might have preferred to prohibit them. Since their inception, derivatives contracts have been the subject of ongoing debate over whether they should be treated as a form of gambling, with some arguing that they should only be permitted where a party to a contract has actual exposure to an underlying commercial risk they are attempting to hedge.

40. But Congress and the CFTC have entirely rejected this approach. Instead, the federal policy has been to recognize the legitimacy of speculative trading and its role in supporting market liquidity. As one scholar observed, this reflects a federal commitment to "acknowledge[] the legitimacy of futures contracts" and "the need for speculative capital to provide liquidity to the markets." William L. Stein, *The Exchange-Trading Requirement of the Commodity Exchange Act*, 41 Vand. L. Rev. 473, 477 (1988).

41. The CFTC has confirmed this approach by bringing actions against the states and state regulators in six states, including New York here, alleging that federal law preempts state law regulating event contracts traded on federally regulated markets. *See United States & CFTC v. New York*, No. 26-cv-3404 (S.D.N.Y. Apr. 24, 2026); *United States & CFTC v. Connecticut*, No. 3:26-cv-498 (D. Conn. Apr. 2, 2026); *United States & CFTC v. Arizona*, No. 26-cv-2246 (D. Ariz. Apr. 2, 2026); *United States & CFTC v. Illinois*, No. 26-cv-3659 (N.D. Ill. Apr. 2, 2026); *United States & CFTC v. Wisconsin*, No. 2:26-cv-749 (E.D. Wis. Apr. 28, 2026); *United States & CFTC v. Minnesota*, No. 26-cv-2661 (D. Minn. May 19, 2026). The CFTC has also submitted briefs as an amicus curiae supporting OG’s action brought against state regulators in Nevada and supporting an action brought by another DCM, KalshiEX, LLC (“Kalshi”), against state regulators in Ohio, and intends to submit a brief as an amicus curiae supporting Kalshi’s action brought against state regulators in Tennessee. Brief for CFTC as Amicus Curiae Supporting Plaintiff, *N. Am. Derivatives Exch. Inc. d/b/a Crypto.com v. Nevada.*, No. 25-7187 (9th Cir. Feb. 17, 2026) (Dkt. No. 38); Brief for CFTC as Amicus Curiae Supporting Plaintiff, *KalshiEX, LLC. v. Schuler*, No. 26-3196 (6th Cir. May 12, 2026) (Dkt. No. 31); Motion for CFTC to Participate in Oral Argument as Amicus Curiae Supporting Plaintiff ¶ 2, *KalshiEX, LLC. v. Orgel*, No. 26-5235 (6th Cir. June 9, 2026) (Dkt. No. 50).

42. The CFTC has also issued several Notices of Proposed Rulemaking Relating to Prediction Markets. For example, the CFTC issued Release No. 9194-26 (Mar. 12, 2026) along with a Prediction Markets Advisory (CFTC Letter No. 26-08) explaining that event contracts are “swaps” under the CEA. The CFTC also issued Release No. 9249-26 (June 10, 2026) seeking public comment on a proposed amendment to Regulation 40.11 (17 C.F.R. § 40.11) that would define contracts related to “gaming” and remove the prior prohibition against offering contracts

related to “gaming,” issued under the CFTC’s statutory authority to review specific contracts and determine whether they are contrary the public interest. *See infra* ¶¶ 63-67.

43. Congress’s longstanding policy of permitting broad market participation is integral to the healthy functioning of these markets. Restricting financial derivatives to participants with a direct risk in the outcome would diminish liquidity, impair price discovery, and undermine the market’s essential role in allocating and managing risk. *See Stein, The Exchange-Trading Requirement of the Commodity Exchange Act, supra*, at 482-85 (describing the policy rationale behind restricting futures trading to designated exchanges).

B. Event Contracts Are Exchange-Traded Financial Instruments Used for Allocating Risk.

44. Event contracts are exchange-traded financial instruments, known as derivatives or swaps, that facilitate risk allocation to specified occurrences, non-occurrences, or the extent of occurrences of underlying future events or contingencies. *See* 7 U.S.C. § 1a(47) (defining “swap”).

45. Event contracts typically reference the occurrence or non-occurrence of an event or contingency, represented by “yes” or “no” positions. A trader who takes an event contract with the “yes” position profits if the specified event or contingency occurs by the expiration date, while the “no” position purchaser profits if it does not. An active position may also be closed at a profit or loss prior to the occurrence or non-occurrence of the specified event or contingency.

46. An event contract might be tied to specified movements of a financial index or a real-world event. For example, an event contract could be tied to changes in the yield on the 10-year U.S. Treasury note, the magnitude of the upcoming hurricane season, or to the events or contingencies associated with political, scientific or live sporting events. The regulatory approach

that Congress has directed and that the CFTC has pursued is to allow the market to define the nature of the events on which parties wish to contract.

47. The price of an event contract is determined by market forces, namely the supply and demand for entering into the “yes” and “no” positions of the contract. An event contract has a set expiration date, and the price of an event contract will fluctuate along with the market’s perception of the likelihood of an event’s occurrence until settling at a final price on the expiration date.

48. The operator of a DCM on which event contracts are traded facilitates their trading by matching counterparties to each other. Unlike casinos, a DCM that lists an event contract does not act as a “bookmaker.” It does not take opposing positions or set odds. Instead, it facilitates a neutral, transparent marketplace where prices are established openly among participants based on supply and demand. DCMs may partner with FCM intermediaries to allow customers to access contracts listed on an exchange while using the intermediary’s familiar interface. Extensive federal regulations govern intermediaries, which are also subject to the CFTC’s exclusive jurisdiction. *See, e.g.*, 17 C.F.R. §§ 1.10, 1.12, 1.14, 1.17, 1.18, 1.55, 17.00.

49. Event contracts allow market participants, including those with a financial stake in the occurrence or non-occurrence of a particular event or contingency, to hedge against related risks. These contracts have become a valuable risk management tool because they are linked to real-world events with commercial consequences and offer public utility by reflecting the market’s aggregated expectations about whether those events will occur. Event contracts where the underlying event relates to a sporting event may be used to hedge this type of risk across a variety of commercial scenarios, including:

a. Media and broadcasting companies that face financial exposure tied to viewership, which can fluctuate significantly depending on how competitive or compelling a game is;

b. Retailers that sell team merchandise or apparel who see major swings in sales depending on whether a popular team advances or whether a player affiliated with their brand wins a championship;

c. Travel and hospitality businesses that experience spikes in bookings if a local team advances or hosts a high-profile event, creating exposure to outcomes they cannot control;

d. Restaurants and bars located around arenas such as Madison Square Garden, for example, can hedge against the risk of unexpected interruption to their business from major events⁵ or whether additional games in the NBA finals will be played in the arena;

e. Consumer goods companies, especially in the food and beverage industry, that run promotions tied to game results. These campaigns, while effective for marketing, can carry substantial liabilities if the promotional conditions are met. Advertisers and retailers offering giveaways or rebates based on a team's success face similar exposure; and

⁵ See, e.g., Devin Gannon, *NYPD Closes Area Around MSG for Knicks Game*, 6sqft N.Y.C. (June 10, 2026), <https://www.6sqft.com/nypd-closes-area-around-msg-for-knicks-game>; Charlie McKenna, *Boston PD to Shut Down Area Around TD Garden During Celtics NBA Finals Game*, Mass Live (June 17, 2024), <https://www.masslive.com/news/2024/06/boston-pd-to-shut-down-area-around-td-garden-during-celtics-nba-finals-game.html>.

f. Fantasy sports platforms and sports data providers that rely on fan engagement and player performance, where a dull game or early elimination of a key player can significantly reduce user participation and revenue.

50. These are just a few examples, but they underscore a broader point: Many businesses across diverse industries have meaningful financial exposure to the occurrence, non-occurrence, or extent of occurrence of events or contingencies connected to sporting events and may seek to manage that risk through event contracts.

C. The CEA and CFTC Regulations Establish a Comprehensive Federal Regulatory Framework for Trading in Event Contracts and Other Derivatives.

51. The federal regulatory framework governing DCMs and the trading of derivatives contracts on them is longstanding, comprehensive, and well-established.

52. To offer derivatives for public trading, an entity must obtain designation from the CFTC as a contract market. *See* 7 U.S.C. §§ 2(e), 7(a); 17 C.F.R. § 38.3(a).

53. To receive this designation, an applicant must submit detailed materials demonstrating compliance with the CEA's Core Principles. *See* 17 C.F.R. § 38.3(a)(2); 7 U.S.C. § 7(d). This requires it to show it can and will (1) comply with all CFTC requirements imposed by rule or regulation, (2) establish, monitor and enforce compliance with the rules, (3) list only contracts that are not readily susceptible to manipulation, (4) have the capacity and responsibility to prevent manipulation, price distortion, and disruptions of the delivery or cash-settlement process through market surveillance, compliance, and enforcement, and (5) adopt position limitations for each contract to reduce the threat of market manipulation. *See* 17 C.F.R. §§ 38.100, 38.150, 38.200, 38.250, 38.300.

54. If approved by the CFTC and granted designation as a contract market, a DCM becomes subject to an extensive federal regulatory framework administered by the CFTC. DCMs

are required to meet a wide range of ongoing regulatory obligations to remain in good standing, including: prescriptive capital and liquidity requirements, participant eligibility requirements, reporting obligations, recordkeeping requirements, and numerous operational and governance standards directed toward compliance with the CEA and its Core Principles. *See* 17 C.F.R. §§ 38.1101, 38.604, 38.1051(i), 38.950, 1.31; 38.450, 38.451; 7 U.S.C. § 7(d); *see generally* 17 C.F.R. pt. 38.

55. Moreover, because of the breadth and depth of the regulatory framework applicable to a DCM, a market that has earned the CFTC’s designation is granted the status of a self-regulatory organization under federal law. As such, DCMs are entrusted with front-line responsibilities for establishing rules and enforcing their compliance, detecting and preventing market abuses, and ensuring the integrity of their listed products and intermediaries. *See* 17 C.F.R. § 1.3, pt. 38.

56. As a registered DCM and self-regulatory organization, OG is permitted to list derivatives for trading without obtaining the CFTC’s prior approval for each individual contract. However, it must adhere to product-related regulatory standards and certify that each new contract complies with applicable law by filing a written certification with the CFTC prior to the time of listing. *See* 7 U.S.C. § 7a-2(c)(1); 17 C.F.R. § 40.2(a).

57. Written certifications are subject to CFTC regulation, and the CFTC may initiate a formal review of any submitted contract under its authority. *See* 7 U.S.C. § 7a-2(c)(2); 17 C.F.R. §§ 40.2, 40.11(c). After a stipulated period of time, if the CFTC does not take action, the contract is deemed “effective” and may be listed on the DCM for trading. *See* 7 U.S.C. § 7a-2(c); *see also* 17 C.F.R. § 40.2 (outlining the process for listing products for trading by certification).

58. OG’s event contracts have all been certified and deemed “effective.” *See infra* ¶¶ 69-75.

D. The CFTC Has Exclusive Enforcement Authority Over DCMs and the Power to Prohibit Contracts That Are Contrary to the Public Interest.

59. In addition to regulatory oversight authority, the CFTC possesses exclusive and comprehensive enforcement powers with respect to DCMs, their intermediaries, and market participants.

60. The CFTC’s Division of Enforcement may initiate investigations and, with the approval of a majority of the Commission, bring enforcement actions in federal court or through administrative proceedings. *See* CFTC Division of Enforcement, Enforcement Manual (2020) at § 3.3. If the Division concludes that a violation of the CEA has occurred, it may recommend the Commission pursue a broad range of remedies, including civil monetary penalties, restitution, and disgorgement, as well as the suspension, denial, revocation, or restriction of registration and trading privileges. *Id.* The Commission may also pursue injunctive relief, including cease-and-desist orders, and can refer criminal violations to the Department of Justice for prosecution. *Id.*

61. The scope of the CFTC’s authority extends not only to market participants, but also to the types of derivatives products traded on DCMs. The Commission regulates a broad range of derivatives, including those based on physical commodities like wheat, cotton, rice, corn, and oats, as well as “excluded commodities” that are not tangible such as interest rates, financial instruments, economic indices, risk metrics, and events. 7 U.S.C. § 1a(9), (19)(i)–(iv).

62. The CFTC regulates event contracts, including OG’s event contracts, as a subcategory of derivatives that reference an “excluded commodity.” *See id.* § 1a(47)(A)(ii), (iv), (vi). “Event contracts” are defined broadly under the CEA as relating to any “occurrence, extent

of an occurrence, or contingency” that is “beyond the control of the parties to the relevant contract” and “associated with” economic consequences. 7 U.S.C. § 7a-2(c)(5)(C)(i); § 1a(19)(iv).⁶

63. In 2010, the Dodd-Frank Act amendments to the CEA also specifically addressed event contracts. The amended statute created a “Special Rule” for event contracts that granted the CFTC discretionary authority to determine whether specific event contracts are “contrary to the public interest” and prohibit them from trading on DCMs.

64. This discretionary authority applies where, in the CFTC’s determination, a contract references an underlying activity that falls into one of several specifically enumerated categories listed in the CEA that may warrant further review as to whether allowing them to trade would be in the public interest. These categories include contracts that reference terrorism, assassination, war, gaming, activity that is unlawful under federal or state law, or other similar activity, and is contrary to the public interest. *See* 7 U.S.C. § 7a-2(c)(5)(C)(i).

65. This Special Rule does not require the CFTC to disallow event contracts referencing these underlying activities, but grants the agency the discretion to conduct a public interest review based on its own criteria.

66. The CFTC’s authority is focused not on the terms of the event contract itself, but on the nature of the underlying event. While federal law generally authorizes the trading of event contracts, the CFTC may prohibit contracts from being listed or traded on DCMs where the referenced activity (i.e., the “excluded commodity”) “involves, relates to, or references” specifically enumerated conduct that the CFTC determines to be contrary to the public interest. 17 C.F.R. § 40.11.

67. This framework reflects a deliberate policy choice: Congress did not authorize or

⁶ Events themselves are an excluded commodity under the CEA. *See* 7 U.S.C. § 7a-2(c)(5)(C)(i).

delegate to states the power to override or nullify federal authorization of event contracts by deeming them unlawful under state law. Rather, Congress granted the CFTC exclusive authority to establish the criteria and process for assessing whether a referenced activity should be disallowed from underlying an event contract trading on national derivatives markets as contrary to the public interest. Pursuant to this authority, the CFTC has promulgated regulations that establish procedures by which the CFTC may determine whether trading in a specific contract should be suspended. *See* 17 C.F.R. § 40.11. This includes placing the contract in a 90-day review period, at the conclusion of which the CFTC may determine a contract is contrary to the public interest and order the DCM to suspend its trading. *See* 17 C.F.R. § 40.11(c). The CFTC recently proposed to amend this process by imposing three conditions that must occur before a contract may be deemed contrary to the public interest. (CFTC Release No. 9249-26). First, the agreements, contracts, transactions, or swaps must be “based upon the occurrence, extent of an occurrence, or contingency.” *Id.* Second, the agreements, contracts, transactions, or swaps must “involve” any of the enumerated activities (gaming, war, terrorism, assassination, and activities illegal under state and federal law). *Id.* Third, the CFTC must affirmatively determine that the agreements, contracts, transactions, or swaps are contrary to the public interest. *Id.*

68. OG’s event contracts have not been subjected to a 90-day review, have not been determined to be contrary to the public interest, and have not been ordered to be suspended from trading by the CFTC.

E. OG Is a Federally Regulated DCM That Lists Event Contracts.

69. OG is a federally regulated DCM that provides a market for trading a variety of derivatives products, including event contracts, some of which are based on the occurrence, non-occurrence, or extent of occurrence of events or contingencies associated with live sporting events.

70. The CFTC first approved OG as a DCM in 2004, confirming that its market complied with the CEA. Most recently, in September 2025, the CFTC amended OG’s registration, again confirming its compliance with the CEA. For two decades, the entity now known as OG has operated continuously as a CFTC-regulated market offering event contracts.

71. As an early entrant in the regulated event contract space, OG specializes in event contract trading and has steadily expanded its offerings over time. Its market provides a secure, federally approved exchange where individual, retail, and institutional participants can hedge risk tied to event-based outcomes.

72. On January 30, 2025, pursuant to 7 U.S.C. § 7a-2(c)(1) and 17 C.F.R. §§ 40.2(a), OG certified and announced its intention to list a new category of event contracts: “Industry Event - Live Presentations” contracts.⁷ These contracts allow users to trade on the occurrence, non-occurrence, or extent of occurrence of events or contingencies relating to lawful live events in the performing arts, spectator sports, and related industries, provided the users themselves are not participants in the events. *Id.* at 4-5.

73. OG designed these event contracts “to manage the risk of a variety of market participants, whose businesses face economic consequences based on the outcome of a respective Industry Event, and to enable price discovery for related commercial enterprises.” *Id.* at 8. Examples include contracts tied to the winner of an award like “Best Picture,” the location of a flagship event or ceremony, or the winner of a live sporting event like the Super Bowl.

⁷ North American Derivative Exchange, Inc.’s January 30, 2025 certification pertaining to the Sports Event Contracts is publicly available on the CFTC’s website. *Industry Filings, Certification of Contingent Derivatives Contract (Industry Event – Live Presentations – NAICS 711) – Submission Pursuant to Commission Regulation 40.2(a)*, CFTC (Jan. 30, 2025), <https://www.cftc.gov/sites/default/files/filings/ptc/25/01/ptc01302514705.pdf> (hereinafter, “January 30, 2025 Certification Filing”).

74. OG’s currently listed “Industry Event - Live Presentations” contracts became effective under the process described in ¶¶ 56-58. This includes the Sports Event Contracts, which are a subset of OG’s “Industry Event - Live Presentations” contracts that reference the occurrence, non-occurrence, or extent of occurrence of events or contingencies associated with live sporting events.

75. OG subsequently certified additional event contracts that reference the occurrence, non-occurrence, or extent of occurrence of events or contingencies associated with live sporting events, including its certification of “Contingent Derivatives Deci Contract (Industry Event – Live Presentations – NAICS 711),” filed on July 30, 2025,⁸ and “Derivatives Contract (Industry Event – Live Presentations – Statistics),” filed on August 29, 2025.⁹ As with the Sports Event Contracts certified under its January 30, 2025 Certification Filing, OG identified in these certifications the financial, commercial, and economic consequences associated with the underlying events.

F. Defendants Filed Actions to Enforce State Civil and Criminal Penalties Against CFTC Designated and Futures Markets Offering Event Contracts in New York

76. On April 21, 2026, the Attorney General of New York, in her official capacity, filed a complaint against Gemini, a federally regulated DCM, in New York state court. *New York v. Gemini Titan, LLC*, No. 451603/2026 (N.Y. Sup. Ct. NY Cnty. Apr. 21, 2026). The same day, the Attorney General of New York filed a near identical complaint (together, the “Complaints”) against Coinbase, a federally regulated FCM, in state court. *New York v. Coinbase Financial*

⁸ North American Derivative Exchange, Inc.’s July 30, 2025 certification pertaining to the Sports Event Contracts is publicly available on the CFTC’s website. *Industry Filings, Certification of Contingent Derivatives Deci Contract (Industry Event – Live Presentations – NAICS 711) – Submission Pursuant to Commission Regulation 40.2(a)*, CFTC (July 30, 2025), <https://www.cftc.gov/sites/default/files/filings/ptc/25/07/ptc07302527650.pdf>.

⁹ North American Derivative Exchange, Inc.’s August 29, 2025 certification pertaining to the Sports Event Contracts is publicly available on the CFTC’s website. *Industry Filings, Certification of Derivatives Contract (Industry Event – Live Presentations –Statistics) – Submission Pursuant to Commission Regulation 40.2(a)*, CFTC (Aug. 29, 2025), <https://www.cftc.gov/sites/default/files/filings/ptc/25/08/ptc08292529772.pdf> (hereinafter, “August 29, 2025 Certification Filing”).

Markets Inc., No. 451604/2026 (N.Y. Sup. Ct. N.Y. Cnty. Apr. 21, 2026). The Attorney General decided to launch state enforcement actions against Gemini and Coinbase after the companies advertised their event contract offerings on their platforms and after the Attorney General reviewed the companies' websites. Complaint ¶¶ 30-44, *New York v. Gemini Titan, LLC*, No. 451603/2026 (N.Y. Sup. Ct., N.Y. Cnty. Apr. 21, 2026); Complaint ¶¶ 29-42, *New York v. Coinbase Financial Markets Inc.*, No. 451604/2026 (N.Y. Sup. Ct., N.Y. Cnty. Apr. 21, 2026).

77. The Complaints allege that the CFTC designated markets “accept wagers from members of the public as [] gambling business[es] in New York in flagrant disregard of New York’s state constitution, penal laws, and other statutes” as they have “never been licensed with the New York State Gaming Commission in any capacity.” Complaint ¶¶ 9-10, *New York v. Gemini Titan, LLC*, No. 451603/2026 (N.Y. Sup. Ct., N.Y. Cnty. Apr. 21, 2026); Complaint ¶¶ 9-10, *New York v. Coinbase Financial Markets Inc.*, No. 451604/2026 (N.Y. Sup. Ct., N.Y. Cnty. Apr. 21, 2026). The Complaints falsely allege that “each contract is a bet,” and further, that the federally regulated exchanges illegally offer such bets on unlicensed mobile sports wagering platforms, illegally promote unlicensed gambling, engage in prohibited bookmaking, and possess unlicensed gambling records in violation of New York law. Complaint ¶¶ 43-87, *New York v. Gemini Titan, LLC*, No. 451603/2026 (N.Y. Sup. Ct., N.Y. Cnty. Apr. 21, 2026); Complaint ¶¶ 39-76, *New York v. Coinbase Financial Markets Inc.*, No. 451604/2026 (N.Y. Sup. Ct., N.Y. Cnty. Apr. 21, 2026).

78. The Complaints seek a court order permanently enjoining Gemini and Coinbase from offering event contracts without a gambling license; directing the companies to produce an accounting of gambling related profits; directing the companies to pay restitution and disgorgement of damages and penalties; and granting such other and further relief as the Court

deems just and proper. The Complaints seek to enjoin the companies from offering event contracts relating to sports, culture, elections, and other events.

79. As stated in the Complaints, “New York [c]losely [r]egulates [g]ambling” and “has policed gambling within its borders for over 250 years, since 1771.” Complaint ¶ 20, *New York v. Gemini Titan, LLC*, No. 451603/2026 (N.Y. Sup. Ct., N.Y. Cnty. Apr. 21, 2026); Complaint ¶ 20, *New York v. Coinbase Financial Markets Inc.*, No. 451604/2026 (N.Y. Sup. Ct., N.Y. Cnty. Apr. 21, 2026).

80. Under New York law, the Attorney General of New York “shall . . . prosecute and defend all actions in which the state is interested, . . . in order to protect the interests of the state” Exec. Law § 63(1).

81. The Attorney General of New York initiated the lawsuits as special proceedings pursuant to Executive Law § 63(12), which allows the State Attorney’s General Office to apply to enjoin a party’s repeated and continuing illegal acts.

82. On April 24, 2026, days after filing the Complaints against Gemini and Coinbase, State Attorney General Letitia James issued a joint press release with New York Governor Kathleen Hochul, promising to “not hesitate to hold [prediction markets] accountable” and to “continue[] to defend [New York’s] laws in court.”¹⁰

83. The Gaming Commission has made similar statements. Specifically, on its public website, the Gaming Commission declares that “prediction markets . . . are operating unlawfully.”¹¹

¹⁰ N.Y. Off. Atty. Gen., *Attorney General James and Governor Hochul Defend Enforcement Actions Against Prediction Markets* (Apr. 24, 2026), <https://ag.ny.gov/press-release/2026/attorney-general-james-and-governor-hochul-defend-enforcement-actions-against>.

¹¹ N.Y. Gaming Comm’n, *Protecting New Yorkers from Gambling Harms*, <https://gaming.ny.gov>.

84. The Gaming Commission is charged with “conduct[ing] investigations and hearings pertaining to violations” of state gaming law in order “to regulate sports wagering in New York state.” N.Y. Rac. Pari-Mut. Wag. & Breed. Law §§ 104(6), (24). “Each member of the commission . . . shall have the power” to order production of evidence and make evidentiary determinations. N.Y. Rac. Pari-Mut. Wag. & Breed. Law § 104(7).

G. OG Offers Event Contracts in New York.

85. In its capacity as a CFTC-regulated exchange, OG offers its derivatives products—event contracts—related to fields including sports, economics, politics, technology, culture, and climate pursuant to its January 30, 2025 “Industry Event - Live Presentations” CFTC certification and subsequent additional certifications. *Supra*, ¶¶ 74-75.

86. Prior to June 12, 2026, OG did not offer event contracts to New York residents in its capacity as a CFTC-regulated DCM.

87. On June 12, 2026, OG made its event contracts available to New York residents through its OG.com website and application.

88. On its public website, OG.com invites users to “place [their] prediction[s].”¹² The Attorney General of New York can access and review OG.com’s publicly available website, just like it reviewed the websites of Gemini and Coinbase before initiating lawsuits against the companies.

89. Now that OG’s listed event contracts are accessible to New York residents, OG faces imminent state enforcement, despite the fact that OG is a federally regulated DCM. In light of the civil enforcement action commenced by the Attorney General’s Office against Gemini and Coinbase, Defendants’ roles in enforcing New York gambling law, and Defendants’ public

¹² OG.com, <https://og.com>.

statements committing to continue enforcing state law against prediction markets, there is a concrete and imminent threat that Defendants will file an enforcement action against OG as they did against Gemini and Coinbase. *See Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 164 (2014) (“[P]ast enforcement against the same conduct is good evidence that the threat of enforcement is not ‘chimerical.’”) (quoting *Steffel v. Thompson*, 415 U.S. 452, 459 (1974)).

H. Defendants’ Enforcement Against OG Will Imminently and Irreparably Harm OG and Interfere with Its Ability to Conduct Federally Regulated Activities.

90. OG’s rulebook sets forth over 50 different event contracts, all of which are subject to federal regulation pursuant to the process described above.

91. OG also permits these cash-settled event contracts to be purchased and sold by residents of New York and other states and territories.

92. As a result of Defendants’ threatened conduct described above, there is an imminent likelihood that Defendants’ forthcoming actions will violate the Supremacy Clause of the U.S. Constitution and subject OG and its customers to irreparable harm. Being subject to unlawful state enforcement action would cause OG irreparable injury, both in economic terms and in terms of being restrained from lawful activity without any monetary recourse.

93. Preventing OG from permitting New York residents to purchase or sell event contracts on its DCM in order to avoid civil penalties or criminal sanctions pursued by Defendants would deprive OG of the revenue that it would otherwise derive from the trading of event contracts by New York residents. These economic losses would be unrecoverable because sovereign immunity bars recovery for monetary damages. *See Alden v. Maine*, 527 U.S. 706, 712-13 (1999). Damages that are unrecoverable due to sovereign immunity constitute irreparable harm. *See, e.g., Regeneron Pharm., Inc. v. U.S. Dep’t of Health & Hum. Servs.*, 510 F. Supp. 3d 29, 39 (S.D.N.Y. 2020) (“However, where a plaintiff cannot recover damages due to sovereign immunity, monetary

loss may amount to irreparable harm.”); *United States v. New York*, 708 F.2d 92, 93 (2d Cir. 1983) (affirming “pecuniary” loss was irreparable when action “to recover the damages . . . would be barred by the Eleventh Amendment”); *Nat’l Insts. of Health U. Am. Pub. Health Ass’n*, 145 S. Ct. 2658, 2660 (2025) (per curiam) (although “the loss of money is not typically considered irreparable harm, that changes if the funds cannot be recouped”).

94. If OG were to cease permitting New York residents to purchase or sell event contracts on its DCM to avoid an enforcement action, it would also suffer competitive injury by losing the ability to compete as a market for event contracts against other federally registered DCMs operating in the state.

95. OG could not avoid irreparable harm by seeking a sports wagering license in New York or by ceasing to offer event contracts trading in New York. Obtaining an account wagering license in New York would require OG to submit “a written plan of operation” and an application to the State Gaming Commission and obtain its approval. N.Y. Comp. Codes R. & Regs. tit. 9, § 4500.2(a)(1). “Applications for annual licenses for simulcast and account wagering shall be made in a form and manner determined by the” State Gaming Commission. N.Y. Comp. Codes R. & Regs. tit. 9, § 4500.2(e). Under New York law, “[o]nly platform providers and associated skins selected by the commission as a result of a competitive request-for-application process conducted by the commission may submit a license application to operate as” a mobile sports wagering platform. N.Y. Comp. Codes R. & Regs. tit. 9, § 5330.2(a). OG’s ability to obtain a gaming operator license would be uncertain due to the discretionary review process overseen by the New York State Gaming Commission. Each of these hurdles could require OG to compromise on its CFTC-mandated DCM obligations.

96. In addition, it would be entirely impracticable for OG to subject itself to the often conflicting regulations of each of the states in which it offers federally regulated event contracts for trading. Accepting such jurisdiction would subject OG to the very patchwork of state regulation (including prohibitions, regulations, reporting obligations, registration costs, and other rules) that Congress expressly preempted under the CEA. Different states have taken different approaches to regulation of online gambling. Many states permit online gambling, subject to state-level regulation. Others, such as Utah, prohibit it entirely. It would be impossible for OG to both offer “impartial access” to its DCM as required by 17 C.F.R. § 38.151(b) and simultaneously comply with state gaming laws in 50 states.

97. OG is also irreparably harmed by the criminal and civil penalties available to enforce Defendants’ assertion of jurisdiction. In the complaints filed against two CFTC regulated markets, Gemini and Coinbase, State Attorney General Letitia James alleges that the federally regulated markets are liable for criminal penalties under Executive Law § 63(12) for repeated violations of New York State Constitution Article 1, Section 9. The State Attorney General further asserts violations of New York Penal Law Section 225.10 (promoting gambling in first degree), and New York Penal Law Section 225.20 (possession of gambling records in the first degree), which are class E felonies. Under New York law, a class E felony can carry a prison term of four years, and a fine of the higher of \$80,000 and “three times the amount of the corporation’s gain from the commission of the offense.” N.Y. Penal Law §§ 70.00(2)(e), 80.10(1). The State Attorney General further asserts violations of Racing Law Section 1367(16)(a) (sports wagering); Racing Law Section 1367-a(2)(a) (unlicensed mobile sports wagering platform); and Racing Law Section 1367-a(4)(b) (unlicensed mobile sports wagering platform); violations that carry civil penalties of up to \$100,000 for each violation, not to exceed \$5,000,000 for violations arising out

of the same transaction or occurrence. *See* N.Y. Rac. Pari-Mut. Wag. & Breed. L. § 1367(16)(a). Additionally, the State Attorney General alleges Federal Interstate Wire Act, carrying penalties of a fine, a prison term of two years, or both. 18 U.S.C. 1084(a).

98. The threat of enforcement alone presents OG with the *Hobson's* choice between subjecting itself to potential civil or criminal penalties brought by the State Attorney General, with all the expenditures and reputational damage that entails, or incurring the substantial monetary expenditures discussed above to ensure compliance with the authority the State Attorney General has asserted. *See Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 381 (1992) (finding injunctive relief available where imminent enforcement actions created such a *Hobson's* choice leaving party with no adequate remedy at law). This latter choice may also violate the CFTC's Core Principles by disrupting contracts or geographically limiting who can enter contracts on OG's national exchange. *See supra* ¶ 38.

99. If OG were to submit to the regulatory oversight of the State Gaming Commission to avoid an enforcement action, OG would be subjected to a regulatory regime inherently in conflict with CFTC regulations, including its Core Principles, and the very concept of a registered DCM.

100. New York law requires licensed operators of online sports wagering to implement systems to verify that all users of that platform “adopt appropriate safeguards to ensure, to a reasonable degree of certainty, . . . that authorized sports bettors are physically located within the state when engaging in mobile sports wagering.” N.Y. Rac. Pari-Mut. Wag. & Breed. L. § 1367-a(4)(a)(iii). To comply with this requirement, OG would need to implement expensive and complex technology necessary to monitor real-time geolocation information to confirm the physical location of anyone trading an OG event contract. This is technology that OG has no need

to, and does not, maintain or deploy, and thus would be impractical and difficult to implement in New York. Indeed, as a national contract market registered with the CFTC, OG must comply with the CFTC’s Core Principle of impartial—not location-based—access. *See* 17 C.F.R. § 38.151(b).

101. Inaction in the face of Defendants’ likely assertion of authority to regulate DCMs would threaten the future of OG’s business in New York. An actual and substantial controversy exists between OG and Defendants as to their respective legal rights and duties. The imminent threat of an enforcement action against OG will result in irreparable injury to OG, including, but not limited to, criminal liability, civil liability, economic hardship, and impairment of existing contractual relationships.

102. OG has no plain, speedy, or adequate remedy at law to address the wrongs described herein. Moreover, because money damages are generally not available in suits against state government agencies, OG likely would be left without a remedy in the absence of prospective relief.

103. OG therefore brings this action to seek declaratory and injunctive relief restraining Defendants from enforcing New York law that interferes with the operation and function of Plaintiff’s market described herein.

COUNT I

(Express Preemption – Against All Defendants)

104. Plaintiff incorporates all prior paragraphs by reference.

105. Under 28 U.S.C. § 2201(a), the Court may, “[i]n a case of actual controversy within its jurisdiction . . . declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought.”

106. An actual controversy exists between OG, on the one hand, and Defendants, on the other, regarding whether Defendants have legal authority to regulate the trading of event contracts not licensed by the New York State Gaming Commission.

107. Under the New York General Statutes, gambling is defined as “stak[ing] or risk[ing] something of value upon the outcome of a contest of chance or a future contingent event not under [one’s] control or influence, upon an agreement or understanding that he will receive something of value in the event of a certain outcome.” N.Y. Penal Law § 225.00(2). Profit from gambling means “accept[ing] or receiv[ing] money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling.” N.Y. Penal Law § 225.00(5). “Bookmaking” “means advancing gambling activity by unlawfully accepting bets from members of the public as a business, rather than in a casual or personal fashion, upon the outcomes of future contingent events.” N.Y. Penal Law §225.00(9).

108. Sports wagering is a form of gambling and it “means cash or cash equivalent that is paid by an authorized sports bettor to a casino or a mobile sports wagering licensee to participate in sports wagering offered by such casino or mobile sports wagering licensee.” N.Y. Rac. Pari-Mut. Wag. & Breed. L. § 1367(1)(w).

109. New York Penal Law § 225.10 provides:

A person is guilty of promoting gambling in the first degree when he knowingly advances or profits from unlawful gambling activity by:
 1. Engaging in bookmaking to the extent that he receives or accepts in any one day more than five bets totaling more than five thousand dollars; or 2. Receiving, in connection with a lottery or policy scheme or enterprise, (a) money or written records from a person other than a player whose chances or plays are represented by such money or records, or (b) more than five hundred dollars in any one day of money played in such scheme or enterprise. Promoting gambling in the first degree is a class E felony.

110. New York Penal Law § 225.20 provides:

A person is guilty of possession of gambling records in the first degree when, with knowledge of the contents thereof, he possesses any writing, paper, instrument or article . . . [o]f a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise[,] . . . operation, promotion or playing of a lottery or policy scheme or enterprise Possession of gambling records in the first degree is a class E felony.

111. N.Y. Rac. Pari-Mut. Wag. & Breed. Law § 1367(16)(a) provides:

In addition to any criminal penalties provided . . . any person, firm, corporation, association, agent, or employee, who is not authorized to offer sports wagering . . . and who knowingly offers or attempts to offer sports wagering or mobile sports wagering in New York shall be liable for a civil penalty of not more than one hundred thousand dollars for each violation, not to exceed five million dollars for violations arising out of the same transaction or occurrence, which shall accrue to the state and may be recovered in a civil action brought by the attorney general.

112. The Federal Interstate Wire Act provides penalties for the knowing use of wire communication facilities “for the transmission in interstate . . . commerce of bets or wagers or information assisting in the placing of bets or wagers or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers” 18 U.S.C. 1084(a).

113. By threatening to enforce the statutes at ¶¶ 107-12 or any other statutes, and any rules adopted thereunder against OG, Defendants are impermissibly intruding on the CFTC’s exclusive jurisdiction to regulate derivatives transactions on federally designated contract markets.

114. For the reasons described above, without regard to whether the State Attorney General has correctly interpreted New York law, OG is authorized to list and offer event contracts to New York residents (and residents of each of the other states and territories of the United States) pursuant to the CEA. Whether trading in particular event contracts is permitted is a question subject to the “exclusive jurisdiction” of the CFTC. 7 U.S.C. § 2(a)(1)(A).

115. To the extent that the relevant provisions of the CEA and CFTC regulations adopted thereunder overlap with New York law, New York law is preempted pursuant to the Supremacy Clause, which provides:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

116. The Supremacy Clause mandates that federal law preempts state law in any field over which Congress has expressly reserved exclusive authority to the federal government.

117. The CEA’s express preemption of state laws purporting to regulate trading on federally regulated derivatives markets or otherwise under the oversight of the CFTC could not be more clear. Congress gave the CFTC “exclusive jurisdiction” to regulate derivatives trading on approved exchanges for on-exchange trading. 7 U.S.C. § 2(a)(1)(A). Without a unified approach to derivatives regulation, Congress feared that fragmented and uncoordinated state regulation would lead to “total chaos.” Senate Hearings, 93rd Cong., 2d Sess. 685 (1974) (statement of Sen. Clark). Congress punctuated the importance of preemption of state law by ensuring federal law supersedes and preempts state gaming law as applied to financial instruments the CFTC exempted from the registered exchange requirement. *See* 7 U.S.C. § 16(e)(2). Having analyzed the text, purpose, and history of the CEA, courts nationwide have agreed that Congress intended to preempt state law in derivatives trading on CFTC-regulated exchanges. *See, e.g., KalshiEX, LLC v. Flaherty*, 172 F.4th 220 (3d Cir. 2026); *KalshiEX, LLC v. Johnson*, No. 2:26-cv-01715 (D. Ariz. Apr. 10, 2026), ECF No. 65 at 2-3; *Kalshiex LLC v. Orgel*, No. 3:26-CV-00034, 2026 WL 474869, at *9-10 (M.D. Tenn. Feb. 19, 2026); *Thrifty Oil Co. v. Bank of Am. Nat’l Tr. & Sav. Ass’n*, 322 F.3d 1039, 1055-57 (9th Cir. 2003); *Am. Agric. Movement*, 977 F.2d at 1156; *Rasmussen v.*

Thomson & McKinnon Auchincloss Kohlmeyer, Inc., 608 F.2d 175, 178 (5th Cir. 1979); *Paine, Webber, Jackson & Curtis, Inc. v. Conaway*, 515 F. Supp. 202, 205-07 (N.D. Ala. 1981); *Jones v. B. C. Christopher & Co.*, 466 F. Supp. 213, 220 (D. Kan. 1979); *Hofmayer v. Dean Witter & Co.*, 459 F. Supp. 733, 737 (N.D. Cal. 1978).

118. Defendants may therefore not enforce New York’s gaming laws against OG because OG is a federally regulated derivatives market that operates under the exclusive oversight of the CFTC and its enabling statute, the CEA, 7 U.S.C. §§ 1 *et seq.*

COUNT II

(Field Preemption – Against All Defendants)

119. Plaintiff incorporates all prior paragraphs by reference.

120. Under 28 U.S.C. § 2201(a), the Court may, “[i]n a case of actual controversy within its jurisdiction . . . declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought.”

121. An actual controversy exists between OG, on the one hand, and Defendants, on the other, regarding whether Defendants have legal authority to regulate the trading of event contracts not licensed by the New York State Gaming Commission.

122. By threatening to enforce the statutes at §§ 107-12 or any other statutes, and any rules adopted thereunder against OG, Defendants are impermissibly intruding on the CFTC’s exclusive jurisdiction to regulate derivatives transactions on federally designated contract markets.

123. For the reasons described above, without regard to whether Defendants have correctly interpreted New York law, OG is authorized to list and offer event contracts to New York residents (and residents of each of the other states and territories of the United States) pursuant to

the CEA. Whether trading in particular event contracts is permitted is a question subject to the “exclusive jurisdiction” of the CFTC.

124. To the extent that the relevant provisions of the CEA and CFTC regulations adopted thereunder overlap with New York law, New York law is preempted pursuant to the Supremacy Clause.

125. The Supremacy Clause mandates that federal law preempts state law in any field over which Congress has adopted a comprehensive regulatory scheme, thus occupying the field for regulation.

126. Through the CEA and its amendments, Congress has adopted a comprehensive regulatory scheme regulating derivatives trading on regulated markets, including the trading of event contracts. *See* 7 U.S.C. §§ 1 *et seq.* That scheme includes creating the CFTC and vesting it with exclusive authority to regulate derivatives trading.

127. Indeed, federal law authorizes the CFTC to “determine” whether event contracts involving “gaming” should be restricted as “contrary to the public interest,” 7 U.S.C. § 7a-2(c)(5)(C)(i)—authority that is completely incompatible with parallel state regulation of the same subject matter. Because federal law occupies the entire field of regulating derivatives trading on regulated markets, the threatened actions are field-preempted under the Supremacy Clause. *See Flaherty*, 172 F.4th at 228-29.

128. Defendants therefore may not enforce New York’s gaming laws against OG because OG is a federally regulated derivatives market that operates under the exclusive oversight of the CFTC and its enabling statute, the CEA, 7 U.S.C. §§ 1 *et seq.*

COUNT III

(Conflict Preemption – Against All Defendants)

129. Plaintiff incorporates all prior paragraphs by reference.

130. Under 28 U.S.C. § 2201(a), the Court may, “[i]n a case of actual controversy within its jurisdiction . . . declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought.”

131. An actual controversy exists between OG, on the one hand, and Defendants, on the other, regarding whether the New York Attorney General’s office has legal authority to regulate the trading of event contracts not licensed by the New York State Gaming Commission.

132. By threatening to enforce the statutes at §§ 107-12 or any other statutes, and any rules adopted thereunder against OG, Defendants are impermissibly intruding on the CFTC’s exclusive jurisdiction to regulate derivatives transactions on federally designated contract markets.

133. For the reasons described above, without regard to whether the State Attorney General has correctly interpreted New York law, OG is authorized to list and offer event contracts to New York residents (and residents of each of the other states and territories of the United States) pursuant to the CEA. Whether trading in particular event contracts is permitted is a question subject to the “exclusive jurisdiction” of the CFTC.

134. To the extent that the relevant provisions of the CEA and CFTC regulations adopted thereunder conflict with New York law, New York law is preempted pursuant to the Supremacy Clause.

135. The Supremacy Clause mandates that federal law preempts state law where compliance with the state law would conflict with federal law.

136. New York authorities likewise threatened to deploy New York law against OG in a manner that conflicts with federal law and policy. Defendants seek to ban event contracts that federal law and the CFTC have authorized or subject them to state regulatory requirements that conflict with federal law, which would plainly frustrate the CFTC's exclusive authority to regulate its designated exchanges. For that reason among others, the threatened actions are conflict-preempted under the Supremacy Clause. *See Flaherty*, 172 F.4th at 230.

137. Defendants therefore may not enforce New York's gaming laws against OG because OG is a federally regulated derivatives market that operates under the exclusive oversight of the CFTC and its enabling statute, the CEA, 7 U.S.C. §§ 1 *et seq.*

PRAYER FOR RELIEF

WHEREFORE, Plaintiff OG requests that judgment be entered in its favor and against Defendants as follows:

1. That this Court enter a judgment declaring that the challenged provisions, or any other state laws pertaining to gambling or wagering, as applied to OG, violate the Supremacy Clause and are therefore preempted, unconstitutional and invalid;
2. That this Court issue a preliminary and permanent injunction that prohibits Defendants as well as their successors, agents, and employees, from enforcing the challenged provisions or any other state laws pertaining to gambling or wagering, as applied to OG;
3. Award such other relief within this Court's discretion that it deems just and proper.

Dated: New York, New York
12th day of June, 2026.

/s/ Robert A. Fumerton

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