



# Policy Costs of National Event Contract Gambling Markets

*Developed by the Washington Indian Gaming Association*

## Event Contracts Are Bypassing Gaming Law

Online companies are offering what they call event contracts, allowing people to bet on the outcome of real-world events. These markets appear across a wide range of subjects, including sports, elections, wars and geopolitical events.

These companies relabel bets as financial derivatives and list them on commodities exchanges under the Commodity Exchange Act (CEA).

By doing this, they avoid state and tribal gaming laws, effectively enabling online gambling nationwide without Congressional authorization.

This isn't a small issue. It's a threat to:

- Tribal sovereignty
- State authority over gambling
- Consumer protections
- The integrity of elections and other civic institutions

## Harming Governments and Communities

### *Impacting Tribal Nations*

If event contract markets enable gambling outside the tribal regulatory framework, policymakers must examine how these markets affect tribal gaming economies and the government-to-government framework established in federal law.

Tribal gaming plays a significant role in the economic stability of many tribal governments across the country, generating revenue that funds health care, education, housing, infrastructure, public safety, essential services and more.

Event contract markets threaten this framework because they:

- Pull revenue away from tribal governments
- Bypass tribal-state gaming compacts
- Undermine the government-to-government relationship between tribes and the federal government

And they do so without Congress changing the law.

### *Impacting States*

States have long held the authority to regulate gambling within their borders through state policy powers.

States regulate gambling through licensing structures designed to protect consumers, ensure market integrity and generate public revenue. Legal operators must obtain licenses, generate taxes, follow strict consumer protection rules, fund responsible gambling programs, follow anti-money laundering safeguards and more.

Event contracts do not follow these same rules. They operate nationally through commodities exchanges and completely avoid state gaming laws.

### *Impacting Consumers*

Legal gaming systems incorporate safeguards designed to address the social risks associated with gambling.

These protections typically include:

- age verification requirements,
- responsible gaming tools
- problem gambling prevention and treatment programs,
- transaction monitoring and financial safeguards.

Event contract markets do not guarantee these same consumer protections.

Communities deal with the consequences of gambling addiction and financial harm, regardless of how gambling is offered. In the case of legalized gambling, resources and attention are paid to addressing the social costs of gambling. But in the case of event contract markets, there is no consideration of these costs.

There are also serious concerns about betting on elections, armed conflict, public office or whether a political leader will ‘remain in power.’ These types of bets undermine public trust and democratic integrity.

# How We Got Here

## *Federal Derivatives Law and Its Intended Scope*

The CEA was designed to regulate derivatives markets for hedging and price discovery—not consumer gambling.

Historically, derivatives markets developed to allow businesses and financial institutions to manage economic risk through hedging and price discovery. Examples include agricultural commodities, energy markets, financial indices and currency values.

Under current rules, exchanges can self-certify new contracts and list them without prior CFTC approval. This process was not intended to be a gateway for nationwide gambling products, yet that is how it is now being used.

## *The Tribal and State Gaming Framework*

States maintain primary authority over commercial gaming activities through systems that include taxation, licensing, consumer protection, and responsible gaming requirements.

The current legal gaming framework reflects decades of carefully negotiated policy. It's important to know:

- IGRA (1988) established tribal gaming as a sovereign right and created a federal regulatory structure.
- Tribal-State compacts govern the relationship between tribes and states on Class III gaming.
- States regulate commercial and charitable gaming.

These systems require strict compliance and generate significant public benefits. Event contract platforms operate outside of this framework.

## *Structural Distortion*

Event contract platforms:

- Pay no gaming taxes
- Enter no tribal-state compacts
- Fund no problem gambling programs
- Avoid licensing costs

This creates a structurally unfair market.

As event contract platforms continue to grow, regulated operators, including tribal casinos, will face increased disruption from businesses that do not follow the same rules or support the same public services.

## Federal Leadership and Accountability

### *Principles for Congressional Action*

It's time for Congress to take steps to protect the public and our democratic institutions. Tribes, states and consumer advocates believe:

- **Products that function like gambling should be regulated as gambling.** Regulatory classification should reflect how products are used by consumers, not just how they are labeled.
- **There should be no national gambling without explicit congressional authorization.** Federal derivatives law should not be used to nationalize gambling unless Congress clearly authorizes it. The CEA was not designed as a vehicle for consumer betting.
- **Tribal sovereignty must be respected and upheld.** IGRA established a careful balance of tribal, federal and state authority. A federal agency should not override that balance through administrative action.
- **State authority must be preserved.** States have broad power to regulate gambling. Federal classification as a 'derivative' should not override state gaming law.
- **Consumers deserve equal protection.** Consumers should not lose protections simply because a gambling product is routed through a commodities exchange.
- **Sensitive subjects deserve extra scrutiny.** Betting on elections, casualties of war or the death of public figures goes beyond normal gambling concerns.

### *Legislative Authority and Responsibility*

Congress has the authority and the responsibility to act now. It must:

- Holding oversight hearings on the growth of event contract markets
- Reviewing CFTC's failure to enforce the anti-gaming provisions of the CEA and holding them accountable
- Aligning consumer protection standards across markets
- Examining the risks of gambling on elections and other civic matters
- Consulting tribal nations on a government-to-government basis ahead of any policymaking that affects IGRA

## *Administrative Tools Already Available*

Even without congressional action, the CFTC can:

- Reject event contracts that are contrary to the public interest
- Increase transparency in the self-certification process
- Clarify the legal boundary between derivatives and gambling
- Coordinate with tribal governments and state regulators

## *A Strategic Path Forward*

The following actions are recommended next steps:

- Request a formal regulatory impact analysis from the CFTC
- Build a coalition with state gaming regulators, attorneys general, and commercial gaming operators who share concerns
- Engage members of Congress representing states with significant tribal gaming economies
- Educate the public about the consumer protection gap between regulated and event-contract markets

## **The Bottom Line**

This major shift in gambling policy is currently happening without Congress. If left unchecked it could undermine tribal sovereignty, state authority, and harm the public.