
Disagreement Deepens Among Federal Courts Over Whether Sports Event Contracts Are Subject to State Regulation

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The Commodity Exchange Act (“CEA”) has long been understood to grant exclusive regulatory authority over certain types of financial contracts to the Commodity Futures Trading Commission (“CFTC”). This includes event contracts, i.e., binary option contracts where payoff depends on the occurrence or non-occurrence of a certain event, that are traded on designated contract markets (“DCMs”). KalshiEX LLC (“Kalshi”), a designated contract market that offers retail participants the opportunity to trade event contracts, introduced event contracts related to sports in January 2025. These sports event contracts have caught the attention of gaming regulators in various states, and some of those regulators have issued cease-and-desist letters asserting that Kalshi’s sports outcome markets constitute unlawful sports wagering conducted without state licensure. In response, Kalshi has filed several lawsuits arguing that the CEA preempts state regulation of its sports event contracts.

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