

No. 25-7504

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

BLUE LAKE RANCHERIA, CHICKEN RANCH RANCHERIA OF ME-WUK INDIANS,
AND PICAYUNE RANCHERIA OF THE CHUKCHANSI INDIANS,

Plaintiffs-Appellants,

v.

KALSHI INC., KALSHIEX LLC, ROBINHOOD MARKETS, INC.,
ROBINHOOD DERIVATIVES LLC, AND DOES 1-20,

Defendants-Appellees.

On Appeal from the United States District Court for the
Northern District of California, No. 25-cv-06162-JSC

**AMICUS CURIAE BRIEF OF PARADIGM OPERATIONS LP
IN SUPPORT OF APPELLEES**

Tyler R. Green
Conor D. Woodfin
Olivia C. Rogers
Consovoy McCarthy PLLC
222 S. Main Street, 5th Fl.
Salt Lake City, UT 84101
(703) 243-9423
tyler@consovoymccarthy.com

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Counsel for Amicus Curiae

CORPORATE DISCLOSURE STATEMENT

In accordance with Federal Rule of Appellate Procedure 26.1 and Ninth Circuit Rule 26.1-1, *Amicus* discloses that it has no parent corporations and that no publicly held corporations hold 10% or more of its stock. No publicly held corporation not a party to this proceeding has a financial interest in the outcome of this proceeding.

Dated: March 16, 2026

/s/ Tyler R. Green

Tyler R. Green

Counsel for Amicus Curiae

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INTEREST OF *AMICUS CURIAE*

Paradigm Operations LP is a research-driven crypto investment firm that backs entrepreneurs, companies, and protocols at the frontier of innovation. Paradigm has an interest in this case because prediction markets are a cutting-edge application of crypto technology and are driving innovation in a field in which Paradigm invests. Recently, Paradigm invested in Kalshi because of its leadership in the prediction market space. Paradigm also has an interest in supporting the broad availability of regulated prediction markets, which are a valuable source of public information and allow market participants (including investors and entrepreneurs) to hedge exposure to specific events. As a market participant in this developing field, Paradigm brings a valuable perspective and a wealth of experience that the other parties and regulatory authorities do not offer.

No counsel for any party authored this brief in whole or in part, and no entity or person, aside from *amicus curiae* and its counsel, made any monetary contribution toward the preparation or submission of this brief.

INTRODUCTION

Tribal appellants ask this Court to bar federally designated and regulated contract markets from offering derivatives based on the complaint that these derivatives—financial instruments that federal law allows and makes subject only to federal oversight—constitute nothing more than illegal gambling. But that stale complaint crumbles when subjected to any searching analysis of the intersection of the three federal statutes at issue here: the Commodity Exchange Act, the Indian Gaming Regulatory Act, and the Unlawful Internet Gaming Enforcement Act.

Those statutes’ histories and text confirm that Congress has regulated derivatives and gambling as two distinct activities on two distinct tracks. First, derivatives: Congress passed the CEA to consolidate exclusive federal regulation of derivatives markets in the CFTC. Second, gambling: Congress passed the IGRA to preserve tribal authority over gaming “on Indian lands” and, later, passed the UIGEA to ensure that tribal and state authority were respected in an age of Internet gambling. But critically, Congress specifically exempted transactions on CFTC-regulated exchanges from the UIGEA’s

scope, thereby further entrenching the dual-regulatory approach about which the tribes now complain.

The tribes and their amici want this Court to upend that careful balance, leaning on the surprising claim that *Kalshi and the district court* have put those three statutes in conflict. Not so. As even the federal government recognizes, including in a brief filed just last month with this Court, it is the tribes' "theory of the case that presents a seismic shift" in the statutes' interpretation. CFTC Amicus, *N. Am. Derivatives Exchange, Inc. v. Nevada*, No. 25-7187 at 2 (9th Cir. Feb. 17, 2026). By a simple expedient—slapping the label "gambling" on derivatives transactions on federally designated and regulated contract markets—the tribes would subject those transactions to the very "patchwork" of regulation Congress sought to avoid through the CEA. That not only undermines Congress's intent and contradicts the statutes' plain text but also would grant the tribes a power found nowhere in the IGRA.

The district court's reading properly accounts for this history and structure and appropriately harmonizes these statutes. This Court should therefore affirm the district court's order denying a preliminary injunction.

ARGUMENT

I. Congress enacted one regulatory regime for derivative transactions and a different regulatory regime for gambling.

This dispute is a three-piece statutory puzzle. One of those pieces, the CEA, creates a reticulated, exclusively federal regulatory regime for derivatives transactions. The other two pieces—the IGRA and the UIGEA—establish a framework for regulating gambling on tribal lands and in interstate commerce. Here, the tribes assemble only the latter two pieces, necessarily leaving the final picture incomplete. While the tribes seem content to ignore that gap in their finished product, properly considering each puzzle piece in turn—as the district court did—exposes their flawed reading of the exclusive federal framework for the derivatives transactions that Kalshi *actually* offers and dooms their arguments.

A. The Commodity Exchange Act governs derivative transactions on federally designated contract markets and displaces state regulatory power.

“The CEA is a federal statute that provides the comprehensive federal framework governing transactions in United States commodity derivatives markets.” CFTC Amicus Br. at 3. Before Congress passed the CEA, the futures markets were subject to decades of conflicting state and federal regulations. Those regulatory efforts began in earnest in the early 20th century, after investors took aim at operators who took “bets or wagers ... on the rise or fall of the prices of stocks, grain, oil, etc.” without facilitating the “transfer or delivery of the stock or commodities nominally dealt in.” *Gatewood v. North Carolina*, 203 U.S. 531, 536 (1906). Foreshadowing today’s debates, states decided that those forms of futures trading were just “gambling” under another name and passed so-called “bucket shop laws” forbidding them.

Negative views about futures started changing in large part because of Justice Holmes—the same jurist who conceded that “state laws may regulate life in many ways which we, as legislators, might think as injudicious.”

Lochner v. New York, 198 U.S. 45, 198 (1905) (Holmes, J., dissenting). His reasoning is credited with reversing the “rigid, if not unthinking, application of ... bucket shop statutes” to contracts that divorced trading from physical delivery. Kevin T. Van Wart, *Preemption and the Commodity Exchange Act*, 58 Chi.-Kent L. Rev. 657, 665 (1982). Writing for the Court in a case challenging the Chicago Board of Trade as a bucket shop, Justice Holmes held that futures contracts serve “a legitimate and useful purpose” by allowing a transaction to “be offset before the time of delivery in case delivery should not be needed or desired.” *Bd. of Trade of City of Chi. v. Christie Grain & Stock Co.*, 198 U.S. 236, 249 (1905). Therefore, “transactions executed on exchanges between brokers” should be, and were, “exempt from state bucket-shop laws.” Van Wart, *supra*, at 665.

Even so, courts continued to wrestle with bucket-shop laws as applied to various futures contracts. So in 1922, Congress stepped in. Responding to the manipulation of grain prices, Congress enacted the Grain Futures Act. *See* Pub. L. No. 67-331, 42 Stat. 998 (1922). The Act made it a misdemeanor to execute certain grain futures contracts unless performed through exchanges

designated as “contract markets” by the Secretary of Agriculture—a precursor to the CFTC’s modern designated contract markets. *Id.* at 1000.

The Grain Futures Act was the first modern federal financial regulatory law, passed more than a decade before the more famous financial regulatory laws governing securities. But when the Supreme Court held that the Act did not “supersede” state law “making gambling in grain futures illegal,” *Dickson v. Uhlmann Grain Co.*, 288 U.S. 188, 198 (1933), Congress stepped in again and enacted the Commodity Exchange Act. *See* Pub. L. No. 74-675, 49 Stat. 1491 (1936).

That CEA expanded federal regulation to the “transactions and dealings of brokers and of customers” and activities that might “affect such trading on the futures exchanges.” *Van Wart, supra*, at 669 (internal quotation marks omitted). It “contained its own anti-bucketing provision,” and violations “would result in the federal government withholding designation of the exchange as a contract market.” *Id.* The Act also liberalized speculative investing by prohibiting only “[e]xcessive speculation in any commodity under contracts of sale ... for future delivery ... causing

sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity.” §5, 49 Stat. at 1492 (emphasis added).

But tension between state trade laws and the federal law remained. So, in 1974, Congress acted again. It passed the Commodity Futures Trading Commission Act, which created the CFTC and empowered it to regulate the futures trading industry. Pub. L. No. 93-463, 88 Stat. 1389 (1975). The Act enlarged the definition of “commodity” to include not just agricultural products but also “all other goods and articles ... and all services, rights, and interests in which contracts for future delivery are presently or in the future dealt.” *Id.* §201. Even more critically, the Act gave the CFTC “exclusive jurisdiction with respect to accounts, agreements ... and transactions involving contracts of sale of a commodity for future delivery, traded or executed on a contract market designated” under the Act. *Id.* And most critically, Congress made clear by passing the CFTC Act that, *contra* the Supreme Court in *Dickson*, it wanted the CFTC to have full jurisdiction over futures markets through the CEA. This Act is totemic evidence that the tribes are wrong.

Just four years later, in 1978, the House Subcommittee on Conservation and Credit held hearings on additional amendments to the CEA. “Battle lines over the issue of the CFTC’s exclusive jurisdiction began to form quite early in these hearings.” Van Wart, *supra*, at 699. But, as the CFTC Commissioner explained to that Committee, “[t]he idea behind the exclusive jurisdiction provisions of the Commission was to simplify and centralize regulation of the commodity market.” *Extend Commodity Exchange Act: Hearings on H.R. 10285 Before the Subcomm. on Conservation & Credit of the H. Comm. on Agriculture, 95th Cong. 80 (1978)* (statement of John Rainbolt).

At the same time, the Senate Agriculture, Nutrition, and Forestry committee report concluded that clearer, stronger regulation was necessary. The report observed that the 1974 Act “reflects the congressional awareness that futures markets would not remain static.” S. Rep. No. 95-850, at 22 (1978). New technologies and financial instruments were reasons to give the CFTC more leeway, not clamp down on its jurisdiction. “So long as the futures contract serves a legitimate function, Congress has vested the Commodity Futures Trading Commission with jurisdiction.” *Id.* The

committee further clarified that, while some suits would be permitted, “[t]he States would not, in these actions, be involved in enforcement of their local laws” regulating futures. *Id.* “As to the question of state jurisdiction,” both chambers thus decided “in favor of the CFTC.” *Van Wart, supra*, at 718. Again, more evidence of Congress’ clear desire for the CFTC to have oversight of all futures markets.

In the 1980s, “swaps” gained traction as a popular variant of derivative. Michael Greenberger, *Overwhelming a Financial Regulatory Black Hole with Legislative Sunlight*, 6 J. Bus. & Tech. L. 127, 131-32 (2011). The CFTC first defined swaps through rulemaking: “an agreement between two parties to exchange a series of cash flows measured by different interest rates, exchange rates, or prices with payments calculated by reference to a principal base (notional amount).” *Statement of Policy Concerning Swap Transactions*, 54 Fed. Reg. 30,694 (July 21, 1989). Over time, the industry developed more complex variants that became increasingly popular. *See Greenberger, supra*, at 136-43.

The 2008 financial crisis prompted Congress to step in again. The Dodd-Frank Wall Street Reform and Consumer Protection Act “transform[ed] the regulation of OTC derivatives.” *Id.* at 152. The Act defined a “swap,” “swap dealer,” and other key terms. And it imposed a variety of restrictions, “generally requiring that swaps be subject to clearing and exchange-like trading.” *Id.* “The basic rule of the Dodd-Frank Act is that swaps must be cleared and exchange traded.” *Id.* at 156.

Once again, Congress made clear that the CFTC had exclusive jurisdiction over these transactions: “The Commission shall have exclusive jurisdiction” over transactions “involving swaps or contracts of sale of a commodity for future delivery ... traded or executed on a [designated] contract market.” 7 U.S.C. §2(a)(1)(A). The law is the same today. This provision grafted swaps into the federal preemption framework, putting swaps “on the same exclusive jurisdictional footing as exchange-traded commodity futures.” Barry Taylor-Brill, *Cracking the Preemption Code: The New Model for OTC Derivatives*, 13 Va. L. & Bus. Rev. 1, 3 (2019). The CFTC thus “received an explicit congressional mandate to carry out regulation of

the swap markets under federal law free from potential state interference, potentially including a patchwork of conflicting laws.” *Id.* at 13.

B. The Indian Gaming Regulatory Act authorizes gambling on Indian lands subject to joint federal, state, and tribal regulatory authority.

A full fourteen years after passing the CFTC Act, Congress enacted the IGRA in the wake of the Supreme Court’s decision in *California v. Cabazon Band of Mission Indians*, which held that states could not regulate gaming on Indian lands. 480 U.S. 202 (1987). The “basic problem” after *Cabazon Band* that precipitated the IGRA was the “conflict between the right of tribal self-government and the desire for State jurisdiction over gaming activity on Indian lands.” 134 Cong. Rec. 25376 (Sept. 26, 1988) (Statement of Rep. Udall).

Because that same conflict also pre-dated *Cabazon Band*, the “regulation of gaming activities on Indian lands” had long been the “subject of much controversy.” Cong. Senate Rec. at 24022 (Sept. 15, 1988) (Statement of Sen. Inouye). But the Supreme Court’s decision ensured that the central issue in the IGRA’s development would be “how best to preserve the right

of tribes to self-government while, at the same time to protect both the tribes and the gaming public from unscrupulous persons.” 134 Cong. Rec. 25377 (Statement of Rep. Vucanovich).

Recognizing the need for “clear standards” to govern gaming activity on Indian lands, Congress again stepped in. 25 U.S.C. §2701(1), (3). As introduced, the original house bill tried to “establish[] minimum Federal standards for the conduct of gaming activities on Indian lands.” H.R. Rep. No. 99-188, at 23 (1985). The Act provided a “statutory basis” for gaming on tribal lands as a “means of promoting tribal economic development, self-sufficiency, and strong tribal governments” while also allowing states to address concerns of “organized crime and other corrupting influences.” 25 U.S.C. §2702. It did so by blending federal, state, and tribal oversight, and by creating the National Indian Gaming Commission (“NIGC”) to lead the effort on the federal level.

The Act divides gaming into three classes. It first “leaves class I gaming activities, such as traditional ceremonial gaming, under the sole jurisdiction of the tribes.” 134 Cong. Rec. 25381 (Sept. 26, 1988) (statement of Rep.

Bilbray); *see also* 25 U.S.C. §2710(a)(1). Tribes share authority to regulate class II gaming, “such as bingo, lotto, and certain card games,” with NIGC. 134 Cong. Rec. 25381 (Sept. 26, 1988) (statement of Rep. Bilbray). Tribes are required to issue a separate license “for each place, facility, or location on Indian lands at which class II gaming is conducted.” *Id.* §2710(b).

Class III includes “all other gaming.” *Id.* Because class III games such as “casino gaming including slot machines, jai alai and similar activities” are “complex and easily corrupted without constant vigilance by trained and experienced regulators,” tribes must work together with the state in which they are located to develop a “compact” delineating which games are legal. 134 Cong. Rec. 25381 (Sept. 26, 1988) (statement of Rep. Bilbray); 25 U.S.C. §2710(d)(1)-(3). The IGRA allows only those class III activities that are “located in a State that permits such gaming” and “conducted in conformance with a Tribal-State compact.” *Id.* §2710(d)(1)(B)-(C).

In this manner, Congress established in the IGRA a delicate balance of federal, state, and tribal regulation of gaming activities “conducted” by a tribe or authorized licensee within specific, limited territorial bounds—that

is, “on Indian lands.” *Id.*; see also 100-466 S. Rep. at 2 (Aug. 1, 1988). But note what this law did not discuss, even once: futures.

C. The Unlawful Internet Gaming Enforcement Act governs internet gambling—a distinctly interstate problem—and expressly excludes from its scope transactions on CFTC-registered exchanges.

Before the internet and during its infancy, efforts to outlaw interstate gambling relied primarily on a few federal laws. For instance, the Wire Act prohibited the use of “a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers ... on any sporting event or contest.” 18 U.S.C. §1084(a). The Travel Act made it a crime to travel or use email or any facility in interstate or foreign commerce “with intent to,” among other things, “distribute the proceeds of any unlawful activity.” 18 U.S.C. §1952. And the Illegal Gambling Business Act criminalized conducting or owning “all or part of an illegal gambling business.” 18 U.S.C. §1955.

But “[f]ew technological advances have transformed the global economy as the internet,” *Capriole v. Uber Technologies, Inc.*, 7 F.4th 854, 857 (9th Cir. 2021)—a truth equally applicable to gambling. Responding to

pressures and changes as internet gambling matured, Congress passed the UIGEA in 2006 to “modernize” existing gambling laws by addressing “the changing technological landscape and clarify[ing] the currently vague statutory definition of ‘bets and wagers.’” 152 Cong. Rec. H4970 (daily ed. July 11, 2006) (Statement of Rep. Gingrey).

After all, the Wire Act, the Travel Act, and the Illegal Gambling Business Act suffered from the same problems. Because they criminalized the actions of those “engaged in the business of” unlawful gambling, enforcement was difficult. *See Note, Highlighting the Drawbacks of the UIGEA: Proposed Rules Reveal Heavy Burdens*, 57 Drake L. Rev. 515, 518 (2009). Law enforcement often found it tricky to determine who was in the business of running online casinos. *Id.* at 520. And even if they could determine the source, exercising jurisdiction over them was also difficult, especially when many online casinos moved offshore. *Id.*

State attorneys general had also tried to prosecute internet gambling, but their attempts “to prevent Internet gambling in their respective states” were “frustrated.” H.R. Rep. No. 109-552, pt. 1, at 7 (2006). “Some ha[d]

attempted to charge Internet gambling providers with violations of State consumer fraud laws, but jurisdictional issues and other problems ... thwarted these efforts." *Id.*

Acknowledging those difficulties, Congress set to work to pass a statute that would fill in the gaps to target internet gambling. After multiple attempts, UIGEA emerged. It "represented the culmination of legislative consideration that began with recommendations of the National Gambling Commission." Brian T. Yeh & Charles Doyle, *Unlawful Internet Gambling Enforcement Act (UIGEA) and Its Implementing Regulations* 1 (Cong. Research Serv. Aug. 27, 2010). The law addressed "a growing problem that no single State can adequately address. Because of the uniquely *interstate and international* nature of the Internet, [the UIGEA] is necessary, and provides the States and the Federal government with the tools needed to reduce the prevalence of Internet gambling." *See* H.R. Rep. No. 109-552, pt. 1, at 7 (emphasis added); *see also* 31 U.S.C. §5361(a)(4) (announcing one purpose of the UIGEA as providing "[n]ew mechanisms for enforcing gambling laws on the Internet").

To resolve the enforcement and jurisdictional problems of precursor statutes, the UIGEA created “a system in which a ‘bet or wager’ must be legal both where it is ‘initiated’ and where it is ‘received.’” *California v. Iipay Nation of Santa Ysabel*, 898 F.3d 960, 965 (9th Cir. 2018). This requirement made sense “in light of how the internet operates.” *Id.* That is, if a bet had to be legal only where it was received, “a bettor could place an illegal bet ... from anywhere in the United States, so long as the bet was legal in the jurisdiction hosting the servers for a game.” *Id.* The UIGEA’s structure thus “prevent[ed] using the internet to circumvent existing state and federal gambling laws.” *Id.* To determine whether a bet was legal in a particular location, the statute looked to the “applicable Federal or State law in the State or Tribal lands in which the bet or wager is initiated, received, or otherwise made.” *Id.*; 31 U.S.C. §5362(10)(A).

A critical part of crafting an effective internet gambling regime was determining what counted as a “bet or wager.” Congress chose a broad definition: a “bet or wager” means “the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event,

or a game subject to chance, upon an agreement or understanding that the person or another person will receive something of value in the event of a certain outcome.” 31 U.S.C. §5362(1)(A).

But because of that breadth, Congress also clarified that the UIGEA’s definition of “bet or wager” excludes a number of transactions. Among those exclusions: “any transaction conducted on or subject to the rules of a registered entity or exempt board of trade under the Commodity Exchange Act.” 31 U.S.C. §5362(1)(E)(ii); *see also* 7 U.S.C. §1a(40)(A), (40)(B)(ii) (defining “registered entity” to include “a board of trade designated as a contract market” by the CFTC). The UIGEA also exempts “any over-the-counter derivative instrument,” 31 U.S.C. §5362(1)(E)(iii), and “any other transaction that” is “excluded or exempt from regulation” or “is exempt from State gaming or bucket shop laws” under the Commodity Exchange Act, *id.* §5362(1)(E)(iv).

These exclusions emphasize “that Congress recognized that sports bets bear more than a passing resemblance to financial products that are regulated by the CFTC ... and sought to ensure the preeminence of the CFTC

regulatory scheme for derivatives over other federal and state regulation.”

Dave Aron & Matt Jones, *States’ Big Gamble on Sports Betting*, 12 UNLV Gaming L.J. 53, 57 (2021). In other words, the UIGEA expressly excludes “transaction[s] conducted on” a designated contract market such as Kalshi.

This confirms Congress’s ongoing intent for transactions subject to the CEA not to be regulated as “gambling.”

II. The district court correctly applied the regulatory regime for derivative transactions to deny the tribes injunctive relief.

The district court correctly analyzed the CEA, the IGRA, and the UIGEA as the pieces of this analytical puzzle, and correctly put those pieces together to deny the tribes’ motion for a preliminary injunction. Kalshi’s offerings fit squarely within the CEA, and the district court correctly concluded that the only implied repeal concerns here arise from the tribes’ efforts to jettison the CFTC’s exclusive jurisdiction through the IGRA, a statute passed before the Internet was ubiquitous, and with no intent to address futures markets. Finally, the tribes’ attempt to wield the IGRA to prohibit Kalshi’s contracts would be akin to jamming one puzzle piece tab

to incorrectly fit on another. It's unprecedented, contrary to the spirit and text of both laws, and would *create* conflict between the IGRA and the CEA.

A. By exempting from its scope derivatives offered on Kalshi's CFTC designated contract market, the UIGEA confirms that the IGRA does not apply here.

In the UIGEA, Congress addressed internet gaming, specifically attempting to cure the enforcement and jurisdictional problems arising from the internet's inherently interstate operation. *See* H.R. Rep. No. 109-552, pt. 1, at 7. In doing so, Congress specifically exempted derivatives markets from the UIGEA's otherwise broad definition of "bet or wager." 31 U.S.C. §5362(1)(E)(ii).

Congress's reason for exempting derivatives markets from the UIGEA's reach is apparent: It wanted to preserve the regulatory structure it had already put in place in the CEA. Congress couldn't have been clearer—it prohibited states from regulating derivative markets and granted the CFTC "an explicit congressional mandate to carry out regulation of the swap markets under federal law free from potential state interference, potentially including a patchwork of conflicting laws." Taylor-Brill, *Cracking the*

Preemption Code, at 13. Without the UIGEA exemption, there was risk the statute would be misunderstood as subjecting derivatives markets to the “patchwork” of state—and tribal—laws on gambling, exactly what Congress sought to avoid. *See also* Kalshi Red Br. at 43 (“Congress in 2006 was careful to ensure that in passing a new law to regulate internet gambling, it did not inadvertently subject derivatives markets to a patchwork of state-by-state and tribe-by-tribe regulation.”).

Kalshi’s sports contracts fall squarely within this exception because the UIGEA explicitly exempts *all* designated contract market transactions from its reach. 31 U.S.C. §5362(1)(E)(ii)-(iv). More to the point, Kalshi’s sports contracts are governed by the CFTC’s “exclusive jurisdiction” because Kalshi is a “registered entity” and its sports contracts are “swaps” within the meaning of the statute. *See* 7 U.S.C. §1a(40)(A) (defining “registered entity”); *see also* Kalshi Red Br. at 48. As the CFTC itself recently recognized, “an even contract that is settled based on the outcome of a sporting event is an agreement providing for a payment dependent on a future occurrence.” CFTC Letter No. 26-08 at 2 (March 12, 2026).

That does not mean, *contra* States Amicus Br. at 30-31, that Congress silently legalized sports gambling in the Dodd-Frank Act or that, as a result, “all sports wagering must take place on a CFTC-regulated exchange.” Both claims are false. The CEA regulates trades *on exchanges* but leaves states and other actors free to regulate *off-exchange* transactions such as bets offered by sportsbooks. *See* 7 U.S.C. §2(a) (clarifying that “nothing” in Section 2 shall “restrict” state authorities “from carrying out their duties and responsibilities in accordance with [state] laws”); *see id.* §16(e)(1) (“[n]othing” in the CEA “shall supersede or preempt” state law applied to off-exchange transactions). Unlike ordinary sports bets, derivatives like swaps are “traded on organized markets and over the counter.” *Further Definition of “Swap,”* 77 Fed. Reg. 48,208, 48,217 (Aug. 13, 2012).

Further, Kalshi’s sports contracts are on-exchange trades subject to the CFTC’s exclusive jurisdiction because they are swaps under the CEA. A swap is any agreement that “provides for ... payment” based on “the occurrence ... of an event or contingency associated with a potential financial ... consequence.” 7 U.S.C. §1a(47)(A)(ii). An “event” is “a happening or

occurrence.” Webster’s New College Dictionary (2009). Many dictionaries define “event” this way. See *Event*, Merriam-Webster.com Dictionary, <https://www.merriam-webster.com/dictionary/event> (last visited Mar. 13, 2026) (“something that happens”); see also *Event*, Am. Heritage Dictionary (3d. ed. 1994) (“An occurrence or incident, esp. one of significance.”); Webster’s Third New Int’l Dictionary (1993) (“something that happens”); Concise Oxford English Dictionary (12th ed. 2011) (“a thing that takes place”). The CFTC therefore has exclusive jurisdiction over such “on-exchange” trades that Kalshi offers. After all, the outcome of the Daytona 500 or a professional baseball game is a “happening or occurrence.”

B. The district court’s reading gives effect to each statute and correctly harmonizes them in light of their history and structure.

A court is “obliged to reconcile” statutes when it could either “construe two statutes so that they conflict, or so that they can be reconciled and both can be applied.” *Momeni v. Chertoff*, 521 F.3d 1094, 1097 (9th Cir. 2008). This follows from the “duty of the courts, absent a clearly expressed congressional intention to the contrary,” to regard two statutes as effective

if they are “capable of co-existence.” *Traynor v. Turnage*, 485 U.S. 535, 548 (1988) (quotation omitted). Because Kalshi’s contracts fall squarely within the UIGEA’s exception to the definition of “bet or wager,” the district court’s interpretation properly reconciles how the statutes at issue fit together. The district court’s judgment here should be affirmed.

As discussed, the statutes’ histories confirm that Congress legislated in two distinct areas. In one, Congress created a structure to bring derivatives markets under one federal umbrella. *See supra* §I.A. In the other, it created a layered approach under which the IGRA grants tribes power to control gambling on “Indian lands” and the UIGEA addresses enforcement and jurisdictional problems arising from the interstate nature of internet gambling. *See supra* §§I.B & I.C.

The district court’s reading properly harmonizes the “concerns animating all three statutes: tribal self-government ‘on Indian lands’ (IGRA), state and tribal regulation of gaming in the Internet era (UIGEA), and the need for a national, uniform derivatives market and regulatory scheme (the CEA).” Kalshi Opp. to Pltfs.’ Mot. for PI, ECF 44, at 2-3. Tribes remain free

to regulate gaming “on Indian lands” according to the IGRA’s requirements, but they have no power to regulate financial transactions on designated contract markets. This, in turn, means that the CEA’s grant of “exclusive jurisdiction” to the CFTC remains intact. And the UIGEA serves its intended purpose by addressing the uniquely interstate issue of Internet gambling while assuring non-interference with the CEA’s national regulatory scheme. The district court’s reading does not aggressively mash puzzle pieces together to create an obviously distorted image, but snugly fits the pieces’ tabs into blanks to fitly frame a rational line of jurisdictional demarcation. After all, courts must reconcile statutes so both make sense. *Traynor*, 485 U.S. at 548 (quotation omitted). The only way to do that here and not make one statute superfluous is to accept that the CEA and the IGRA/UIGEA cover different markets in different ways, with Kalshi’s market falling entirely on the CEA side of the picket fence between the two.

C. The district court’s reading does not “impliedly repeal” the IGRA because the IGRA does not apply to transactions on CFTC designated contract markets.

Contrary to the tribes’ arguments, the district court’s reading in no way “impliedly repeal[s]” any provision of the IGRA. *Contra* Blue Br. at 48. The tribes contend that by applying UIGEA’s exception to Kalshi, the district court effectively “concluded that UIGEA allows third-party entities” to “conduct class III gaming activity on Indian lands,” which would allow them to “evade regulation by tribes under IGRA.” *Id.* at 27.

But the IGRA does not apply to transactions that take place on a national exchange or a designated contract market. The IGRA applies only to conduct on “Indian lands” —not to a nationwide exchange like Kalshi’s. Its plain text and legislative history confirm as much. *See supra* §I.B. And its grant of authority to tribes to “regulate” “class III gaming” does not revoke the CEA’s grant of “exclusive jurisdiction” to the CFTC, passed fourteen years earlier.

Reading the IGRA to reach these interstate transactions would be improper for a simple reason: it would find, for the first time, a new power

in the IGRA to regulate transactions that take place on CFTC designated contract markets. But the tribes point to no evidence that Congress intended or even contemplated such an outcome when it passed the IGRA. Given Congress's intentional efforts to centralize the regulation of derivatives markets over the course of the twentieth century, *see supra* §I.A, such evidence must exist if that was Congress's intent. The tribes' evidence-free claim to have discovered such power in the IGRA fails to clear the starting blocks. For if the tribes are correct, the IGRA—a statute governing gambling “on Indian lands”—allows tribes to reach a nationwide designated contract market run by a New York-based company outside tribal land. *Cf.* 25 U.S.C. § 2701(1), (3), (5) (focusing on “Indian lands”). Reading the IGRA this way would silently and functionally repeal the CEA itself, passed years before the IGRA, with no textual or historical basis to do so.

The tribes cannot circumvent this logic by labeling what Kalshi does as “gaming” and then invoking the IGRA to prohibit it. *Blue Br.* at 18. This tack is nothing new: before the CEA centralized federal regulation of commodity derivatives markets, states often prohibited futures trading,

calling it a form of gambling. *See, e.g., Irwin v. Williar*, 110 U.S. 499, 508-09 (1884) (describing futures contracts as “nothing more than a wager”); *see also Cothran v. Ellis*, 16 N.E. 646, 647 (Ill. 1888) (describing futures as “gambling in grain”); William W. Mansfield, *A Digest of the Statutes of Arkansas* §1848 (U.M. Rose ed., 1884) (“The buying or selling or otherwise dealing in what is known as futures ... with a view to profit, is hereby declared to be gambling”). Congress now has left no doubt: if it is traded on a CFTC exchange, it is subject to the CFTC’s “exclusive jurisdiction,” not to other actors’ attempts to regulate.

D. The tribes’ reading creates conflict between the statutes.

The tribes’ interpretation puts the three statutes in irreconcilable conflict. It erodes the CEA’s “comprehensive” regulation of national futures markets. *Supra* §I.A. And it overrides the UIGEA in the very circumstances it was designed for—filling enforcement gaps in interstate gambling regulation. *Supra* §I.C. What’s more, the tribes’ reading renders the UIGEA exemption for CEA transactions a nullity, because the IGRA can regulate them anyway. It makes no sense for Congress to expressly *exempt* on-

exchange transactions from the UIGEA's reach but *allow* them to be regulated by tribes in the IGRA. *Cf. W. Va. Univ. Hospitals, Inc. v. Casey*, 499 U.S. 83, 101 (1991) (recognizing that courts should “make sense rather than nonsense out of the *corpus juris*”); *Mississippi ex rel. Hood v. AU Optronics Corp.*, 571 U.S. 161, 169 (2014) (“[W]e presume that ‘Congress is aware of existing law when it passes legislation.’”).

Indeed, reading the statutes as the tribes and their amici do would impliedly repeal the CEA. Their interpretation of the IGRA allows tribes to layer tribal gambling ordinances targeted at Kalshi's contracts on top of the already existing, “comprehensive” CEA regulatory scheme. So much for the CEA's grant of “exclusive jurisdiction” over “swaps” and “future[s]” to the CFTC. *See* 7 U.S.C. §2(a)(1)(A).

Only the district court's reading gives effect to all three statutes. The IGRA continues to allow Indian Tribes authority to regulate gambling *on their lands*—but it does not confer on tribes power to regulate financial transactions on designated contract markets (which do not take place on Indian lands). The UIGEA operates as intended, explicitly exempting those

covered interstate transactions because they occur on a designated contract market. And the CEA provisions granting the CFTC “exclusive jurisdiction” over designated contract markets retain full force. All the puzzle pieces fit—the resulting picture is complete.

CONCLUSION

For these reasons, the Court should affirm the district court’s order denying the preliminary injunction.

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Respectfully submitted,

/s/ Tyler R. Green

Tyler R. Green
Conor D. Woodfin
Olivia C. Rogers
Consovoy McCarthy PLLC
222 S. Main Street, 5th Fl.
Salt Lake City, UT 84101
(703) 243-9423
tyler@consovoymccarthy.com

Counsel for Amicus Curiae

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Dated: March 16, 2026

/s/ Tyler R. Green

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FOR THE NINTH CIRCUIT**

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