PREDICTION MARKET CONSUMER PROTECTION STANDARDS

Classification Standard

The test that determines which products the PMCPS family applies to.

DESIGNATION
PMCPS-C

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PREFATORY NOTE

This is the classification standard in the PMCPS family. It determines which products are subject to the family, and nothing else. It imposes no operating requirement on anyone.

The family follows the three-layer structure used in Indian gaming regulation, where classification, internal controls, and technical standards are published separately and do different work:

LAYER	DOCUMENT	FEDERAL ANALOGUE	QUESTION ANSWERED
Classification	**PMCPS-C**	25 C.F.R. pt. 502	Is the product in scope?
Minimum internal controls	PMCPS-M	25 C.F.R. pt. 543	What must the operator do?
Technical standards	PMCPS-T (reserved)	25 C.F.R. pt. 547	What must the system do, and how it tested?

Classification is published first and separately because it is the layer on which the current dispute turns. The Commission's proposed rule of June 9, 2026 offers a classification test for gaming. Forty-four state attorneys general dispute the Commission's authority to apply it. A federal court has held that a tribe is likely to succeed in showing that the same products are class III gaming. Each of those is a classification question, and each asks which regulator may act.

This standard asks a different question, and asks it on purpose. It does not ask whether a product is gaming, a bet or wager, an event contract, or class III gaming. It asks whether a retail participant is exposed to the harms the PMCPS family addresses. A test built on consumer exposure survives the jurisdictional dispute regardless of outcome, and can be applied today by an operator, an assessor, or a regulator who has not waited for the dispute to resolve.

Section 107 and Appendix B set this test against the four classification tests in force or proposed under applicable law. The divergences are deliberate and are identified.

PART 100

CLASSIFICATION STANDARD

§ 101 Purpose

This standard states the test by which a person determines whether a product is a covered contract, and therefore whether the PMCPS family applies to it.

§ 102 Scope and relationship to the other Standards

(a) This standard determines scope. It imposes no requirement on the design, operation, or conduct of a covered operator. Those requirements are stated in PMCPS-M and, when issued, PMCPS-T.

(b) A reference in PMCPS-M or PMCPS-T to a covered contract or a covered operator is a reference to those terms as determined under this standard.

(c) This standard does not determine whether a product is lawful, whether it constitutes gaming, a bet or wager, an event contract, or class III gaming under any applicable law, or which authority regulates it. A determination under this standard is not evidence on any of those questions.

(d) A determination that a product is not a covered contract is not a determination that the product is unregulated, safe, or exempt from any obligation imposed by applicable law.

§ 103 Definitions

As used in the PMCPS family:

Affiliate means a person that controls, is controlled by, or is under common control with a covered operator.

Covered contract means a product that satisfies the test in § 104.

Covered operator means a person that offers, lists, executes, clears, or settles a covered contract for a participant, or that solicits or accepts a participant's order for a covered contract. The term includes an intermediary that provides participant-facing access to a covered contract offered by another person.

Fixed-odds wager means a product under which the amount payable to the participant is determined at the time the participant commits value, by reference to odds or a price set by the operator, and does not vary thereafter with the views of other participants.

Hedging nexus means the relationship described in § 104(f) between a participant's holding of an underlying exposure and a product that offsets it.

Market-determined value means a value established by trading between participants. A price quoted by an operator on its own account, or set by an operator by reference to its own risk position, is not a market-determined value.

Participant means an individual who holds or applies for an account with a covered operator. The term does not include an entity trading through a registered intermediary for commercial risk management purposes.

Position means a participant's open interest in a covered contract, whether long or short, that has not settled or been closed.

Product means an agreement, contract, transaction, swap, wager, or other arrangement offered to a participant, however denominated by the person offering it.

Resolution source means the data source, publication, official determination, or other authority by reference to which a product settles.

Settlement means the final determination of a product's outcome and the corresponding crediting or debiting of participant accounts.

§ 104 Applicability test

(a) **Purpose.** This section states the test by which a person determines whether a product is a covered contract. The test is functional. It does not depend on how the operator characterizes the product, on the operator's regulatory status, or on whether the product constitutes gaming, a bet or wager, or an event contract under any applicable law.

(b) **Sequence.** A product is a covered contract only if Gates 1 through 4 are each satisfied and no exclusion in Gate 5 applies. The gates are applied in order. A product that fails a gate is not a covered contract, and the remaining gates need not be applied.

(c) **Gate 1: stake and contingent return.** At the point of entry the participant irreversibly commits money or another thing of value, and the amount the participant receives depends on an outcome not determined at that time.

(d) **Gate 2: discrete outcome, resolved exogenously.** The amount payable is determined by whether a specified event occurs, or by the extent of a specified occurrence, resolved against criteria fixed in advance by reference to a source outside the operator's platform.

> (1) A product whose payout is determined by the price, rate, value, or level of a commodity, security, or index, as such, does not satisfy this Gate.
>
> (2) A product whose outcome is generated by the operator, including by a random number generator or by the operator's own game, does not satisfy this Gate.

(e) **Gate 3: transferable position at a market-determined value.** Before the outcome is determined, the participant's position has a value established by trading between participants, and the participant may close, reduce, or transfer the position at that value.

> (1) A price quoted unilaterally by the operator for repurchase of a fixed-odds wager, including an offer commonly described as a cash-out, is not a value established by trading between participants.

(2) Odds or payouts that vary before the outcome is determined but that afford the participant no means of exit, as in a pari-mutuel pool, do not satisfy this Gate.

(f) **Gate 4: absence of a hedging nexus.** The participant does not hold an underlying exposure that the product offsets.

(1) This Gate is applied to each participant separately. A product may be a covered contract as to one participant and not as to another.

(2) A participant is presumed not to hold an underlying exposure. An operator may treat a participant as holding one only where the participant has identified the exposure and the operator has documented it. The operator shall retain that documentation under PMCPS-M § 601.

(g) **Gate 5: exclusions.** A product that satisfies Gates 1 through 4 is nonetheless not a covered contract where it is:

(1) offered under a licence issued by a gaming regulatory authority that imposes requirements at least equivalent to Parts 300 through 500 of these Standards and supervises compliance with them, provided the operator documents the equivalence;

(2) a contract of insurance or indemnity;

(3) a security regulated as such; or

(4) a deposit or other transaction with an insured depository institution.

(h) **Boundary cases.** Appendix C applies this test to specified products.

> **DRAFTING NOTE**
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> Gates 3 and 5 are what keep a traditional regulated sports wager outside these Standards, and they do so independently. A fixed-odds wager with a licensed sportsbook fails Gate 3 because the bettor's payout is fixed at placement and the position cannot be sold to another participant; a cash-out offer is a price the house sets, not a price the market makes. It fails Gate 5 separately because a licensed sportsbook already operates under a gaming framework that imposes exclusion, limits, and problem gambling requirements. Applying these Standards to it would duplicate supervision that already exists and would weaken the case for applying them where no supervision exists at all. That is the point of the test: it identifies products carrying gambling-like consumer exposure that no gaming regulator is currently supervising, without asserting that those products are or are not gambling. Gate 3 is also the reason

> PMCPS-M § 301(d) is drafted as it is, since a position that can be closed is a position an excluded participant must be able to close.

§ 105 Classification determination and record

(a) A covered operator shall make a written classification determination under § 104 for each product before it is offered to a participant.

(b) The determination shall record:

- **(1)** the product and its settlement terms;
- **(2)** the conclusion reached at each gate, with the reasoning;
- **(3)** the resolution source relied on for the purposes of Gate 2;
- **(4)** where the product is found not to be a covered contract, the gate that was not satisfied or the exclusion relied on; and
- **(5)** where an exclusion under § 104(g)(1) is relied on, the licence relied on and the documented basis for the finding of equivalence.

(c) A determination shall be signed by the individual designated under PMCPS-M § 204(a).

(d) A covered operator shall retain each determination, and each superseded determination, for not less than five years after the product is last offered.

(e) A covered operator shall produce a determination on request to an assessor or to any applicable regulatory authority.

> **DRAFTING NOTE**
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> Paragraph (a) is what converts this standard from an analytical exercise into an operating requirement. A classification test that produces no record cannot be assessed, and an operator that has never written down why a product falls outside these Standards has not made a determination, it has made an assumption.

§ 106 Reclassification

(a) A covered operator shall repeat the determination under § 105 where:

(1) the settlement terms of the product change;

(2) the resolution source changes or ceases to be available;

(3) the means by which a participant may close, reduce, or transfer a position change; or

(4) a licence relied on under § 104(g)(1) is varied, suspended, or withdrawn.

(b) A covered operator shall review each determination not less than annually.

(c) Where a product that was not a covered contract becomes one, the covered operator shall bring the product into compliance with PMCPS-M before continuing to offer it, or shall cease offering it.

(d) Where a product ceases to be a covered contract, the covered operator shall continue to apply PMCPS-M to positions opened while the product was a covered contract until those positions settle or are closed.

§ 107 Relationship to classification tests under applicable law

(a) The test in § 104 is independent of the tests described in this section. A product may be a covered contract while falling outside each of them, and may fall within one or more of them without being a covered contract.

(b) **Gaming under the Commission's proposed rule.** Proposed 17 C.F.R. § 40.11(b)(1) would define gaming as an activity that participants typically engage in for recreation or to entertain others, that is governed by rules, and that includes measurable occurrences or outcomes depending on the participants' luck, skill, or athletic ability. Proposed § 40.11(a)(3) would treat a contract as involving an activity where its settlement is determined by an occurrence or contingency in that activity. That test governs whether the Commission may find a contract contrary to the public interest. It does not address participant protection, and its first element turns on why the underlying activity is conducted, which is immaterial to a participant's exposure.

(c) **Bet or wager under UIGEA.** 31 U.S.C. § 5362(1)(A) defines a bet or wager as the staking or risking of something of value upon the outcome of a contest of others, a sporting event, or a game subject to chance, upon an agreement that the person will receive something of value in the event of a certain outcome. Section 5362(1)(E)(ii) excludes any transaction conducted on or subject to the rules of a registered entity under the Commodity Exchange Act. That exclusion determines the reach of a payment-processing statute. It creates no substantive permission, and does not alter any tribal-state compact or the Indian Gaming Regulatory Act.

(d) **Excluded commodity under the Commodity Exchange Act.** Section 1a(19)(iv) reaches an occurrence, extent of an occurrence, or contingency that is beyond the control of the parties and is associated with a financial, commercial, or economic consequence. Both elements are required. That test determines whether the Commission has subject matter reach, not whether a participant is protected.

(e) **Class III gaming under the Indian Gaming Regulatory Act.** 25 C.F.R. § 502.4 defines class III gaming residually as all forms of gaming that are not class I or class II, expressly including any sports betting and pari-mutuel wagering. That test determines whether conduct on Indian lands requires a compact.

(f) **State definitions.** A state definition may reach a product by structure rather than by form. Ohio Rev. Code § 3775.01(O)(2) includes exchange wagering within sports gaming. An operator shall not treat the order-book structure of a product as determinative of its classification under state law.

(g) Appendix B compares these tests.

Basis: Proposed 17 C.F.R. § 40.11(a)(3), (b)(1), 91 Fed. Reg. (June 9, 2026); 31 U.S.C. § 5362(1); 7 U.S.C. § 1a(19)(iv); 25 C.F.R. §§ 502.3, 502.4; Ohio Rev. Code § 3775.01(O); Ho-Chunk Nation v. Kalshi Inc., No. 25-cv-698-wmc (W.D. Wis. May 11, 2026); 25 C.F.R. pt. 543; Ohio Admin. Code 3772-12-01.

APPENDIX A

APPLICATION OF THE § 104 TEST

This Appendix applies the test in § 104 to specified products. It is illustrative. Where an example conflicts with § 104, § 104 governs.

Y indicates the gate is satisfied. N indicates it is not. A dash indicates the gate was not reached because an earlier gate failed. Under Gate 5, "excl" indicates that an exclusion applies.

#	PRODUCT	G1 STAKE	G2 DISCRETE	G3 TRADEABLE	G4 NO HEDGE	G5	RESULT
1	Binary contract, "Will [team] win [title]?", retail participant on a derivatives exchange	Y	Y	Y	Y	none	**Covere**
2	Binary contract, "Will [player] score the first touchdown?"	Y	Y	Y	Y	none	**Covere**
3	Binary contract on the winner of a political election	Y	Y	Y	Y	none	**Covere**
4	Binary contract on whether a named individual will attend a scheduled public event	Y	Y	Y	Y	none	**Covere**
5	Binary contract, "Will CPI exceed 3 percent?", retail participant with no exposure	Y	Y	Y	Y	none	**Covere**
6	The same contract as example 5, bought by a	Y	Y	Y	N	not reached	Not co as to partic

#	PRODUCT	G1 STAKE	G2 DISCRETE	G3 TRADEABLE	G4 NO HEDGE	G5	RESULT
	firm documenting an input-cost exposure						
7	**Fixed-odds wager at a state-licensed sportsbook**	Y	Y	**N**	not reached	**excl**	**Not co**
8	The same wager as example 7, where the sportsbook offers a cash-out	Y	Y	**N**	not reached	**excl**	**Not co**
9	Pari-mutuel wager into a horse racing pool	Y	Y	**N**	not reached	excl	Not co
10	Slot machine or other casino game	Y	**N**	not reached	not reached	excl	Not co
11	Licensed betting exchange, participant-to-participant, under a state gaming licence	Y	Y	Y	Y	**excl**	Not co
12	Crude oil futures contract settling at the price of the commodity, retail participant	Y	**N**	not reached	not reached	none	Not co
13	Parametric weather	Y	Y	N	not reached	excl	Not co

#	PRODUCT	G1 STAKE	G2 DISCRETE	G3 TRADEABLE	G4 NO HEDGE	G5	RESULT
	insurance policy						
14	Contract on the aggregate rate of a specified crime in a geographic area over a year	Y	Y	Y	Y	none	**Covere**

Notes on selected examples

Examples 1 and 2. The contract forms are those recorded by the court in *Ho-Chunk Nation v. Kalshi Inc.*, No. 25-cv-698-wmc (W.D. Wis. May 11, 2026), at 6. Example 2 would additionally be a negative factor under proposed 17 C.F.R. § 40.11(a)(6)(iii)(B)(4) as a contract settling solely by reference to a discrete action in a game.

Example 3. Under the Commission's proposed rule an election contract is not gaming, and so falls outside the Special Rule entirely. It is a covered contract under these Standards nonetheless. The participant's exposure is identical in kind to example 1, and the justification for exclusion, limits, and disclosure does not depend on whether the underlying activity is played for recreation. This divergence is deliberate and is the clearest illustration of why § 104 is drafted independently of the gaming question.

Example 4. These are the facts of *In re Santos*, CFTC Docket No. 26-05 (July 31, 2026). Under these Standards the contract is covered, and PMCPS-M § 402 would have required the operator to identify the respondent as an influencing person and restrict him before he traded, rather than leaving the matter to enforcement five months after settlement.

Example 5. The hardest case. The contract satisfies Gate 2 because it settles on whether a threshold is crossed, which is a discrete occurrence, while the futures contract in example 12 settles at the level itself and is excluded by § 104(d)(1). The line is real but narrow, and comment is invited under Appendix C item 1.

Examples 7 and 8 are the control cases. A traditional regulated sports wager is outside these Standards for two independent reasons. It fails Gate 3, because the payout is fixed when the bet is placed and the bettor cannot sell the position to another participant. A cash-out offer does not change that result: the price is set unilaterally by the house under § 104(e)(1), not established by trading. It is separately excluded under Gate 5, because a licensed sportsbook already operates under a gaming framework imposing exclusion, limits, and problem gambling requirements. Either ground alone is sufficient.

Example 11. A participant-to-participant betting exchange satisfies Gate 3, which is why Gate 5 is necessary. Where the exchange holds a gaming licence carrying equivalent requirements, these Standards do not apply. Where it does not, they do.

Example 14. Included because the Commission has proposed that contracts on aggregate crime rates over extended periods weigh against a public interest finding under proposed 17 C.F.R. § 40.11(a)(6)(i)(C). A contract may be permissible to list and still expose a retail participant to the harms these Standards address. Permission to list and adequacy of consumer protection are separate questions.

APPENDIX B

COMPARISON WITH CLASSIFICATION TESTS UNDER APPLICABLE LAW

TEST	SOURCE	ELEMENTS	DETERMINES	RELATIONSHIP TO § 104
PMCPS-C § 104	This standard	Stake; discrete exogenous outcome; transferable position at a market-determined value; no hedging nexus; no exclusion	Whether the PMCPS family applies	Reference test
Gaming	Proposed 17 C.F.R. § 40.11(b)(1)	Typically engaged in for recreation or to entertain others; governed by rules; measurable outcomes depending on luck, skill, or athletic ability	Whether the Commission may find a contract contrary to the public interest	Narrower. Excludes elections and economic indicators, which § 104 covers

TEST	SOURCE	ELEMENTS	DETERMINES	RELATIONSHIP TO § 104
Involvement	Proposed 17 C.F.R. § 40.11(a)(3)	Settlement determined by an occurrence or contingency in the activity	Whether a contract involves an enumerated activity	Similar in mechanism to Gate 2, applied to a different question
Bet or wager	31 U.S.C. § 5362(1)(A), (E)(ii)	Staking value on the outcome of a contest, sporting event, or game of chance, with a contingent return; excludes transactions on a registered entity	Reach of a payment-processing statute	Broader in form, narrow in effect. The register entity exclusion remove the products § 104 is m concerned with
Excluded commodity	7 U.S.C. § 1a(19)(iv)	Beyond the control of the parties; **and** associated with a financial, commercial, or economic consequence	Commission subject matter reach	Both elements required. 104 does not require an economic consequence
Class III gaming	25 C.F.R. § 502.4	Residual: all gaming that is not class I or class II, expressly including any sports betting	Whether a compact is required for conduct on Indian lands	Turns on the character the activity, not the participant's exposure
Sports gaming	Ohio Rev. Code § 3775.01(O)	Accepting wagers on sporting events, expressly including exchange wagering	State licensing	Reaches exchange struct as Gate 3 does, but onl for sporting events

Where the tests diverge, and why

Elections. A contract on the winner of a political election falls outside the proposed gaming definition, because an election is not conducted for recreation. It is a covered contract under § 104. The participant's exposure is the same as on a sports contract, and the case for exclusion, limits, and disclosure does not depend on why the underlying activity is held.

Licensed sports betting. A fixed-odds wager at a licensed sportsbook is class III gaming, is a bet or wager, and is sports gaming under Ohio law. It is **not** a covered contract under § 104, because it fails Gate 3 and is separately excluded under Gate 5. The protections already apply to it under a gaming licence.

Commodity futures. A futures contract settling at the price of a commodity is within the Commission's reach and is not gaming. It is not a covered contract, because it fails Gate 2 under § 104(d)(1).

The pattern. The tests under applicable law sort products by the character of the underlying activity and by which sovereign may act. Section 104 sorts them by whether a retail participant bears an unhedged, transferable, event-contingent exposure that no gaming regulator is currently supervising. Those are different sorting criteria, and they should not be expected to agree.

APPENDIX C

MATTERS ON WHICH COMMENT IS INVITED

1. **Section 104(d)(1), the commodity carve-out.** Whether excluding products settled on the price or level of a commodity, security, or index is the right line, given that a binary contract on whether an index will exceed a stated level satisfies Gate 2 while a contract settling at the level itself does not. Example 5 in Appendix A is the hardest case in this standard.
2. **Section 104(f), the hedging nexus.** Whether a per-participant test is administrable, and whether the presumption in § 104(f)(2) is set correctly.
3. **Section 104(g)(1), the equivalence exclusion.** Whether an operator should be permitted to determine equivalence itself, subject to documentation and assessment, or whether equivalence should require a determination by the certifying body.
4. **Section 104(e), market-determined value.** Whether the distinction between a market-determined value and an operator-quoted price holds against product designs that blend the two, including operator-supplied liquidity and automated market makers.
5. **Scope of covered operator.** Whether an intermediary providing participant-facing access to another person's contracts should be subject to the full PMCPS family or a subset.

6. **Section 105.** Whether the classification record should be published, filed with a regulatory authority, or retained and produced on request as drafted.

End of PMCPS-C Version 1.0 Working Draft.