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ANY BETS ON WHO WILL REGULATE PREDICTION MARKETS?

This article analyzes the rapid emergence of prediction markets, including Kalshi and Polymarket, and the unresolved legal battle over whether they should be regulated as financial derivatives or as gambling platforms. Following the Supreme Court's decision in Murphy v. National Collegiate Athletic Association, legalized sports betting has expanded rapidly in the United States. The latest innovation in this space is the "prediction market," which transforms outcomes of political, economic, and sporting events into contracts that can be traded. Prediction market companies argue that such exchanges operate within the exclusive jurisdiction of the Commodity Futures Trading Commission, while state gambling regulators contend they are functionally unlicensed sportsbooks that should be subject to state regulation. The article further examines the difficulty of applying traditional insider trading doctrine to prediction markets, where participants may possess outcome-related information but lack fiduciary duties typical of securities markets. Absent clear regulatory guidance, enforcement may increasingly rely on federal fraud prosecutions based on terms of service.

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Just hours before U.S. military forces stormed the compound of Nicolas Maduro on January 3, 2026, capturing the Venezuelan president and his wife and transporting them to the United States to face charges for drug trafficking, a trader put down a \$32,000 bet on Maduro's downfall on the prediction market website Polymarket.¹ By the next morning, that trader netted more than \$400,000 when Maduro's removal was announced.² The winning user, who had anonymously

joined Polymarket in December 2025, made three other bets between December 27, 2025, and January 3, 2026, all related to Maduro and the United States' relations with Venezuela.³

Over the following weeks, as protestors in Iran flooded the streets amid rampant inflation, bettors across the world flocked to Kalshi, another leading prediction market, to make bets on whether or not the country's Supreme Leader, Ayatollah Ali Khamenei, would be "out as Supreme Leader" — by the end of the month, by the end of 2026, or by any other deadline a prediction

¹ Megan Cerullo, "Prediction market user made \$436,000 betting on Maduro capture," CBS News, Jan. 6, 2026, <https://www.cbsnews.com/news/polymarket-maduro-capture-bet-400000/>.

² *Id.*

³ *Id.*

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