

vacating the two letters issued by the CFTC's Division of Market Oversight that are the subject of Plaintiffs' complaint.² If the Court enters a judgment vacating the DMO Letters, that order would conclude this litigation, making engaging in alternative dispute resolution unnecessary.

Counsel for the parties have conferred on this issue. Counsel for Plaintiffs advised the CFTC that Plaintiffs oppose this motion. The parties fundamentally disagree about the scope of relief available to Plaintiffs, a legal issue addressed in detail in the parties' briefs on the CFTC's Motion for Judgment on the Pleadings. From the CFTC's perspective, the CFTC is asking this Court to give Plaintiffs all the relief they are entitled to under the Administrative Procedure Act. Plaintiffs disagree, believing that this Court should become the de facto regulator of an unregistered event prediction market through permanent injunctive relief. But such relief is beyond what is available in this case. As Plaintiffs note in their recently filed Motion to Compel "[t]he Court's role in a challenge to agency action under the Administrative Procedure Act is to determine whether the agency's decision was 'arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'" (See ECF No. 102, p. 6, citing 5 U.S.C. § 706(2).) The CFTC has asked the Court to do this in its pending Motion for Judgment on the Pleadings. A mediation or settlement conference cannot achieve more.

The CFTC therefore requests an order exempting the parties from the requirement of Local Rule CV-88 to engage in alternative dispute resolution, and from the requirement in the Scheduling Order (ECF No. 94) that the parties report on alternative dispute resolution by December 15, 2024. In the alternative, the CFTC requests that the Court stay the deadline for

² As explained in further detail in the CFTC's Motion for Judgment on the Pleadings and associated Reply brief (ECF Nos. 82 and 97) Plaintiffs' arguments that they are entitled to more in a judgment than the APA allows are meritless. The Court should reject Plaintiffs' argument that the Court, through supposed additional injunctive relief, should effectively become the regulator of the PredictIt market.

engaging in and reporting on alternative dispute resolution efforts until the Court has ruled on the CFTC's pending Motion for Judgment on the Pleadings.

Date: December 6, 2024

Respectfully submitted,

/s/ Carlin R. Metzger

Carlin R. Metzger (Illinois Bar No. ____)
Assistant General Counsel

Anne W. Stukes (D.C. Bar. No. 469446)
Deputy General Counsel
Martin B. White (D.C. Bar. No. 221259)
Senior Assistant General Counsel
U.S. COMMODITY FUTURES TRADING
COMMISSION
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581
Phone: (312) 596-0536
Fax: (202) 418-5567
cmetzger@cftc.gov

CERTIFICATE OF SERVICE

I certify that on December 6, 2024, I caused the foregoing document to be served on the Clerk of the Court using the Court's CM/ECF system, which will send notice to all counsel of record in this case.

/s/ Carlin R. Metzger

Carlin R. Metzger,
Assistant General Counsel
U.S. COMMODITY FUTURES TRADING
COMMISSION