

Securities Regulation Daily Wrap Up, FEDERAL PREEMPTION—D. Nev.: CFTC regime preempts state review of Kalshi event contracts, (Apr 11, 2025)

By Anne Mathews, J.D.

Nevada lacks jurisdiction to prevent KalshiEX from offering sports-related event contracts.

The district court in Nevada enjoined state authorities from taking action over KalshiEX's sport contracts. Because Kalshi is registered with the CFTC, it is subject to the CFTC's exclusive jurisdiction, which preempts state law ([KalshiEX, LLC v. Hendrick](#), No. 25-cv-00575 (D. Nev. Apr. 9, 2025)).

Kalshi is a CFTC-regulated exchange that offers contracts on the outcomes of future events. Gaming regulators in Nevada and New Jersey have sent Kalshi cease-and-desist letters stating that certain Kalshi event-based contracts are illegal "contracts on sporting events and election outcomes" (Nevada) and "unauthorized sports wagers" (New Jersey).

Kalshi, in turn, [sued the regulators](#) to block the cease-and-desist actions. The exchange argues that the event contracts are derivatives contracts under the exclusive jurisdiction of the CFTC.

The Nevada court granted Kalshi's motion for a preliminary injunction, reasoning that it was likely to succeed on the merits of its case because the Commodity Exchange Act preempts state law in this instance. Kalshi is registered with the CFTC as a designated contract maker (DCM), subjecting it to exclusive CFTC jurisdiction under the plain language of the Act.

Even if the plain language did not amount to express preemption, it reflects congressional intent to "occupy the field" of regulating CFTC-designated exchanges and transactions, the court wrote. As the Second Circuit has held, the Act's "exclusive jurisdiction" language preempts state law (*Leist v. Simplot*, 638 F.2d 283, 322 (2d Cir. 1980)). Legislative history also supports this conclusion.

If Kalshi were offering its contracts without CFTC designation, the state gaming authorities could regulate it, the court reasoned. But because Kalshi is a CFTC-designated DCM, Nevada regulatory agencies have no jurisdiction to decide that Kalshi's conduct violates state law, at least so long as the contracts are not illegal under federal law. The CFTC has not disapproved the contracts, and a district court decision in Kalshi's favor is in effect.

The court noted that Kalshi is "creating its own harms" for purposes of the injunction by proceeding despite the risk of an adverse ruling by the D.C. Circuit or adverse action by the CFTC. Lene Powell provides a comprehensive analysis of the current landscape for Kalshi in [Super Bowl kicks off event market turmoil under new CFTC](#) (Feb. 6, 2025)).

Gaming regulators noted that other states have taken an interest in stopping Kalshi's conduct, but "that merely highlights the problem of allowing the States to regulate a national exchange," the court wrote. "It raises the possibility that another State would have different rules than not only [] the CFTC, but other States. Preventing the difficulties that would create is the reason Congress granted the CFTC exclusive jurisdiction over CFTC-designated exchanges."

The case is [No. 25-cv-00575](#).

Judge: Gordon, A.

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Companies: KalshiEx, LLC; Nevada Gaming Commission; Nevada Gaming Control Board

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