



EL POSITION PAPER

Prediction Markets in Europe:

Understanding the Regulatory Landscape and Ensuring Regulatory Coherence

EXECUTIVE SUMMARY

Prediction markets – which allow users to take positions on future events through so-called “event contracts” – have evolved from a niche activity into a growing global market. Their expansion in geographic reach, market activity and economic significance has attracted increasing scrutiny from regulators and policymakers, including in Europe, raising questions at the intersection of financial services and gambling regulation.

The regulatory treatment of prediction markets depends on their legal characteristics, economic substance and associated risks, rather than on the terminology used to describe them. In that sense, it is important to understand the distinction between financial services and gambling regulation in the EU.

If an event contract qualifies as a financial instrument under the Markets in Financial Instruments Directive (MiFID II), the harmonized EU financial-services framework applies, where such contracts qualify as derivatives and – because of their binary outcome – fall within the existing national product intervention measures prohibiting their marketing, distribution or sale to retail clients.

Where an event contract does not qualify as a financial instrument under MiFID II, its treatment will depend on the applicable national gambling framework.

Qualification as a financial instrument does not, in itself, create an exemption from otherwise applicable national gambling legislation.

As gambling is not harmonized at EU level, the legality and regulatory treatment of prediction market services must be assessed on a jurisdiction-by-jurisdiction basis with national approaches varying considerably. At the time of drafting, Gibraltar is the only European jurisdiction to have introduced a dedicated regulatory framework specifically for prediction-market activity, through the Prediction Market Regulations 2026, which entered into force on 13 July 2026.

Technological developments – including distributed ledger technology (DLT), blockchain, smart contracts and tokenization – should not alter the underlying regulatory analysis. The decisive factor should remain the nature of the product and activity concerned. Regulatory frameworks should therefore remain technologically neutral, ensuring that equivalent activities are subject to equivalent rules regardless of the technology used to deliver them. This is particularly relevant to the continued evolution of the EU regulatory landscape, including the review of the Markets in Crypto-Assets Regulation (MiCA).

Against this background, the European Lotteries (EL) considers that prediction markets should remain within the current European regulatory architecture, where the priority should be to ensure that existing frameworks remain effective as products, technologies and business models evolve, while preventing regulatory gaps and arbitrage as well as preserving consumer protection and market integrity.



In EL's view, four principles should guide future policy:

- 1. Regulatory classification should be based on a product's characteristics, economic substance and risks, rather than its commercial name or underlying technology.*
- 2. States' competence to determine how gambling is organized and regulated within their territories should be preserved.*
- 3. New technologies should not create exemptions from otherwise applicable regulatory requirements.*
- 4. Close coordination between financial and gambling regulators is essential to ensure legal certainty, consistent enforcement and effective oversight.*

The objective should be regulatory coherence, not regulatory expansion. Prediction market activities should be regulated within the framework appropriate to their nature, ensuring that comparable risks are subject to appropriate safeguards and that technological innovation does not undermine consumer protection, market integrity or legitimate national policy objectives.



1. Introduction

Prediction markets allow users to take positions on the outcomes of future events through so-called “event contracts”. These contracts may relate to a wide range of events, including elections, economic indicators and sporting competitions. Over recent years, prediction markets have developed rapidly from a niche activity into a growing global market. While this expansion has been particularly visible in the United States, prediction markets are also attracting increasing attention from regulators and policymakers across Europe.

For the lottery sector, the development of prediction markets is of particular interest as it raises questions at the intersection of financial services and gambling regulation, including in relation to consumer protection and market integrity, but also nationally regulated gambling models as such. The issue is not only how individual products should be legally classified, but also how to ensure that activities presenting comparable risks and societal impacts are subject to appropriate and coherent regulatory safeguards.

As prediction markets continue to develop, European policymakers should ensure that existing regulatory frameworks remain effective and that, namely from the revision thereof, neither regulatory gaps nor opportunities for regulatory arbitrage emerge. Within the EU, this requires particular attention to the interaction between the EU financial services framework and national gambling frameworks. Beyond the EU, the same underlying considerations are relevant within the respective national and regional legal frameworks.

2. A Rapidly Expanding Market Attracting Regulatory Scrutiny in Europe

According to data presented by the World Lottery Association (WLA) in its [Position Paper on Prediction Markets](#), global prediction-market transaction volumes grew from less than USD 100 million per month in early 2024 to more than USD 13 billion per month by late 2025, reaching approximately USD 26 billion in January 2026 alone. The WLA paper also refers to market forecasts projecting annual trading volumes approaching or exceeding USD 1 trillion by the end of the decade. It further notes that sporting events account for a very large share of activity on the leading prediction-market platforms, in some cases approaching 90% of trading volume.

These developments illustrate both the speed of the market’s expansion and its significant overlap with betting and gambling activities.

The growth of prediction markets has also attracted increasing attention from financial regulators, alongside the scrutiny applied by gambling regulators across Europe.

In its September 2026 [Trends, Risks and Vulnerabilities \(TRV\) Report No. 2, 2026](#), European Securities and Markets Authority (ESMA) – EU supervisor and regulator for securities and financial markets – addressed prediction markets in the context of developments relevant to financial markets, including an analysis of prediction markets and their development.

While prediction markets remain relatively limited in scale within Europe, especially when compared to the United States, their rapid development and the emergence of new business models nevertheless warrant continued attention to their regulatory treatment and the adequacy of existing safeguards.



3. The European Regulatory Context

The regulatory treatment of prediction markets in Europe must be considered against two regulatory approaches.

Within the EU, financial services are subject to an extensive and increasingly harmonized regulatory framework. Gambling, by contrast, is not harmonized at EU level and remains primarily regulated at national level.

These different regulatory frameworks are important because an event contract may fall within one or both depending on its legal characteristics and the activities carried out.

3.1. Financial Services Regulatory Framework – EU Level

Under EU law, certain event contracts may qualify as financial instruments under [Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU \(recast\)](#) ("MiFID II") and, where they do, are subject to the applicable EU financial services framework.

A particularly relevant precedent is ESMA [Decision \(EU\) 2018/795 of 22 May 2018 to temporarily prohibit the marketing, distribution or sale of binary options to retail clients in the Union in accordance with Article 40 of Regulation \(EU\) No 600/2014 of the European Parliament and of the Council](#), adopted under the framework established by MiFID II and [Regulation \(EU\) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation \(EU\) No 648/2012](#) ("MiFIR").

That Decision prohibited the marketing, distribution or sale of binary options to retail clients in the Union. It cited, among other considerations, the highly speculative nature of binary options, their binary pay-out structure and significant investor-protection concerns.

In its [public statement](#) of 3 July 2026, prompted by the growing popularity of prediction markets and increasing retail participation globally, ESMA recalled that event contracts qualifying as financial instruments are derivatives and – because of their binary outcome – fall within the scope of existing national product-intervention measures on binary options adopted by national competent authorities of all EU Member States which essentially translated the ESMA decision above in their national frameworks. Those measures prohibit the marketing, distribution or sale of such products to retail clients. ESMA also recalled that the distribution of event contracts qualifying as financial instruments in the EU requires authorization as an investment firm, including where products are distributed only to non-retail clients.

ESMA further emphasized that firms must assess the substance and characteristics of newly offered products rather than relying on the commercial name under which they are marketed. The applicable regulatory treatment therefore follows the legal characteristics of the product and the activities carried out.

Accordingly, where an event contract qualifies as a financial instrument under MiFID II, the applicable EU financial services framework applies. Where it does not qualify as a financial instrument, its regulatory treatment is determined under the applicable national gambling framework.

Qualification as a financial instrument does not, in itself, create an exemption from otherwise applicable national gambling legislation.



3.2. Gambling Services Regulatory Framework – National Level

Gambling regulation follows a fundamentally different approach. The gambling sector is not harmonized at EU level and Member States retain substantial discretion to determine how gambling activities are organized and regulated within their respective territories, subject to applicable EU law and the case law of the Court of Justice of the European Union (CJEU).

A practical consequence of this national regulatory framework is that a gambling license granted in one Member State does not entitle an operator to offer gambling services in another Member State. A prediction market platform seeking to offer gambling services in multiple Member States would therefore need to comply with the applicable rules in each relevant jurisdiction, including any licensing or authorization requirements to the extent that a licensing or other regulatory route exists for the relevant product.

Importantly, the existence of such a route cannot be assumed. National approaches to prediction-market activity differ: depending on the jurisdiction, such activity may be accommodated within the existing general gambling framework, subject to specific requirements under that framework or may not be provided for at all.

To date, Gibraltar is the only European jurisdiction with a dedicated regulatory framework for prediction market activity. Its Gambling Act 2025 provides the overarching gambling framework, while the Prediction Market Regulations 2026 establish specific rules for prediction markets, supplemented by the Prediction Market (Fees and Duties) Regulations 2026.

In most other European jurisdictions, prediction market licenses are not available or prediction market activity could potentially be addressed within the existing gambling framework.

The absence of EU-level harmonization therefore means that market access for non-financial instruments prediction market services must be assessed on a jurisdiction-by-jurisdiction basis, taking into account the applicable gambling framework and whether it provides a regulatory route for the relevant activity.

4. DLT-Based Event Contracts and Technology Neutrality

Some prediction market products are offered using distributed ledger technology (DLT), blockchain infrastructure, smart contracts or tokenization.

The use of such technology should not, however, determine the regulatory treatment of the underlying activity. The same regulatory principles should apply whether an event contract is delivered through traditional infrastructure or through DLT-based infrastructure.

DLT therefore should not provide a basis for changing the applicable regulatory framework. The relevant question remains the nature of the underlying event contract and activity, rather than the technology used to deliver it.



5. A Coherent Approach Within the Current Regulatory Framework

The development of prediction markets does not, in itself, require the creation of a new, standalone European regulatory framework.

Within the EU, the existing financial services framework and national gambling framework already provide an adequate regulatory architecture. The priority should therefore be to ensure that these frameworks apply efficiently as prediction markets and their business models evolve, including where new technologies are used.

This is particularly relevant in the context of the European Commission's ongoing review [of Regulation \(EU\) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations \(EU\) No 1093/2010 and \(EU\) No 1095/2010 and Directives 2013/36/EU and \(EU\) 2019/1937 \("MiCA"\)](#).

In May 2026, the European Commission launched [consultations](#) on the review of MiCA to assess whether the framework remains fit for purpose in light of its initial implementation and developments in crypto-asset markets. One of the issues the Commission is examining as part of this review is whether prediction markets offered via DLT should fall within the scope of MiCA or MiFID II.

MiCA and MiFID II serve different regulatory purposes and apply to different categories of products and activities. The regulatory treatment of an event contract should therefore not change simply because the contract is offered through DLT or another form of digital infrastructure. In particular, the use of DLT should not, in itself, provide a basis for bringing an event contract within a crypto-asset framework where its characteristics place it within the financial instrument or national gambling framework.

EL considers that this distinction should be maintained as the EU regulatory framework develops. The emergence of DLT-based prediction markets should not allow regulatory arbitrage between these frameworks.

More broadly, the development of prediction markets should be accommodated within the current regulatory architecture rather than addressed through the creation of a new standalone regime. Regulatory coherence should be maintained as products, technologies and business models evolve, with appropriate safeguards continuing to apply to activities within the relevant regulatory framework. In particular, compliance with financial regulation or crypto-asset regulation should under no circumstances be interpreted as creating an exemption from national gambling legislations.

6. European Relevance Beyond the EU

Although the EU regulatory context is central to this paper, the development of prediction markets is not limited to EU Member States.

For European jurisdictions outside the EU, the EU financial-services and gambling frameworks discussed above will not necessarily apply. The appropriate regulatory treatment of prediction markets will depend on the applicable national or regional legal framework. The principles set out in this paper may nevertheless provide a useful basis for assessing these developments, without implying that non-EU jurisdictions should replicate the EU regulatory model.

The broader principles of regulatory coherence, clear allocation of regulatory responsibility, technology neutrality and the avoidance of regulatory gaps or arbitrage are relevant irrespective of



the underlying legal framework. Where products present comparable regulatory risks, differences in technological implementation or commercial terminology should not, in themselves, result in materially different legal safeguards.

The development of prediction markets therefore warrants continued attention across Europe, with emerging business models addressed within the applicable regulatory frameworks while respecting national regulatory competences and the specific legal and policy choices of individual jurisdictions.

7. EL Position

Against this background, EL considers that the development of prediction markets should be addressed within the existing European regulatory architecture and guided by the following principles:

- **Regulatory classification should follow the product and activity.** The applicable regulatory framework should be determined by the characteristics, economic substance and risks of an event contract, rather than by its commercial name or the technology through which it is offered. Where a product falls within the scope of EU financial services legislation, the corresponding requirements should apply. Where it falls within the scope of national gambling legislation, the applicable gambling rules and safeguards should likewise apply. The application of financial-services regulation should not, in itself, be understood as displacing otherwise applicable national gambling requirements.
- **National competence and policy choices in gambling regulation must be respected.** The principle of subsidiarity and Member States' competence to regulate gambling should be fully respected. EU crypto-asset legislation should not be used to harmonize, replace or circumvent national gambling frameworks. The existence of a crypto-asset component should not, in itself, displace applicable national gambling requirements. Regulatory developments should likewise not undermine established national choices concerning the organization and regulation of gambling, including policies that channel regulated gambling revenues towards good causes and other public-interest objectives.
- **Technological neutrality should be maintained.** The use of DLT, blockchain, smart contracts, tokenization or other technologies should not in itself determine the regulatory treatment of an event contract. Technological developments should not create exemptions from otherwise applicable financial services or gambling requirements or enable regulatory arbitrage between different regulatory frameworks. For tokenized event contracts potentially falling within MiCA's scope, a clear exclusion from MiCA could be introduced where their use presents the same characteristics and risks as gambling activities, so as to ensure the proper enforcement of national gambling regulations and to protect market integrity.
- **Financial and gambling authorities should coordinate closely.** Prediction markets can operate across traditional regulatory boundaries and jurisdictions. Effective supervision therefore requires appropriate coordination and permanent coordination between the relevant authorities to support consistent application of the applicable rules, legal certainty and effective oversight of evolving business models.



8. Conclusion

Prediction markets should develop within, rather than around, Europe's existing regulatory architecture.

The development of these markets does not, in itself, require a new regulatory regime. Within the EU, the relevant financial-services and national gambling frameworks already provide the basis for addressing event contracts according to their characteristics and the activities carried out, where the application of financial-services regulation should not be understood as creating an exemption from otherwise applicable national gambling requirements. The priority should be to ensure that these frameworks remain effective as products, technologies and business models evolve.

This requires clarity as to the applicable regulatory frameworks with full respect for national competence in gambling regulation and a technology-neutral approach. The use of DLT or other technological developments should not create opportunities to circumvent applicable requirements or to obtain a different regulatory treatment for an otherwise comparable activity.

For EL, the appropriate approach is therefore one of regulatory coherence rather than regulatory expansion: ensuring that activities are addressed within the framework appropriate to their nature, that national regulatory competences and policy choices are respected, and that innovation does not undermine consumer protection, market integrity or the legitimate policy objectives underpinning regulated gambling in Europe.

September 2026



Annex / References

EU legislation

- [Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU \(recast\) \("MiFID II"\)](#).
- [Regulation \(EU\) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation \(EU\) No 648/2012 \("MiFIR"\)](#).
- [European Securities and Markets Authority Decision \(EU\) 2018/795 of 22 May 2018 to temporarily prohibit the marketing, distribution or sale of binary options to retail clients in the Union in accordance with Article 40 of Regulation \(EU\) No 600/2014 of the European Parliament and of the Council](#).
- [Regulation \(EU\) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations \(EU\) No 1093/2010 and \(EU\) No 1095/2010 and Directives 2013/36/EU and \(EU\) 2019/1937 \("MiCA"\)](#).

European regulatory and policy sources

- [European Securities and Markets Authority \(ESMA\) official statement, "ESMA reminds firms of existing rules and obligations under binary option measures amid growing popularity of prediction markets globally", 3 July 2026](#).
- [European Securities and Markets Authority \(ESMA\), Trends, Risks and Vulnerabilities \(TRV\) Report No. 2, 2026, 10 September 2026](#).
- [European Commission, Targeted consultation on the review of Regulation on the Markets in Crypto-Assets \(MiCA\), launched 20 May 2026](#).

World Lottery Association

- [Position Paper on Prediction Markets](#)