PREDICTION MARKETS

How Prediction Markets Can Avoid Gambling Classification in the Philippines

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By Russell Stanley Q. Geronimo

In global markets, platforms like Kalshi and Polymarket allow participants to trade event contracts. These bilateral agreements turn public forecasts and indices into market-driven odds that American courts classify as regulated financial derivatives rather than wagering contracts. Establishing a similar prediction market in the Philippines faces potential legal hurdles under Presidential Decree No. 1602, Executive Order No. 13 (s. 2017), and Article 2018 of the Civil Code. However, recent commercial practices in the country's wholesale electricity market demonstrate a viable legal blueprint for prediction markets.

Philippine gambling laws punish any scheme putting money at stake without a government license or franchise, regardless of whether the outcome relies on skill, chance, or both. So far, PAGCOR holds no statutory category for prediction markets, and the SEC has not issued rules governing event contracts. Compounding this, Civil Code Articles 2013, 2014, and 2016 make bets unenforceable, allowing losers to sue to recover their stakes with interest. This is reinforced by Article 2018, which voids contracts purporting to deliver assets when parties intend only to settle price differences. The Supreme Court applied this principle in Onapal Philippines Commodities, Inc. v. Court of Appeals (1993), holding that cash-settled commodity futures traded off-exchange were void wagers because physical delivery of the commodity was never intended by the parties. Consequently, a cash-settled contract will not trigger Article 2018 if physical delivery remains a realistic alternative or if the

contracting parties hold an underlying economic exposure that the contract directly offsets.

The Wholesale Electricity Spot Market (WESM) provides precedent for valid, cash-settled contracts for difference ("CfDs"). Because electric power cannot be delivered to specific counterparties due to physical grid mechanics, generators sell into the pool and customers buy from it while executing bilateral agreements to fix power prices. The market operator offsets contracted volumes, settling only excess spot quantities.

Capitalizing on this framework, Green Tiger Markets arranged the country's first forward trade settled in cash against the Luzon weighted average spot price in July 2023, and by mid-2025, its registered participants represented roughly two-thirds of generating capacity and one-third of power consumption. These contracts avoid gambling classification because every participant has a commercial exposure to hedge, satisfying Onapal. The deals are private bilateral agreements offered to institutional players rather than the general public to avoid SEC registration under R.A. No. 8799.

The Green Tiger Markets model is the closest model we have in the Philippines to an operational predictive markets platform, though not in the exact form by which Kalshi and Polymarket operate.

While public retail exchanges must wait for formal SEC rules for commodity futures and exchange-traded derivatives under Section 11 of the Securities Regulation Code, other alternative models may be feasible.

Institutional bilateral offsetting can be deployed by restricting platform access exclusively to commercial entities hedging real-world price exposures like fuel, agricultural commodities, inflation, or weather metrics.

Moreover, the Philippine central bank recognizes non-deliverable forwards and similar financial derivatives as valid risk-management instruments for banks and corporate hedgers, provided they are tied to bona fide underlying commercial or financial exposures. However, this does not extend to speculative retail participation.

Alternatively, parametric insurance allows platforms to offer policies paying fixed sums upon verifiable triggers such as rainfall levels, provided policyholders possess a valid insurable interest under the Insurance Code.

Structured index-linked notes offer another path as debt securities where coupon or principal adjustments link to an index, falling outside Article 2018 because principal repayment obligations exist, subject to SEC registration or private placement exemptions.

Finally, stakeless forecasting and reputation markets operate via free entry with sponsored prize pools or play-money points, bypassing statutory gambling definitions because participants put no money at stake. By stripping away the financial stake and replacing real-money wagers with reputation points or corporate sponsorships, these platforms monetize their output entirely through the sale of aggregated data and predictive insights to commercial enterprises and state agencies.

Regardless of the legal model adopted, certain red lines remain absolute. Tokenized event contracts on public order books are cash-settled futures under Section 11 of the SRC, meaning they have to comply with both crypto-asset service provider (CASP) registration and securities registration.

Furthermore, event contracts on elections, political candidates, or voting metrics constitute criminal election offenses under Section 261(c) of the Omnibus Election Code.

Until the SEC promulgates the rules awaited under Section 11 of the Securities Regulation Code since 2000, valid prediction platforms in the Philippines remain strictly limited to institutional hedging instruments modeled on wholesale power markets.

For inquiries regarding financial derivatives, gambling laws, and regulatory compliance:

Website: www.geronimo.law
Email: attorney@geronimo.law
Phone: +63 9999329836