Prediction markets and iGaming update: Forecasting more developments ahead

October 06, 2026

What you need to know

- **In Canada, prediction markets do not fit in one regulatory box.** In Joint Staff Notice 91-307 (the Joint Notice), the Canadian Securities Administrators (CSA) and the Canadian Investment Regulatory Organization (CIRO) have made clear that, unlike the U.S., sports- and entertainment-related event contracts should not be regulated under Canadian securities and derivatives legislation. The Joint Notice draws a line in the sand that securities regulators won't pass. It now rests with provincial gaming regulators to develop a regulatory pathway for such contracts.
- **Will Québec follow in Alberta and Ontario's footsteps?** Recent comments from leadership of the Parti Québécois and the Québec Liberal Party have created optimism that Québec may soon open a new iGaming market for regulated operators, similar to the model adopted in Ontario and Alberta.
- **Supreme Court of Canada (SCC) to hear arguments on international "pooled liquidity" in iGaming.** On Oct. 7, 2026, the SCC will hear arguments in respect of the Ontario Court of Appeal's (ONCA) decision under appeal, which agreed with the Government of Ontario that legal iGaming would remain lawful under Canada's *Criminal Code* (the Code) if Ontario residents were permitted to participate in games and betting involving individuals located outside of Canada. BLG was proud to represent NSUS Group Inc. and NSUS Limited, in their capacity as intervenors in favour of Ontario's position before the ONCA, and will continue such representation at the SCC. The SCC's decision has the potential to herald a new era of internationally connected online gaming in Canada.

Regulatory background: The existing framework for prediction markets in Canada and where we go next

Prediction markets are the digital exchange platforms through which forecast or "event" contracts are traded. From a Canadian securities regulatory perspective, such contracts are typically viewed as "binary options" under applicable securities regulations, triggering, among other things, the restrictions set out in Multilateral Instrument 91-102 *Prohibition of Binary Options* (MI 91-102) and its Companion Policy 91-102CP

Prohibition of Binary Options, which prohibit advertising, offering, selling or otherwise trading a binary option with a term to maturity of less than 30 days (the Binary Option Restriction). This restriction applies in each Canadian jurisdiction, either pursuant to MI 91-102 or otherwise.

Accordingly, anyone facilitating trading of event contracts in Canada must follow applicable requirements under securities or derivatives legislation, such as registration or recognition requirements. In April 2025, BLG was proud to partner with Interactive Brokers Canada (IBC) as IBC became the first CIRO dealer to obtain securities regulatory approval to offer certain forecast contracts to eligible clients in Canada. The forecast contracts are traded on ForecastEx LLC (ForecastEx), a U.S. Commodity Futures Trading Commission-registered designated contract market (DCM) and a derivative clearing organization (DCO). As of the date of publication, Wealthsimple Inc. is the only other registered dealer to obtain securities regulatory approval to offer certain forecast contracts in Canada.

March 2026 guidance: Affirming application of CIRO requirements

Beyond compliance with the Binary Option Restriction, IBC's offering was (and is) subject to certain terms and conditions, including the types of events underlying the event contracts being traded.

In March 2026, CIRO issued guidance to confirm that event contracts offered by approved investment dealers are limited to economic, environmental and financial indicators, and must have a term to maturity of at least 30 days, in accordance with the Binary Option Restriction (the Permitted Scope).

In this guidance, CIRO also clarified that political event contracts and contracts relating to unlawful activities remain prohibited. This guidance created a limited securities regulatory pathway for certain types of event contracts, such as those already offered by IBC, but left open the possibility for other types of contracts to be approved in the future. CIRO and the CSA stated that they would continue monitoring developments in prediction markets and event contracts, and issue further guidance as needed.

August 2026 guidance: CSA and CIRO draw a clearer line

In their Joint Notice published in August 2026, the CSA and CIRO provided an important clarification on the types of event contracts that they view as falling outside of securities regulation, being those based on underlying sports or entertainment events. Importantly, CSA and CIRO will continue to assess whether other types of event contracts may be incorporated under the umbrella of securities regulation, so there is still room for an expanded scope of approved event contracts that may be offered by an approved investment dealer in Canada.

Provincial gaming regulators and the pathway for sports/entertainment event contracts

The Joint Notice leaves provincial gaming regulators as the natural governing body for the regulation of sports- and entertainment-related event contracts in Canada. Several such regulators, including British Columbia's Independent Gambling Control Office,

have already made clear that such contracts constitute gambling under the Code, and that any unregulated prediction market operator offering such products within their jurisdiction is doing so illegally. This position is consistent with the view taken by securities and gaming regulators in Europe, such as in France, who, like Ontario, have taken steps to ban access to unauthorized prediction market sites.

The question then becomes, which provincial regulators will provide the regulatory pathway for such event contracts, and how will it be integrated into their existing framework for gaming regulation? As the answers to these questions develop over the coming weeks and months, BLG's securities and gaming-law professionals remain at the forefront of regulatory developments, and are well positioned to discuss how to navigate this evolving regulatory landscape.

Securities regulators and issuers continue to tackle novel issues

While Canadian securities regulators develop their own distinctive approach to regulating prediction markets, such regulators and Canadian issuers must still grapple with the novel securities law issues attached to the advent of such markets. The most obvious issue is one of regulatory jurisdiction, which we have discussed above. However, there are series of secondary matters specific to the regulation of securities that have arisen, including:

- **Market surveillance**: As noted in a recent paper posted by Robert DeNault (Head of Enforcement at Kalshi) and Daniel Taylor (Arthur Andersen Professor of Accounting at The Wharton School and Director of the Wharton Forensic Analytics Lab at the University of Pennsylvania), the expansion of prediction markets and trading volumes thereon have challenged the capabilities of existing equity-market surveillance systems, including, in respect of:
    - monetization of material non-public information (MNPI) – an insider who knows the relevant outcome of an event contract has a direct means of monetizing their MNPI, as opposed to an insider seeking to monetize such knowledge in equity markets, who could only monetize such information indirectly and must bear the risk of stock price drops unrelated to such MNPI. This incentive to directly monetize MNPI immediately upon receiving such information may challenge traditional surveillance techniques designed to detect front-running trades immediately before substantive price movements; and
    - materiality thresholds – while securities regulators are adept at identifying material price movement in equity markets by monitoring for substantial share price changes, the binary structure of event contracts results in a narrow trading range between $0 and $1. Accordingly, securities regulators will not be able to solely rely on price changes (in percentage terms or cents) in order to identify economically material trades. As DeNault and Taylor point out, regulators will likely need to develop a new monitoring tool aimed at quantifying the benefit that specific trades provided to the trader.
- **Use of confidential information and compliance concerns**: Canadian issuers are accustomed to ensuring that their trading policies and practices require timely insider reporting and prevent against illegal insider trading. However, issuers must now actively review such policies and practices to ensure that the new venue of prediction market trading is comprehensively addressed. For example,

such policies would contemplate that insider trades of an issuer's stock based on confidential but non-material information must be reported on the System for Electronic Disclosure By Insiders (SEDI). However, such policies would may not contemplate a disclosure obligation for an analogous trade made on a prediction market. This concern applies beyond insiders and includes the misuse of confidential information by employees. Major Canadian financial institutions have already taken steps to implement updated policies and procedures for their employees and we encourage all issuers to reach out to counsel to consider their own respective updates.

- **Public perception**: Securities regulators need to ensure that market participants appreciate that certain event contracts, such as those identified under the Permitted Scope, are subject to securities and derivatives regulation and that others, such as sports- and entertainment-related contracts fall outside of such regulation. A recent study run by CPA Canada found that Canadians who view prediction markets as investments are three times more likely to participate than those who see them as gambling. Accordingly, it is vital to securities regulators to ensure that Canadians appreciate which such contracts fall under the purview of such regulators.

Québec election comments buoy prospects of market opening

Recent political developments suggest that Québec could become the next Canadian province to consider a competitive iGaming market, following a similar model to that adopted by Ontario and Alberta.

On Sept. 9, 2026, the Québec Liberal Party announced a proposal to expand the mandate of the Régie des alcools, des courses et des jeux so that it can license and oversee all online gambling platforms operating in Québec. The proposal notes that it will be important to subject accredited platforms to strict rules regarding advertising, addiction prevention, and the protection of minors. The language of the proposal indicates support for allowing approved private platforms to offer their products in Québec, ending the monopoly currently held by the Société des loteries du Québec (Loto-Québec), which is currently the only authorized public online gaming operator in the province.

The proposal quickly received the public support of Parti Québécois (PQ) leader Paul St-Pierre Plamondon. Following a general election on Oct. 5, 2026, the PQ will now form a minority government, with the Québec Liberal Party forming the official opposition.

The advent of a regulated market for iGaming in Québec is certainly an attractive proposition for many operators, and it will be a key Canadian jurisdiction to watch in the coming weeks and months.

Supreme Court of Canada to hear appeal on international "pooled liquidity"

On Oct. 7, 2026, the SCC will hear arguments in one of the most consequential gaming law cases in recent Canadian history. The appeal concerns whether provincially regulated iGaming operators may lawfully offer games that allow participants located in Ontario to compete or wager against individuals located outside of Canada.

The case arises from a decision of the ONCA, wherein the Court agreed with the Government of Ontario that such "pooled liquidity" arrangements remain consistent with the framework established under the Code. The decision was welcomed by many industry participants, who argued that internationally connected liquidity pools are critical to the competitiveness of online poker and certain other gaming products, as, among other things, access to larger player pools can increase prize pools, improve game availability, and enhance the overall consumer experience.

The SCC's forthcoming decision will be closely watched by gaming regulators, operators and governments across Canada. A decision affirming Ontario's position could remove a significant source of legal uncertainty surrounding internationally connected gaming products and strengthen the attractiveness of Canadian regulated markets.

BLG is proud to represent NSUS Group Inc. and NSUS Limited, as intervenors supporting Ontario's position in the appeal, and will continue that representation before the SCC.

Takeaways

- The CSA and CIRO have signalled that sports- and entertainment-related event contracts should not be regulated through Canadian securities laws, placing increased focus on provincial gaming regulators as the pathway for these products in Canada.
- Québec's recent election may create momentum for the opening of another regulated provincial iGaming market.
- The SCC's forthcoming pooled-liquidity decision could have significant implications for the future development of online gaming in Canada.

BLG's integrated Securities and Capital Markets and Sports & Gaming Law teams are uniquely positioned to assist market participants navigating the evolving landscape for prediction markets in Canada.

For more information regarding prediction markets, event contracts, regulated gaming, or emerging opportunities in the Canadian market, please contact any of the key contacts below.

The authors would like to thank Shivani Kaup, articling student, for her assistance in preparing this article.

How are prediction markets regulated in Canada?

They do not fit into a single regulatory box. Depending on the underlying asset, event contracts traded on prediction markets may be viewed as "binary options" subject to strict securities regulations or they may fall under provincial gaming and criminal laws.

What did the CSA and CIRO recently clarify about event contracts?

In Aug. 2026, the regulators confirmed that event contracts based on sports or entertainment events do not fall under Canadian securities and derivatives legislation. This means a regulatory pathway for these specific contracts must be developed by provincial gaming regulators, not securities authorities.

Why is the upcoming Supreme Court of Canada (SCC) case significant for iGaming?

On Oct. 7, 2026, the SCC will hear arguments on whether legal iGaming remains lawful under the Criminal Code if Ontario residents are permitted to play and bet against individuals located outside of Canada. A decision upholding Ontario's position could open the door to a new era of internationally connected online gaming, often referred to as "pooled liquidity," across Canada.

By

Galen Flaherty, Cameron A. MacDonald, Julie Mansi

Expertise

Capital Markets, Sports & Gaming Law

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.