

March 10, 2022

SUBMITTED VIA CFTC PORTAL

Secretary of the Commission
Office of the Secretariat
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: KalshiEX LLC – CFTC Regulation 40.2(a) Notification Regarding the Initial Listing of the “Will stock trading by members of Congress be banned?” Contract

Dear Sir or Madam,

Pursuant to Section 5c(c) of the Commodity Exchange Act and Section 40.2(a) of the regulations of the Commodity Futures Trading Commission, KalshiEX LLC (Kalshi) hereby notifies the Commission that it is self-certifying the “Will stock trading by members of Congress be banned?” contract (Contract). The Exchange intends to list the contract with an initial <date> value corresponding to Election Day 2022. The Contract’s terms and conditions (Appendix A) includes the following strike conditions:

- <date> (the target date)

Along with this letter, Kalshi submits the following documents:

- A concise explanation and analysis of the Contract;
- Certification;
- Appendix A with the Contract’s Terms and Conditions;
- Confidential Appendices with further information; and
- A request for FOIA confidential treatment.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Elie Mishory
Chief Regulatory Officer
KalshiEX LLC
emishory@kalshi.com

KalshiEX LLC

Official Product Name: Will stock trading by members of Congress be banned?

Rulebook: TRDBAN

Kalshi Contract Category: Political Decision

Congressional Stock Trading Ban

March 10, 2022

CONCISE EXPLANATION AND ANALYSIS OF THE PRODUCT AND ITS COMPLIANCE WITH APPLICABLE PROVISIONS OF THE ACT, INCLUDING CORE PRINCIPLES AND THE COMMISSION'S REGULATIONS THEREUNDER

Pursuant to Commission Rule 40.2(a)(3)(v), the following is a concise explanation and analysis of the product and its compliance with the Act, including the relevant Core Principles, and the Commission's regulations thereunder.

I. Introduction

The “Will stock trading by members of Congress be banned?” Contract is a contract relating to proposed legislation that would ban stock trading by members of Congress. After careful analysis, Kalshi (hereafter referred to as “Exchange”) has determined that the Contract complies with its vetting framework, which has been reviewed by the CFTC and formed part of the Exchange’s application for designation as a Contract Market (“DCM”) that was approved by the Commission.

Congressional stock trading has been an issue in the public discourse since President Obama prioritized prohibiting Congressional members from using their insider information to trade on stocks in the STOCK (Stop Trading on Congressional Knowledge) Act of 2012.¹ It resurfaced in the news during the pandemic because of rumors that Senator Richard Burr of North Carolina had used his knowledge about the upcoming COVID-19 pandemic to inform his trading behavior.² Others have noted that Speaker of the House Nancy Pelosi’s husband Paul Pelosi has been a highly successful day trader.³ Recently, many members of Congress such as Alexandria Ocasio-Cortez, Jon Ossoff and Mark Kelly have called for legislation prohibiting members of Congress from trading stocks.^{4,5} The

¹ <https://www.congress.gov/112/plaws/publ105/PLAW-112publ105.htm>

² <https://www.cnn.com/2021/10/28/politics/burr-sec-investigation-stock-trades/index.html>

³ <https://markets.businessinsider.com/news/stocks/nancy-pelosi-stock-trades-meme-investing-litquidity-paul-pelosi-alphabet-2021-9>

⁴ <https://www.foxbusiness.com/politics/aoc-says-public-pressure-is-making-banning-stock-trades-for-congress-too-difficult-to-ignore>

⁵ <https://www.congress.gov/bill/117th-congress/senate-bill/3494/text?r=2&s=1>

effort has picked up steam as Nancy Pelosi recently dropped her long-standing opposition to the bill.⁶

Further information about the Contract, including an analysis of its risk mitigation and price basing utility, as well as additional considerations related to the Contract, is included in Confidential Appendices B, C, and D.

Pursuant to Section 5c(c) of the Act and CFTC Regulations 40.2(a), the Exchange hereby certifies that the listing of the Contract complies with the Act and Commission regulations under the Act.

General Contract Terms and Conditions: The Contract operates similar to other binary contracts that the Exchange lists for trading. The minimum price fluctuation is \$0.01 (one cent). Price bands will apply so that Contracts may only be listed at values of at least \$0.01 and at most \$0.99. Further, the Contract is sized with a one-dollar notional value and has a minimum price fluctuation of \$0.01 to enable Members to match the size of the contracts purchased to their economic risks. The Exchange has further imposed position limits (defined as maximum loss exposure) of \$25,000 USD on the Contract. As outlined in Rule 5.12 of the Rulebook, trading shall be available at all times outside of any maintenance windows, which will be announced in advance by the Exchange. Members will be charged fees in accordance with Rule 3.6 of the Rulebook. Fees are charged in such amounts as may be revised from time to time to be reflected on the Exchange's Website. Additionally, as outlined in Rule 7.2 of the Rulebook, if any event or any circumstance which may have a material impact on the reliability or transparency of a Contract's Source Agency or the Underlying related to the Contract arises, Kalshi retains the authority to designate a new Source Agency and Underlying for that Contract and to change any associated Contract specifications after the first day of trading. That new Source Agency and Underlying would be objective and verifiable. Kalshi would announce any such decision on its website. All instructions on how to access the Underlying are non-binding and are provided for convenience only and are not part of the binding Terms and Conditions of the Contract. They may be clarified at any time. Furthermore, the Contract's payout structure is characterized by the payment of an absolute amount to the holder of one side of the option and no payment to the counterparty. During the time that trading on the Contract is open, Members are able to adjust their positions and trade freely. After trading on the Contract has closed, the Expiration Value and Market Outcome are determined. The market is then settled by the Exchange, and the long position holders and short position holders are paid according to the Market Outcome. In this case, "long position holders" refers to Members who purchased the "Yes" side of the Contract and "short position holders" refers to Members who purchased the "No" side of the Contract. If the Market Outcome is "Yes,"

⁶ <https://www.nytimes.com/2022/02/09/us/politics/pelosi-stock-trading-congress.html>

meaning that a bill has become law between Issuance and <date> that prohibits members of Congress from trading stocks, then the long position holders are paid an absolute amount proportional to the size of their position and the short position holders receive no payment. If the Market Outcome is “No,” then the short position holders are paid an absolute amount proportional to the size of their position and the long position holders receive no payment. Specification of the circumstances that would trigger a Market Outcome of “Yes” are included below in the section titled “Payout Criterion” in Appendix A.

**CERTIFICATIONS PURSUANT TO SECTION 5c OF THE COMMODITY
EXCHANGE ACT, 7 U.S.C. § 7A-2 AND COMMODITY FUTURES TRADING
COMMISSION RULE 40.2, 17 C.F.R. § 40.2**

Based on the above analysis, the Exchange certifies that:

- The Contract complies with the Act and Commission regulations thereunder.
- This submission (other than those appendices for which confidential treatment has been requested) has been concurrently posted on the Exchange's website at <https://kalshi.com/regulatory/filings>.

Should you have any questions concerning the above, please contact the exchange at ProductFilings@kalshi.com.

Eliezer Mishory

By: Eliezer Mishory

Title: Chief Regulatory Officer

Date: 3/10/2022

Attachments:

Appendix A - Contract Terms and Conditions

Appendix B (Confidential) - Further Considerations

Appendix C (Confidential) - Source Agency

Appendix D (Confidential) - Compliance with Core Principles

APPENDIX A – CONTRACT TERMS AND CONDITIONS

TERMS OF CONTRACTS TRADED ON KALSHI

Official Product Name: Will stock trading by members of Congress be banned?

Rulebook: TRDBAN

TRDBAN

Scope: These rules shall apply to this contract.

Underlying: The Underlying for this Contract is bills that have become law between Issuance and <date>, according to Congress.gov. Revisions to the Underlying made after Expiration will not be accounted for in determining the Expiration Value.

Instructions: Bills that have become law are available at <https://www.congress.gov/search?q=%7B%22source%22%3A%22legislation%22%2C%22bill-status%22%3A%22law%22%7D>. These instructions on how to access the Underlying are provided for convenience only and are not part of the binding Terms and Conditions of the Contract. They may be clarified at any time.

Source Agency: The Source Agency is the Library of Congress.

Type: The type of Contract is a Binary Contract.

Issuance: The initial contract will have a <date> value of November 8, 2022.

<date>: <date> refers to a calendar date specified by Kalshi. Kalshi may list iterations of the Contract corresponding to different statistical periods of <date>.

Payout Criterion: The Payout Criterion for the Contract encompasses the Expiration Values that include documentation of a bill that has become law between Issuance and <date> that prohibits members of Congress from purchasing stocks, even if it allows for purchasing stocks via a blind trust or the purchase of “diversified assets” (such as ETFs or mutual funds).

Examples: Some examples of bills that, should they become law between Issuance and <date>, would be encompassed in the Payout Criterion include: S. 3494 (Ban Congressional Stock Trading Act)⁷ or H.R. 1579 (Ban Conflicted Trading Act)⁸.

S. 3494 is encompassed due to the following provision. “Covered investment” includes stocks.

“(c) ACQUISITIONS DURING SERVICE.—

“(1) IN GENERAL.—Subject to paragraph (2), and any applicable rules issued pursuant to subsection (h)(3), effective beginning on the date of enactment of the Ban Congressional Stock Trading Act, a Member of Congress, and a spouse or dependent of the Member of Congress, may not acquire a covered investment.

⁷ <https://www.congress.gov/bill/117th-congress/senate-bill/3494/text?r=2&s=1>

⁸ <https://www.congress.gov/bill/117th-congress/house-bill/1579/text?r=62&s=1>

H.R. 1579 is encompassed due to the following provision. “Covered investment” includes stocks. Sections 4 and 5 provide exceptions for trusts and covered investments purchased prior to entering office (which must then be placed in a blind trust).

SEC. 3. PROHIBITIONS.

(a) TRANSACTIONS.—Except as provided in sections 4 and 5, no covered person may—

- (1) purchase or sell any covered investment; or
- (2) enter into a transaction that creates a net short position in any security.

Minimum Tick: The Minimum Tick size for the referred Contract shall be \$0.01.

Position Limit: The Position Limit for the \$1 referred Contract shall be \$25,000 per Member.

Last Trading Date: The Last Trading Date of the Contract will be the sooner of the date of the first 10:00 AM ET following the occurrence of an event encompassed in the Payout Criterion (whereupon the Last Trading Time will be 10:00 AM ET) or <date> (whereupon the Last Trading Time will be 11:59 PM ET).

Settlement Date: The Settlement Date of the Contract shall be no later than the day after the Expiration Date, unless the Market Outcome is under review pursuant to Rule 7.1.

Expiration Date: The Expiration Date of the Contract shall be the sooner of the date of the first 10:00 AM following the occurrence of an event that is encompassed in the Payout Criterion, the first 10:00 AM following Congress.gov updating for <date>, or two weeks after <date>.

Expiration time: The Expiration time of the Contract shall be 10:00 AM ET.

Settlement Value: The Settlement Value for this Contract is \$1.00.

Expiration Value: The Expiration Value is the value of the Underlying as documented by the Source Agency on the Expiration Date at the Expiration time.

Contingencies: Before Settlement, Kalshi may, at its sole discretion, initiate the Market Outcome Review Process pursuant to Rule 6.3(c) of the Rulebook. Additionally, as outlined in Rule 7.2 of the Rulebook, if any event or any circumstance which may have a material impact on the reliability or transparency of a Contract’s Source Agency or the Underlying related to the Contract arises, Kalshi retains the authority to designate a new Source Agency and Underlying for that Contract and to change any associated Contract specifications after the first day of trading.