

April 11, 2023

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 TikTok be banned in the United States?” 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 TikTok be banned in the United States?” contract (Contract). The Exchange intends to list the contract on a custom basis. The Contract’s terms and conditions (Appendix A) includes the following strike conditions:

- **<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 TikTok be banned in the United States?

Rulebook: TIKTOKBAN

Kalshi Contract Category: Political Decision

TikTok Ban

April 11, 2023

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 TikTok be banned in the United States?” Contract is a contract relating to whether the U.S. government will prevent the operations of TikTok, a division of the ByteDance Limited, from operating in the United States. After careful analysis, Kalshi (hereafter referred to as “Exchange”) has determined that the Contract complies with its vetting framework.

TikTok is one of the largest social media platforms in the United States, especially popular with younger Americans. It has come under fire for its connections to the Chinese government, as its parent company, ByteDance, is a Chinese company. Many fear that the algorithm TikTok uses to show short videos to its users could be manipulated by the Chinese government, or that the Chinese government could violate the privacy of US users. This has led to substantial discussion over whether to ban TikTok’s operations in the United States.¹

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.

¹ <https://www.nytimes.com/2023/04/03/learning/should-the-united-states-ban-tiktok.html>

General Contract Terms and Conditions: The Contract operates similar to other event 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," meaning that TikTok has been banned in the United States (please see Appendix A for more details), 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: April 11, 2023

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

Official Product Name: Will TikTok be banned in the United States?

Rulebook: TIKTOKBAN

TIKTOKBAN

Scope: These rules shall apply to this contract.

Underlying: The Underlying for this Contract is press releases, memoranda, and other releases and orders by the U.S. federal government. Revisions to the Underlying made after Expiration will not be accounted for in determining the Expiration Value.

Source Agency: The Source Agencies are the Library of Congress, the Federal Register, and the websites of the White House and government agencies.²

Type: The type of Contract is an Event Contract.

Issuance: After the initial Contract, Contract iterations will be listed on an as-needed basis at the discretion of the Exchange and corresponding to the risk management needs of Members.

<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 the TikTok has been prohibited in the United States; this could be done by, among other things, a prohibition on transactions with ByteDance and/or its TikTok subsidiary (such a prohibition was included in President Trump’s “Executive Order on Addressing the Threat Posed by TikTok”³), or by prohibiting the app’s operations in the United States (such as what is authorized by the RESTRICT Act). The government requiring or pressuring ByteDance to sell its TikTok American operations to another company would not fulfill the Payout Criterion, even under the threat of a prohibition. The prohibition must take effect by <date> in order to be encompassed in the Payout Criterion. As a result, President Trump’s Executive Order prohibiting TikTok if ByteDance did not divest from TikTok within 45 days would not fulfill the Payout Criterion since the prohibition never took effect.

Passage of a bill like the RESTRICT Act would not be encompassed by the Payout Criterion, as it merely awards the Commerce Department the ability to prohibit an app’s operations in the United States and does not actually prohibit the app’s operation.⁴ Were the Commerce Department to use

² Kalshi will check Congress.gov (a division of the Library of Congress), the Federal Register, and the White House press office weekly for such updates. Kalshi also lists individual government agencies as source agencies, as it is also possible that a ban could come directly from, for example, the Department of Commerce. In practice, the banning of TikTok would be a major and newsworthy event, upon which Kalshi would check the source agencies on a daily basis.

³ <https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-addressing-threat-posed-tiktok/>

⁴ <https://www.congress.gov/bill/118th-congress/senate-bill/686>

that power to do so against TikTok, and that prohibition took effect by <date>, the Payout Criterion would be fulfilled.

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 first 10:00 AM after an event has occurred that is encompassed by 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 ET following the occurrence of an event that is encompassed in the Payout Criterion, the date of the first 10:00 AM ET following the release of the data for all of <date>, or one week 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.