

**SUBMITTED VIA CFTC PORTAL**

August 1, 2021

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 *Donda* album consumption 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 terms and conditions for the *Donda* album consumption contract (Contract) to be listed for trading on Kalshi and effective on Tuesday, August 3, 2021 for trading on that date.

Along with this letter, Kalshi submitted the following documents:

- A concise explanation and analysis of the Contract;
- The Contract's specifications;
- 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  
Rule 40.2 New Contract Submission: DONDA  
08/01/2021

## 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 DONDA contract (“Contract”) relates to the summed consumption of Kanye West’s *Donda* music album, which is measured in terms of the album’s consumption. For the purpose of the Contract, “consumption” is defined as the number of “Album Units” or “Album Projects” that an album project amasses over a daily period (note: Album Units and Album Projects are used interchangeably and are generally referred to as “Album Units/Album Projects”). Album Units/Album Projects is a consolidated measure of album popularity developed by Penske Media Corporation’s (“PMC”) Alpha Data unit (Alpha Data LLC) that combines the physical sales of an album with digital metrics such as the number of digital streams. PMC’s Album Units/Album Projects data is widely used in the music industry; for example, PMC’s data is used to compute the Rolling Stones music charts.<sup>1</sup> Note that the Contract uses consumption of the album project, which is distinct from album sales. As the music industry continues to shift towards streaming and as independent artists leverage digital platforms to share their music, Album Units/Album Projects continues to grow in relevance as a key economic indicator for a wide variety of music industry and retail market participants. 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.

The Contract can be used to hedge the risk of lower than expected consumption by those connected to the industry, including retail participants such as social media influencers and small to medium enterprises (“SMEs”) such as digital advertising agencies related to Kanye West’s *Donda* album. PMC’s Album Units/Album Projects combines traditional physical album sales with attention economy metrics such as the number of streams on

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<sup>1</sup> <https://www.rollingstone.com/charts-methodology/>

digital music platforms. Thus, the number of Album Units/Album Projects that a particular album amasses has economic relevance for not only the music and entertainment industry, but also adjacent industries such as digital advertising and technology which rely on the popularity of musical assets to inform marketing and investment strategies.

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 Appendix B.

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, including regulations under the Act.

**Relevant Contract Terms and Conditions:** The Contract operates similar to the other binary contracts that the Exchange has self-certified for trading. In particular, 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. While trading on the contract is open, Members are able to adjust their positions and trade freely. Once trading on the contract has closed, the market is settled by the Exchange, and the long position holders and short position holders are paid according to the outcome of the market. In this case, “long position holder” refers to a Member who purchased the “Yes” side of the contract and “short position holder” refers to a Member who purchased the “No” side of the contract. Depending on the outcome of the market, as determined by the Exchange, one of two payout processes is triggered. If the Market Outcome is “Yes”, meaning that the Album Units/Album Projects earned by Kanye West’s *Donda* album for the relevant statistical period is strictly greater than 0, then the long position holder is paid an absolute amount proportional to the size of their position, and the short position holder receives no payment. Otherwise, if the Market Outcome is “No”, then the short position holder is paid an absolute amount proportional to the size of their position and the long position holder receives no payment. Further specification of the circumstances that would trigger a settlement in the “Yes” direction are included below and in the section titled “Payout Criterion” in Appendix A.

**Contract Specifications:**

Underlying	The preliminary consumption of Kanye West’s <i>Donda</i> album project reported to the Exchange pursuant to the Exchange’s agreement with Alpha Data LLC (a division of PMC). “Album consumption” is defined as the daily number of Album Units/Album Projects. The data are released on a daily basis, and these
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	daily measurements are used as the Underlying. Future revisions to data made after Expiration will not be accounted for.
<b>Payout Criterion</b>	The Payout Criterion encompasses the Expiration Values that are strictly greater than <count>.
<b>Contract Size</b>	The Exchange takes the view that maximizing the commercial usefulness of any product dictates that the contract size should conform to commercial norms. Therefore, as with other similar contracts offered by the Exchange, the Contract is sized with a one-dollar notional value to enable Members to match the size of the contracts purchased to their economic risks.
<b>Listing Cycle</b>	<p>For contracts whose Expiration Value is based on the outcome of recurrent data releases, Contract iterations will be listed consistently by a time period corresponding to the cadence of Underlying data releases. For contracts whose Expiration Value is not based upon the outcome of recurrent data releases, 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.</p> <p>The Contract is based on the outcome of a recurrent data release which is released on a daily basis and summed by the Exchange. PMC's Alpha Data unit computes "Album Units/Album Projects" for musical albums on a daily basis during the course of each "Tracking Week". Each "Tracking Week" runs from Friday through Thursday - a schedule that aligns with the music industry's Global Release Day, according to which new music is released every Friday at 12:00am ET.</p> <p>The Issuance of the initial contract will be August 3, 2021 and the Expiration Date of the initial contract will be August 8, 2021.</p>
<b>Tick Size</b>	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. A minimum price fluctuation of \$0.01 is the standard tick size on the Exchange.
<b>Position Limit</b>	The Exchange has imposed position limits (defined as maximum loss exposure) of \$25,000 USD on the Contract.
<b>Trading Hours</b>	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.
<b>Fees</b>	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.
<b>Contract Modifications</b>	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

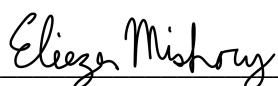
	<p>for that Contract and to change any associated contract specifications after the first day of trading. That new Source Agency and Underlying would be objective and verifiable. Kalshi would announce any such decision on its website.</p>
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**CERTIFICATIONS PURSUANT TO SECTION 5c OF THE COMMODITY  
EXCHANGE ACT, 7 U.S.C. § 7A-2 AND COMMODITY FUTURES TRADING  
COMMISSION REGULATION 40.2, 17 C.F.R. § 40.2**

Based on the above analysis, the Exchange certifies that:

- the Contract is consistent with, and in accordance with the Core Principles of Section 5 of the Commodity Exchange Act, and the CFTC's rules and regulations; and 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](mailto:ProductFilings@kalshi.com).

  
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By: Eliezer Mishory  
Title: Chief Regulatory Officer  
Date: 08/01/2021

**Attachments:**

Appendix A - Contract Terms and Conditions

Appendix B (Confidential) - Further Considerations

Appendix C (Confidential) - Price Reporting Agency

Appendix D (Confidential) - Compliance with Core Principles

Appendix E (Confidential) - PMC Agreement

## APPENDIX A – CONTRACT TERMS AND CONDITIONS

### TERMS OF CONTRACTS TRADED ON KALSHI

**Contract:** DONDA<xxx>

**Scope:** These rules shall apply to the contract referred to as DONDA.

**Underlying:** The Underlying for this Contract is the preliminary consumption of Kanye West’s *Donda* album project reported to the Exchange pursuant to the Exchange’s agreement with Alpha Data LLC (a division of Penske Media Corporation, or “PMC”) (“Alpha Data”). “Consumption” is defined as the number of Album Units/Album Projects of the album project. Note that Alpha Data distinguishes between consumption of the project and consumption in terms of album sales; the Contract uses the former statistic. Data that is revised after the Expiration time on the Expiration Date will not be used to compute the Expiration Value. If the relevant data is not reported to the Exchange, including, for example, if there is no consumption of the album, the value of the Underlying is zero.

**Source Agency:** The Source Agency is Alpha Data LLC (a division of Penske Media Corporation, or “PMC”).

**Type:** The type of Contract is a Binary Contract.

**Issuance:** The Issuance of this contract will be in accordance with the information outlined in the “Listing Cycle” section of the Contract Specifications table. The Contract is based on the outcome of a recurrent data release which is issued on a daily basis. The Issuance of the initial contract will be on or after August 3, 2021.

**Count:** Kalshi may list "Will the summed consumption of Kanye West’s *Donda* album be above <count> Album Units?" contracts with <count> levels that fall within an inclusive range between a maximum value of 5,000,000 and a minimum value of 0 at consecutive increments of 1,000. Due to the potential for variability in the Underlying, the Exchange may modify <count> levels of contracts in response to suggestions by Members.

**Date:** <date> refers to a date specified by Kalshi. Kalshi may list "Will the summed consumption of Kanye West’s *Donda* album be above <count> Album Units?" contracts corresponding to different statistical periods of <date>, ranging from August 3, 2021 to January 1, 2023.



**Payout Criterion:** The Payout Criterion encompasses the Expiration Values that are strictly greater than zero. Note that if the Expiration Value is zero, then it is not encompassed in the Payout Criterion.

**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:** Unless otherwise noted by the Exchange and indicated on the Exchange website, the Last Trading Date for the Contract will be August 6, 2021, and the Last Trading Time for the Contract is 1:00pm ET on the Last Trading Date. No trading in the Contract shall occur after its Last Trading Date and Time.

**Settlement Date:** The Settlement Date of the Contract shall be the day after the Expiration Date unless the Market Outcome is under review pursuant to Rule 7.1.

**Expiration Date:** Unless otherwise noted by the Exchange and indicated on the Exchange website, the Expiration Date of the Contract shall be August 8, 2021.

**Expiration time:** The Expiration time of the Contract shall be 7:00pm ET.

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

**Expiration Value:** The Expiration Value is the total value of the Underlying (i.e. the sum of all the values for consumption) for each day within the statistical period from the date of Issuance to <date> as documented by the Source Agency on the Expiration Date at 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.