

9/26/2021

**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 SHUTDOWN 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 SHUTDOWN contract (Contract).

Along with this letter, Kalshi submitted 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  
New Contract Submission: SHUTDOWN  
Government Shutdown  
9/26/2021

**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 SHUTDOWN Contract is a contract relating to whether the government will shut down. If Congress fails to appropriate money for a given period, the federal government ceases non-essential government activity until such time as the money is appropriated. As of September 26, 2021, Congress has not appropriated money for FY 2022, which begins October 1, 2021. 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.

A government shutdown would affect hundreds of thousands of American workers both in the Federal government and outside of the Federal government, their families and the communities those employees help through their work. Even workers deemed essential may continue to work, but will work without pay. In the last government shutdown, for example, roughly 800,000 government employees either did not work or worked without pay<sup>1</sup>.

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.

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<sup>1</sup> <https://www.washingtonpost.com/graphics/2018/politics/shutdown-who-gets-sent-home/>

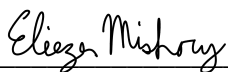
**General Contract Terms and Conditions:** The Contract operates similar to other binary contracts that the Exchange lists for trading. The minimum price fluctuation is \$0.01 (one cent). Price bands will apply so that Contracts may only be listed at values of at least \$0.01 and at most \$0.99. Further, 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," meaning that the government is at least partially shut down on <date>, 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](mailto:ProductFilings@kalshi.com).

  
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By: Eliezer Mishory  
Title: Chief Regulatory Officer  
Date: 9/26/2021

**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**

**Contract: SHUTDOWN**

## SHUTDOWN

**Scope:** These rules shall apply to the SHUTDOWN contract.

**Underlying:** The Underlying for this Contract is notices on the website of the U.S. Office of Personnel Management. Revisions to the Underlying made after Expiration will not be accounted for in determining the Expiration Value.

**Instructions:** The current operating status of the Federal government is available at: <https://www.opm.gov/policy-data-oversight/snow-dismissal-procedures/current-status/> . In the case of a shutdown, notices may also be available elsewhere on the site of the U.S. Office of Personnel Management (“OPM”). Information about the definition of a shutdown per the OPM is available at this link: <https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/#url=Shutdown-Furlough> . Further information is available here: <https://www.whitehouse.gov/omb/information-for-agencies/agency-contingency-plans/>. Specific information about the FY 2022 shutdown possibilities are available at the OPM at this link: <https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/special-instructions.pdf>. 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 Office of Personnel Management.

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

**Issuance:** The Issuance of the initial Contract will be on or after Tuesday, September 28, 2021. 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>, ranging from October 1, 2021 to January 1, 2024.

**Payout Criterion:** The Payout Criterion for the Contract encompasses the Expiration Values that include a notice that the U.S. federal government is at least partially shut down on <date> due to a lapse in appropriations. Notices of a lapse in appropriations resulting in emergency furloughs or impacted government operations are encompassed in the Payout Criterion. Notices of office closures due to holidays or inclement weather are not encompassed in the Payout Criterion.

An example from the 2018-2019 shutdown is included below<sup>2</sup>. Such a notice, should it be applicable for <date>, would be encompassed in the Payout Criterion.

## Operating Status

### CURRENT STATUS

**Washington, DC Area**  
Applies to: **All Federal Government, until further notice**

**STATUS: DUE TO A LAPSE IN APPROPRIATIONS, FEDERAL GOVERNMENT OPERATIONS VARY BY AGENCY.**

Employees should refer to their home agency for guidance on reporting for duty.



Should no data be available at the Source Agency on the Expiration Time at the Expiration Date, then the Contract would resolve to No.

**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 initial iteration of the Contract will be the same day as the Expiration Date. The Last Trading Time will be the same as the Expiration time.

**Settlement Date:** The Settlement Date of the initial iteration 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:** The Expiration Date of the Contract shall be <date>.

**Expiration time:** The Expiration time of the initial Contract iteration shall be 11:00 AM ET.

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<sup>2</sup><https://web.archive.org/web/20190104221746/https://www.opm.gov/policy-data-oversight/snow-dismissal-procedures/current-status/>



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

**Expiration Value:** The Expiration Value is the value of the Underlying for the statistical period between Issuance and Expiration (inclusive) 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.