10/5/2021

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 CARBONX 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 CARBONX 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: CARBONX
Carbon Tax
10/5/2021

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 CARBONX Contract is a contract relating to whether a carbon tax, price, or fee (all of which are referred to here as a "carbon tax" for brevity) will be adopted in the United States. 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 carbon tax would have dramatic economic implications for the United States. The US annually produces over 700 million tons of coal[1], 4 billion barrels of oil[2] and 33 trillion cubic feet of dry natural gas[3]. Overall, fossil fuels constitute 79% of total US energy consumption[4]. A tax that raised the cost of such fuels would thus have dramatic negative implications for billions of dollars of capital expenditures, jobs and energy costs for consumers and firms but could also have large positive impacts on pollution levels and zero-carbon energy investment.

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.

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1 https://www.eia.gov/coal/annual/
2 https://www.eia.gov/dnav/pet/pet_crd_crpdn_adc_mbbl_a.htm
3 https://www.eia.gov/energyexplained/natural-gas/where-our-natural-gas-comes-from.php#:~:text=U.S.%20dry%20natural%20gas%20production,second%20highest%20annual%20amount%20recorded.
4 https://www.eia.gov/energyexplained/us-energy-facts/

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," meaning that a bill creating a carbon tax, price or fee has been passed in the period after Issuance and before <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.

Eliezer Mishory

By: Eliezer Mishory
Title: Chief Regulatory Officer
Date: 10/5/2021

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: CARBONX

CARBONX

Scope: These rules shall apply to the CARBONX contract.

Underlying: The Underlying for this Contract is bills that have the status of “became law” from Congress.gov. Revisions to the Underlying made after Expiration will not be accounted for in determining the Expiration Value.

Instructions: Congress.gov’s legislation tracker is available at https://www.congress.gov/search?q=%7B%22source%22%3A%22legislation%22%7D. The bill’s status is available on the “Tracker,” which reports whether the bill has “Passed House,” “Passed Senate,” “Became Law,” and so on as well as the date of passage. The bill’s text is available by clicking on the link for a given bill and clicking on the Text tab (currently adjacent to the Summary Tab. The timing at the top of the page, generally following the words “Latest Action”. 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 Issuance of the initial Contract will be on or after October 7, 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 15, 2021 to December 31, 2024.

Payout Criterion: The Payout Criterion for the Contract encompasses the Expiration Values that contain a bill that became law after Issuance and before <date> imposing a carbon dioxide emissions tax, carbon dioxide emissions price, or carbon dioxide emissions fee (also frequently referred to as a carbon tax, carbon price or carbon fee).

Some clarifications:

- A border adjustment tax that applies levies on goods produced in countries with lower environmental standards or without a carbon tax is not encompassed in the Payout Criterion.

- A tax, price, or fee on greenhouse gas emissions is encompassed in the Payout Criterion, even if carbon dioxide is not explicitly mentioned, so long as carbon dioxide is not explicitly excluded or that a specific list of greenhouse gases that does not include carbon dioxide is enumerated (e.g. a tax on only sulfur dioxide emissions is not encompassed in the Payout Criterion).
- The tax, price, or fee need not take effect by Expiration to be encompassed in the Payout Criterion.
- A cap-and-trade system for carbon dioxide emissions is encompassed in the Payout Criterion. A carbon cap-and-trade system is defined as a law that grants permits as to the amount of carbon dioxide that a company can emit. Companies who pollute less than their allocation are allowed to sell their surplus permits to other companies who wish to pollute over their permitted amount.
- A new excise tax or fee imposed on the sale, production or delivery of specific fuels--so long as those fuels include all three of coal, natural gas and oil--is encompassed in the Payout Criterion.
- A tax, price, or fee on certain covered entities relating to the production of greenhouse gas emissions, so long as it encompasses producers of coal, natural gas and oil, is encompassed in the Payout Criterion. An example of such a bill is S. 658 (America's Clean Future Fund Act) from the 116th Congress[5]. The bill is excerpted below at length to illustrate an example of a bill that, should it become law after Issuance and before <date>, would be encompassed in the Payout Criterion. Similar language regarding "covered fuels" and "covered entities" is used in HR 763 (Energy Innovation and Carbon Dividend Act of 2019, also introduced in the 117th Congress as HR 2307 as the Energy Innovation and Carbon Dividend Act of 2021)[6].

"(b) Carbon Fee.—During any calendar year that begins after December 31, 2022, there is imposed a carbon fee on any covered entity's use, sale, or transfer of any covered fuel.

"(c) Amount Of The Carbon Fee.—The carbon fee imposed by this section is an amount equal to—

"(1) the greenhouse gas content of the covered fuel, multiplied by

"(2) the carbon fee rate, as determined under subsection (d).

[5] https://www.congress.gov/bill/117th-congress/senate-bill/685/text?q=%7B%22search%22%3A%5B%22America%27s+Clean+Future+Fund+Act%22%5D%7D&r=1&s=5

[6] https://www.congress.gov/bill/116th-congress/house-bill/763/text#toc-H26A85EF53D30400F8D9AC7A625996E13

"(4) COVERED ENTITY.—The term 'covered entity' means—

"(A) in the case of crude oil—

"(i) any operator of a United States refinery (as described in subsection (d)(1) of section 4611), and

"(ii) any person entering such product into the United States for consumption, use, or warehousing (as described in subsection (d)(2) of such section),

"(B) in the case of coal—

"(i) any producer subject to the tax under section 4121, and

"(ii) any importer of coal into the United States,

"(C) in the case of natural gas—

"(i) any entity which produces natural gas (as defined in section 613A(e)(2)) from a well located in the United States, and

"(ii) any importer of natural gas into the United States,

"(D) in the case of any noncovered fuel emissions, the entity which is the source of such emissions, provided that the total amount of carbon dioxide or methane emitted by such entity for the preceding year (as determined using the methodology required under section 4692(e)(4)) was not less than 25,000 metric tons, and

"(E) any entity or class of entities which, as determined by the Secretary, is transporting, selling, or otherwise using a covered fuel in a manner which emits a greenhouse gas into the atmosphere and which has not been covered by the carbon fee, the fee on noncovered fuel emissions, or the carbon border fee adjustment.

"(5) COVERED FUEL.—The term 'covered fuel' means crude oil, natural gas, coal, or any other product derived from crude oil, natural gas, or coal which shall be used so as to emit greenhouse gases to the atmosphere.

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 December 13, 2021.

Expiration time: The Expiration time of the initial Contract iteration 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 for the statistical period after Issuance and before <date> 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.