November 25, 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 NETNEU 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 NETNEU 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: Will net neutrality be reimposed?
Ticker: NETNEU
Kalshi Contract Category: Political Decision
Net Neutrality
November 25, 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 NETNEU Contract is a contract relating to whether the FCC will reimpose net neutrality. 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.

Net neutrality was created by the Obama-era FCC in order to ensure that Internet Service Providers provide equal access to all data users, regardless of the content. In other words, they could not charge more to Netflix for the same data use as for Google. The rule was removed in subsequent years and has yet to be reinstated.

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," meaning that the FCC has reinstated net neutrality between Listing and <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: November 25, 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

Official Product Name: Will net neutrality be reimposed?
Ticker and Rulebook: NETNEU

NETNEU

Scope: These rules shall apply to the NETNEU contract.

Underlying: The Underlying for this Contract is Congressional bills that have become law between Listing and <date> according to Congress.gov, and rules, rulings and orders from the Federal Communications Commission ("FCC") issued between Listing and <date> according to the Federal Register. 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%22congress%22%3A%5B%22117%22%5D%2C%22source%22%3A%22all%22%2C%22bill-status%22%3A%22law%22%7D .

FCC documents are available at the Federal Register at https://www.federalregister.gov/ .
For example, the original net neutrality ruling in 2015 is available at: https://www.federalregister.gov/documents/2015/04/13/2015-07841/protecting-and-promoting-the-open-internet. Please note that any link to a government website from the Federal Register in order to access the full ruling may be used as part of the Underlying. For example, at the prior link, the Federal Register routes the full text of the ruling to: https://apps.fcc.gov/edocs_public/attachmatch/FCC-15-24A1.docx. That latter link could thus be used. 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 and the Office of the Federal Register.

Type: The type of Contract is a Binary 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>.

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

Payout Criterion: The Payout Criterion for the Contract encompasses the Expiration Values that contains a Congressional bill that has become law, or FCC rule (or rules), ruling (or rulings) or order (or orders) that establishes “net neutrality” that is issued between Issuance and <date>.

A bill, rule, ruling or order establishes net neutrality if it meets the requirements under either Schedule A or Schedule B.

Schedule A:

A bill, rule, ruling or order establishes net neutrality if it reclassifies Broadband Internet access service (either fixed, mobile or both) as a common carrier, telecommunications service, or public utility under Title II of the Communications Act of 1934. Broadband Internet service is currently classified as “information services” under Title I of the Communications Act.

Schedule B:

A bill, rule (or rules), ruling (or rulings) or order (or orders) establishes net neutrality if it contains the following three characteristics :

1. A prohibition on broadband Internet service providers blocking access to lawful content or applications (a.k.a. “No blocking”), though exceptions are allowed such as for “reasonable network management” or compliance with publicly safety and emergency services. An example from the 2015 order is below:

A person engaged in the provision of broadband Internet access service, insofar as such person is so engaged, shall not block lawful content, applications, services, or non-harmful devices, subject to reasonable network management.

2. A prohibition on broadband Internet service providers from degrading or impairing lawful Internet traffic on the basis of Internet content or application. The rule may make exceptions such as for “reasonable network management” or compliance with public safety and emergency services (a.k.a. “No throttling”). An example from the 2015 order is below:

A person engaged in the provision of broadband Internet access service, insofar as such person is so engaged, shall not impair or degrade lawful Internet traffic on the basis of Internet content, application, or service, or use of a non-harmful device, subject to reasonable network management.

3. A prohibition on broadband Internet service providers from favoring some traffic over other traffic in exchange for some benefit (a.k.a. “No paid prioritization”). An example from the 2015 order is included below.

A person engaged in the provision of broadband Internet access service, insofar as such person is so engaged, shall not engage in paid prioritization.

"Paid prioritization" refers to the management of a broadband provider's network to directly or indirectly favor some traffic over other traffic, including through use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either (a) in exchange for consideration (monetary or otherwise) from a third party, or (b) to benefit an affiliated entity.[18]

A combination of rules and orders, issued between Listing and <date> (inclusive), that separately establish these prohibitions is encompassed in the Payout Criterion.

The full 2015 order is available here: https://docs.fcc.gov/public/attachments/FCC-15-24A1.pdf

An Expiration Value that meets one of these Schedules described above from either or both Underlyings is sufficient to satisfy the Payout Criterion.

Examples: The following examples are provided for convenience only and may be modified at any time.

H.R. 1644 (Save the Internet Act[1]) of the 116th Congress is an example of a bill that, should it become law between Listing and <date> (inclusive), would be encompassed in the Payout Criterion. It satisfies both Schedule A since it restores the 2015 FCC order that reclassifies broadband Internet provision as a telecommunications service under Title II of the Communications Act, and Schedule B since that same order contains three "bright-line" rules that meet the three conditions outlined in Schedule B. The relevant text is included below:

(b) RESTORATION OF REPEALED AND AMENDED RULES.—The following are restored as in effect on January 19, 2017:

(1) The Report and Order on Remand, Declaratory Ruling, and Order in the matter of protecting and promoting the open internet that was adopted by the Commission on February 26, 2015 (FCC 15–24).

H.R. 1096 (Promoting Internet Freedom and Innovation Act) of the 116th Congress is an example of a bill that, should it become law between Listing and <date> (inclusive), would be encompassed in the Payout Criterion. It does not satisfy Schedule A, but it does satisfy Schedule

[1] https://www.congress.gov/bill/116th-congress/house-bill/1644/text?q=%7B%22search%22%3A%5B%22hr+1644%22%2C%22hr%22%2C%221644%22%5D%7D&r=2&s=4

B. The relevant text is included below.

"(b) PROHIBITION ON BLOCKING, IMPAIRMENT AND DEGRADATION, AND PAID PRIORITIZATION.—A person engaged in the provision of broadband internet access service, insofar as the person is so engaged, may not—

"(1) block lawful content, applications, services, or nonharmful devices, subject to reasonable network management;

"(2) impair or degrade lawful internet traffic on the basis of internet content, application, or service, or use of a nonharmful device, subject to reasonable network management; or

"(3) engage in paid prioritization.

H.R. 1101 of the 116th Congress[2] is another example of a bill that, should it become law between Listing and <date> (inclusive), would be encompassed in the Payout Criterion. Like H.R. 1096, it satisfies all conditions of Schedule B. The relevant text is included below:

"SEC. 14. INTERNET OPENNESS.

"(a) OBLIGATIONS OF BROADBAND INTERNET ACCESS SERVICE PROVIDERS.—A person engaged in the provision of broadband internet access service, insofar as such person is so engaged—

"(1) may not block lawful content, applications, or services, subject to reasonable network management;

"(2) may not prohibit the use of non-harmful devices, subject to reasonable network management;

"(3) may not throttle lawful traffic by selectively slowing, speeding, degrading, or enhancing internet traffic based on source, destination, or content, subject to reasonable network management;

"(4) may not engage in paid prioritization; and

H.R. 1006 (Open Internet Act[3]) of the 116th Congress is an example of a bill that, even should it become law between Listing and <date> (inclusive), would **not** be encompassed in the Payout Criterion. It does not satisfy Schedule A (indeed, it explicitly prohibits classifying broadband Internet provision as a telecommunications service under Title II of the Communications Act). It also does not satisfy Schedule B, as it contains "non-blocking" and "non-throttling" conditions but no prohibition on paid prioritization. H.R. 2136 (Open Internet Preservation Act[4]) of the 116th Congress would fail on the same grounds.

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.

[2] https://www.congress.gov/bill/116th-congress/house-bill/1101/text?q=%7B%22search%22%3A%5B%22H.R.+1101%22%2C%22H.R.%22%2C%221101%22%5D%7D&r=30&s=2

[3] https://www.congress.gov/bill/116th-congress/house-bill/1006/text?q=%7B%22search%22%3A%5B%22hr+1006%22%2C%22hr%22%2C%221006%22%5D%7D&r=1&s=7

[4] https://www.congress.gov/bill/116th-congress/house-bill/2136/text?q=%7B%22search%22%3A%5B%22H.R.+2136%22%2C%22H.R.%22%2C%222136%22%5D%7D&r=1&s=4

Last Trading Date: The Last Trading Date of the initial iteration of the Contract will be <date>. The Last Trading Time will be 10:00 PM.

Settlement Date: The Settlement Date of the initial iteration 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 earlier of one day following the occurrence of the event as reported by the Source Agencies or <expo_date>.

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 Underlyings as documented by the Source Agencies 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.