

December 9, 2021

**SUBMITTED VIA CFTC PORTAL**

Secretary of the Commission  
Office of the Secretariat  
U.S. Commodity Futures Trading Commission  
Three Lafayette Center  
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 an Omicron vaccine be authorized?” 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 an Omicron vaccine be authorized?” contract (Contract). The Contract’s terms and conditions (Appendix A) includes the following strike conditions:

- **<date> (the target date)**
- **<expo\_date> (the latest possible Expiration Date)**

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

Official Product Name: Will an Omicron vaccine be authorized?

Ticker: OMIVAX

Kalshi Contract Category: Political Decision

Omicron Vaccine Approval

December 9, 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 “Will an Omicron vaccine be authorized” Contract is a contract relating to whether the FDA will approve a vaccine specifically to target the Omicron variant of COVID-19. 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 Omicron variant of COVID-19 was first reported in the United States on December 1, 2021.<sup>1</sup> It is an open question where the existing suite of vaccines will retain their high level of effectiveness against this newest threat.<sup>2</sup> However, existing markets suggest many believe that the variant will break through the vaccine and become a “variant of high consequence”.<sup>3</sup> Even if the variant never rises to such a level, slight changes in the spike protein structure of the variant could lower effectiveness rates, as happened with the Delta variant.<sup>4</sup> As the New York Times reports, “the mutations that Omicron carries suggest that the vaccines most likely will be less effective, to some unknown degree, than they were against any previous variant.”<sup>5</sup> As such, many companies such as Pfizer and Moderna are preparing an updated version of their vaccine to specifically target the new variant.<sup>6</sup> This contract provides market participants the ability to hedge against the

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<sup>1</sup> <https://www.nytimes.com/live/2021/12/01/world/omicron-variant-covid>

<sup>2</sup> <https://www.nytimes.com/2021/11/28/health/covid-omicron-vaccines-immunity.html>

<sup>3</sup> <https://kalshi.com/markets/VOHC-001>

<sup>4</sup> <https://www.nature.com/articles/d41586-021-02261-8>

<sup>5</sup> <https://www.nytimes.com/2021/11/28/health/covid-omicron-vaccines-immunity.html>

<sup>6</sup> <https://www.wsj.com/articles/omicron-variant-has-covid-19-vaccine-makers-preparing-for-worst-case-11638209132>

possibility that no Omicron-specific vaccine is approved, leaving people more vulnerable to the latest modification to the virus that has already taken the lives of more than 750,000 Americans.<sup>7</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.

**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

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<sup>7</sup> <https://www.nytimes.com/interactive/2021/us/covid-cases.html>

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 FDA has authorized a vaccine specifically to target the Omicron variant of COVID-19 by <date> (please see Appendix A for the complete definitions) , 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. The Exchange intends to list Contracts for between single month and three month durations to reflect ongoing risks associated with the ever-changing pandemic and public health decisions. For example, many market participants’ cash flow and assets depend on an Omicron vaccine being approved earlier rather than later (and for some, the reverse is true).

**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: December 9, 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 an Omicron vaccine be authorized?**

**Ticker and Rulebook: OMIVAX**

## OMIVAX

**Scope:** These rules shall apply to this contract.

**Underlying:** The Underlying for this Contract is press announcements issued by the U.S. Food and Drug Administration (FDA) between Issuance and <date>. Revisions to the Underlying made after Expiration will not be accounted for in determining the Expiration Value.

**Instructions:** FDA announcements can be accessed at <https://www.fda.gov/news-events/fda-newsroom/press-announcements>. For an example of a prior press announcement authorizing a COVID-19 vaccine, see: <https://www.fda.gov/news-events/press-announcements/fda-takes-key-action-fight-against-covid-19-issuing-emergency-use-authorization-first-covid-19>. 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 FDA.

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

**Issuance:** The initial contract will be issued for a period of two months. Subsequent contracts will be issued for a period of one to three months, depending on factors such as the severity of the variant 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>.

**Payout Criterion:** The Payout Criterion for the Contract encompasses the Expiration Values that include a press announcement authorizing a COVID-19 vaccine to be distributed in the U.S. specifically to target the Omicron variant. A press announcement authorizing a COVID-19 vaccine to be distributed to target a group of variants that includes the Omicron variant is still encompassed in the Payout Criterion, as would an approval of a change in the dosage amount specifically to target variants including the Omicron variant. The authorization can be restricted to a subset of individuals in the U.S. and still be encompassed in the Payout Criterion.

An authorization may take many possible forms, including a full authorization, an emergency use authorization or a modification of an existing authorization.



**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 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 one day following the occurrence of an event that is encompassed in the Payout Criterion, 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 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.