From: Andrew N.

Organization(s):
n/a
Comment No: 69702
Date: 9/16/2022
Comment Text:
Dear Commission:

I previously submitted a short comment in support of approval, and wanted to follow up with more specific answers to the CFTC's questions:

1. No. The statutes state the Commission may determine that the transactions are contrary to the public interest if they involve (i) an unlawful activity, (ii) terrorism, (iii) assassination, (iv) war, (v) gaming, or (vi) other similar activity. The Oxford Language definition of “gaming” is “the action or practice of playing gambling games,” and the definition of “gambling” is “play games of chance for money.” As demonstrated by numerous public comments, these markets are not contrary to the public interest, nor are they “games of chance” as you might find in a casino. They are information-based markets where participants hedge and predict future outcomes, just as you might hedge and predict future outcomes when you buy wheat futures. Please note that the Commodity Exchange Act statute in question appears to have changed to section 7a-2(c)(5)(C).

2. No. As demonstrated above, these contracts are not gaming, nor are they contrary to the public interest.

3. No.

4. No. As stated above, the CFTC should first consider whether the transactions in question are “contrary to the public interest." Approving these contracts is in the public’s interest. To the extent there are any old, individual state laws that disfavor "election betting," they were not created to cover contracts like the one in question, and are simply a cobblestone attempt to protect the public from fraud, similar to the anti-bucketeering state laws that prohibited wagering on commodity prices before the creation of the CFTC. By providing an overarching federal framework for permissible political contracts, and approving KalshiEx contracts in this case, the CFTC can protect the public and create a more transparent national framework for permissible

contracts, similar to its role in the commodities space.

5. Yes. First, as succinctly stated by Commissioner Pham's Dissenting Statement on August 26, "The Commission's 2012 order prohibiting North American Derivatives Exchange's (Nadex) political event contracts was specific to Nadex's contracts and did not create a broad limitation or rule of general applicability." Second, it is important to note that KalshiEx voluntarily submitted the contract in question for approval, and did not self-certify the contracts. This demonstrates KalshiEx's commitment to work within the CFTC's authority on this contract and future contracts. Third, ten years have passed since the 2012 Nadex order, and respectfully, the global economic environment has changed significantly, and requires the ability to price more complicated and nuanced outcomes. If the U.S. does not permit this type of contract, other countries will permit it and compete in a less predictable and regulated manner, which is not in the interest of the U.S. public or the global economy.

6. Yes. Numerous public comments demonstrate the hedging benefit of these contracts. Another example, among many: The U.S. real estate industry is heavily impacted by specific tax policy. Like-kind exchanges under 26 U.S.C. 1031, low-income housing tax credits, historic tax credits, and opportunity zones are examples of legislative tax incentives that have a huge impact on thousands of jobs in the U.S. Eliminating or changing those tax benefits has been discussed several times by congress in the last few years (see, for example, https://www.lee.senate.gov/2022/2/senator-lee-introduces-1031-exchange-improvement-act; https://www.forbes.com/sites/lynnmucenskikeck/2021/06/30/like-kind-exchanges-to-be-limited-under-bidens-tax-proposals/?sh=534a54ef229d). Hedging against legislative changes like these would be beneficial to individuals and companies in this industry. Secondly, even if an individual chooses not to personally hedge a particular outcome, the information provided by these markets will be incredibly beneficial to people who might use the future political climate as a basis to make career choices, decide whether to move and where to move, decide whether to buy a house or property, among dozens of other important life choices.

7. Yes. See above.

8. See above. The contract is valuable for hedging both from a theoretical and

practical perspective, and the information provided by the contract is invaluable to millions of Americans. This should be sufficient for approval.

9. As demonstrated above, position size does not eliminate hedging utility for most every-day Americans, and does not eliminate the informational hedging utility of these markets for all global companies and individuals.

10. Yes, as demonstrated above, binary contracts are useful for hedging and providing information on many nonbinary economic events. Just as is the case for many other contracts regulated by the CFTC (for example, commodity futures prices impact inflation, prices of market goods like bread and groceries, prices of construction, the future political climate, federal monetary policy, etc.).

11. Yes. See above.

12. No. See above.

13. It is very unlikely that trading these contracts will negatively affect the integrity of elections. In fact, it is likely to improve election integrity. People who participate in election-related contracts are generally well informed about elections and have the strongest interest in seeing free and fair results. If there ever were an attempt to alter the results of an election, the people with a financial interest in the outcome will generally be quick to identify the errors as it is in their interest to have predictable market outcomes. Approving these contracts will result in additional self-operative evidence of election integrity by incentivizing an independent, third-party and impartial check on election results.

15. It is possible that this could occur, just as insider trading is possible on every type of information-based market, including markets that CFTC already regulates. This behavior is likely already prohibited by existing laws, and should remain prohibited. The behavior itself does not reduce the hedging and informational value of these markets.

16. This is up to the CFTC, but it would likely be beneficial to prohibit these types of market participants. Regardless, the CFTC’s decision on this issue will not impact the hedging and informational value of these markets.

17. None. These questions have been very thorough.