

United States Senate

WASHINGTON, DC 20510

August 2, 2023

The Honorable Rostin Behnam
Commodity Futures Trading Commission
1155 21st St NW
Washington, DC 20581

Dear Chairman Rostin Behnam,

We are writing regarding the Commodity Futures Trading Commission's (CFTC) review of KalshiEX, LLC's (Kalshi) Congressional control event contract submitted to the CFTC on June 12, 2023.

The CFTC recently announced its review of contracts self-certified by KalshiEX, LLC (Kalshi) on which political party will be in control of each chamber of the U.S. Congress, under CFTC Regulation 40.11(c).¹ The CFTC has to make a determination with respect to the contracts, a decision which could effectively allow legal gambling on our elections. This is a clear threat to our democracy and elections. We urge the CFTC to reject Kalshi's Congressional Contracts on which political party will be in control of each chamber of the U.S. Congress.

CFTC regulations prohibit event contracts that "involve, relate to, or reference... gaming... an activity that is unlawful under any State or Federal law... or other similar activity determined by the Commission, by rule or regulation, to be contrary to the public interest."² Kalshi's proposal closely resembles gaming,³ placing a bet or wager on the outcome of an election is civilly or criminally unlawful in well over a dozen states nationwide,⁴ and establishing a large for-profit market on election outcomes is decidedly contrary to the public interest.

The CFTC has never allowed a for-profit venture to operate a political event contract, nor has the agency permitted any entity to operate a political event contract of such scale. Establishing a large scale, for-profit political event betting market in the United States by approving Kalshi's requested contracts, would profoundly undermine the sanctity and democratic value of elections. Introducing financial incentives into the elections process fundamentally changes the motivations behind each vote, potentially replacing political convictions with financial calculations.

For example, billionaires could expand their already outsized influence on politics by wagering extraordinary bets while simultaneously contributing to a specific candidate or party. There are strong ethics concerns as political insiders privy to non-public information could wield their inside information to profit at voters' expense. Lastly, these bets could sway the outcome of our elections, undermining the voices of voters. If citizens believe that the democratic process is being influenced by those with financial stakes, it may further exacerbate the disenfranchisement and distrust of voters already facing our nation.

¹ <https://www.cftc.gov/PressRoom/PressReleases/8728-23>

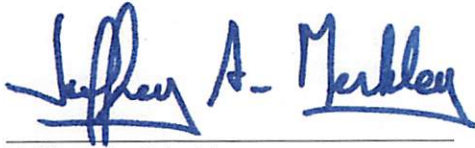
² 17 CFR § 40.11

³ The Unlawful Internet Gambling Enforcement Act defines the terms "bet or wager" as "the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game subject to chance, upon an agreement or understanding that the person or another person will receive something of value in the event of a certain outcome."

⁴ https://bettermarkets.org/wp-content/uploads/2022/09/Better_Markets_Comment_Letter_KalshiEX.pdf

There is no doubt that the mass commodification of our democratic process would raise widespread concerns about the integrity of our electoral process. Such an outcome is in clear conflict with the public interest and would undermine confidence in our political process -- we urge the CFTC to deny Kalshi's proposal.

Sincerely,



Jeffrey A. Merkley
United States Senator



Sheldon Whitehouse
United States Senator



Edward J. Markey
United States Senator



Elizabeth Warren
United States Senator



Chris Van Hollen
United States Senator



Dianne Feinstein
United States Senator