

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: Review of KalshiEx LLC's proposed Congressional Control Contracts pursuant to Commodity Futures Trading Commission Regulation 40.11(c).

Dear Chairman and Commissioners:

My name is Max Raskin and I am an adjunct professor of law at New York University and a fellow at the school's Institute of Judicial Administration. I also teach at the Stern School of Business. Two of my areas of legal research are financial law and cryptocurrency. I have written about prediction markets previously in the *Wall Street Journal*. Kalshi's proposed contracts are valuable hedging tool and would be a benefit to the American economy — they should be permitted to be listed for trading in the United States.

Political uncertainty is a fact of life that exposes millions of Americans to changing financial realities based on changing federal policy. Examples include energy firms that contend with changes in subsidies or construction firms that contend with changes in infrastructure spending.

The CFTC asks whether policy outcomes stemming from elections are sufficiently predictable to be used for hedging. The answer is yes, for three reasons. First congressional leaders make genuine attempts to enact the agendas they lobby for. In 2020, for instance, Democratic Senate leaders ran on \$2,000 stimulus checks and a large COVID-19 bailout for states. Soon after the Democrats gained a majority in the Senate, they passed a bill that granted the final \$1,400 to fulfill their promises and gave hundreds of billions of dollars to state governments. Second, people do not need absolute certainty to hedge. Consider

a bread company worried about an increase in the price of wheat. They also have issued a large quantity of bonds to finance the purchase of a new distribution plant. It is possible that a spike in the price of wheat—if it is exclusively caused by broad-based inflation—might not harm the company on net, because that will also decrease the real value of the bonds they have issued. There remains uncertainty. But insofar as an increase in the price of wheat increases the risk the company faces, it is totally normal and common to purchase a large number of financial instruments that hedge against that risk. Again, they purchase those instruments despite not having 100% certainty that the event, i.e., the increase in the price of wheat, will actually manifest in net harm for the company. An election is the same way. It is totally legitimate for a small business or family to purchase a hedge against an election outcome even though they do not have 100% certainty that the event (the election outcome) will actually manifest in net harm for them. But the increase in risk is sufficient.

Third, there are already more than two dozen comments in the CFTC portal from small businesses and individuals attesting to their desire to use the contract for hedging. In a free, liberal society, adults should be allowed to make these determinations for themselves.

The CFTC has an independent line of questioning regarding election integrity. As I wrote in a *Wall Street Journal* op-ed,

“As a historical and comparative matter, the U.S. allowed such markets for many years and the U.K. still does. No one questions the legitimacy of Margaret Thatcher or Tony Blair because people bet money on the outcome.”

The fact is that switching one’s vote does not make sense given the odds of being the deciding vote. Attempting to get enough others to switch their votes would be prohibitively expensive and campaigns already spend billions attempting to do so (with far larger incentives than \$25,000). Indeed, the 2020 cycle saw \$14.1 billion in total spending. It is implausible that anyone with a \$25,000 incentive could somehow then flip an election through concerted effort. After all, people already have vast financial stakes in election outcomes that are far greater than \$25,000 (sometimes by several orders of magnitude), and the combination of US norms, laws and enforcement regimes are more than sufficient to prevent these harms from coming to fruition.

I urge the Commission to approve Kalshi’s product. This is an exciting time for innovation in financial markets. New technology has made it possible for people to bring more certainty to an uncertain world. It

is my firm belief that in a free country, barring any extremely compelling reason, adults should be allowed to arrange their economic affairs as they see fit.