September 29, 2023

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 Emergency Rule Filing Regarding Contracts whose Source Agencies may be affected by a lapse in federal government appropriations

Dear Sir or Madam,

KalshiEX LLC (Kalshi) is adopting an emergency rule regarding contracts whose Source Agencies may be affected by a lapse in federal government appropriations. An extended period of government shutdown could delay release of major scheduled economic and other data by federal government agencies, such as the inflation rate as published by the Bureau of Labor Statistics. Kalshi offers event contracts on a number of these data releases (e.g. what the inflation rate will be in September 2023). These contracts cease trading prior to the expected release of the data, and provide a backstop of, at minimum, one week for issues that could delay the underlying data. Agencies have discussed the potential of a government shutdown and it has been reported in the major business press. Without a change, all contracts will settle to "No" if no data is released by the latest Expiration Date.

On September 25, 2023, Kalshi filed a 40.6(a) non-emergency rule amendment regarding the same issue, also invoking Rule 7.2 of its Rulebook, which permits Kalshi to modify Contract Source Agencies, as well as contract specifications, in response to an event affecting the reliability of a Source Agency. On September 26, 2023, Kalshi amended the copy of the filing that was posted to its website to note that members expressed opposition to the filing. On September 28th, 2023, Kalshi withdrew the filing because it stated that Kalshi's members had not expressed opposition. However, several of Kalshi's members had expressed opposition to Kalshi's proposal prior to filing. Accordingly, Kalshi withdrew that filing. Additionally, if Kalshi were to certify a 40.6(a) non-emergency rule amendment, a federal government shutdown due to a lapse in appropriations could result in a delay of implementation of that rule because of the impact a shutdown would have on the CFTC itself. Thus, Kalshi is adopting this rule as an emergency rule.

Emergency rule procedures are outlined in Rule 2.8 in Kalshi's Rulebook, including the reasons why Kalshi may file an emergency rule. Specifically, it notes:

> For the purposes of this Rule, an "emergency" is:
> (1) Any activity that manipulates or attempts to manipulate a Contract on the Platform;
> (2) Any circumstance that may materially affect the performance of the Contracts traded on Kalshi;
> (3) Any action taken by the United States, any foreign government, any state or local governmental body, any other contract market or board of trade, or any other exchange, market, facility, or trade association (foreign or domestic) that may have a direct impact on trading on Kalshi;
> (4) Any circumstances that may have a severe, adverse impact upon the physical functions of Kalshi including, for example, natural disasters such as fire or flood, terrorist acts such as bomb threats, 15 physical plant breakdowns such as plumbing, heating, or air conditioning problems, system breakdowns such as power, telephony, cable, trading systems, or computer systems failures or interruptions to communications, the network, or the Internet;
> (5) The imposition of any injunction or other restraint by any government agency, court, or arbitrator that may affect the ability of a Member to perform on Contracts;
> (6) Any circumstance in which it appears that a Kalshi Member or any other person is in such operational condition, or is conducting business in such a manner, that such person cannot be permitted to continue in business without jeopardizing the safety of Kalshi Members or Kalshi itself; and
> (7) Any other unusual, unforeseeable, and adverse circumstance which, in the opinion of the governing board, requires immediate action and threatens or may threaten such things as the fair and orderly trading in, or the liquidation of or delivery pursuant to Contracts traded on Kalshi.

After careful consideration, Kalshi has concluded that both the impact of a government shutdown on the CFTC, and the impact of a government shutdown on Contracts' Source Agencies, qualify as emergencies under the above criteria. To that end, Kalshi is permitted to modify Contracts' terms and conditions and/or specifications. Kalshi is adopting an emergency rule that provides for all contracts that: "In the case of a delay in data caused by a federal government shutdown impacting the reliability of the Source Agency, the market's latest Expiration Date will be extended to the sooner of the release of the Underlying or six months after the end of the government shutdown." The six months following the end of the shutdown which delayed data originally is to provide more than enough time for agencies to release data for the relevant period, and to ensure that the contract does not extend beyond a reasonable time. Notice of this change will be posted on the Kalshi website.

Compliance with Core Principles

This change complies with the Core Principles. The contingency will not increase the Contracts' susceptibility to manipulation, per Core Principle 3; if anything, this will reduce the Contracts' susceptibility to manipulation by reducing the ability of a separate action (a government shutdown) to affect the value of the Contracts. It also complies with Core Principle 4. This rule will reduce disruption by reducing uncertainty regarding Contract outcome due to an event unrelated to the core of the Underlying (e.g. the inflation rate).

The changes in this filing similarly comply with the remaining Core Principles, the Commodity Exchange Act and Regulations thereunder.

Kalshi has received objections from several Members about this rule. The objections are:
1. That terms and conditions for some of the Contracts involved (e.g. the "CPI" contract) explicitly note that if no data is available then the markets resolve to No.
2. In the past, Kalshi has not invoked Rule 7.2 when data is delayed.
3. That Rule 7.2 only covers changes in Source Agencies, not changes in Contract specifications.

After careful consideration, Kalshi concluded that the Rule amendment is the correct course of action to take. Kalshi markets do resolve to No if no data is available; however, Kalshi does have the ability from Rule 7.2 to adjust Source Agencies and contract specifications under specific circumstances. Moreover, not all delays are due to circumstances which cause the Source Agency to be unreliable or untransparent. For example, an awards show rescheduling their show for better ratings is not an example of an unreliable Source Agency – it is an intentional choice for better ratings. Thus, a Contract on an awards show outcome would likely resolve to "No" in that case, and 7.2 would not be appropriately invoked. Finally, the language in Rule 7.2 notes that contract specifications are included in the scope of the Rule.

Accordingly, Kalshi certifies that this rule complies with the Commodity Exchange Act and Regulations thereunder. A copy of the submission, concurrent with the filing of a submission with the Commission, was posted on the Kalshi's website. Kalshi also received the pre-requisite approvals required of an emergency rule filing, including approval by the CEO and its independent Board members.

Kalshi intends to implement the changes described in this filing beginning September 30, 2023.

If you have any questions or comments or require further information, please do not hesitate to contact me.

Sincerely,
Xavier Sottile
Head of Markets
KalshiEX LLC
xsottile@kalshi.com

Enclosures:
Appendix A - Contracts that may be affected by a lapse in federal government appropriations

APPENDIX A
Contracts that may be affected by a lapse in federal government appropriations

The following Contracts use the Bureau of Labor Statistics, Bureau of Economic Analysis, or U.S. Census Bureau as Source Agencies, and thus their data releases may be affected by an extended lapse in federal government appropriations:

- Will the Consumer Price Index (CPI) increase more than <percent>? ("CPI")
- Will real GDP <increase/decrease> by more than <percent>? ("GDP")
- Will the price of apparel change by <above/below/between> <percent> in
- <period>? ("CPIAPPAREL")
- Will the price of used cars and trucks change by <above/below/between>
- <percent> in <period>? ("USEDCAR")
- Will the price of food change by <above/below/between> <percent> in
- <period>? ("CPIFOOD")
- Will core CPI growth be <above/below/between> <percent> in <month>? ("CORECPI")
- Will core inflation be <above/below/between> <percent> for the 12 months
- ending <month>? ("YOYCPICORE")
- Will year-over-year inflation for the year ending <month> be
- <above/below/between> <percent>? ("YOYCPI")
- Will PPI growth be <above/below/between> <percent> in <period>? ("PPI")
- Will core Personal Consumption Expenditures price index inflation be <above/below/between> <percent> in <month>? ("COREPCE")
- Will nonfarm payroll change be <above/below/between> <count>? ("PAYROLLS")
- Will the unemployment rate (U-3) be above <percent>? ("U3")
    - Will retail sales be <above/below/between> <percent> in <month>? ("RETAIL")
- Will any quarterly U.S. GDP growth be <above/below> <percent> this year? ("LGDP")
- Will any monthly U.S. unemployment rate be <above/below> <percent> this year? ("LU3")
- Will any monthly U.S. inflation be <above/below> <percent> this year? ("LCPI")
- Will there be an official recession in <period>? ("NBERRECSS")
- Will the PPI value for semiconductors be <above/below> <value> in <month>? ("SEMIPPI")