

August 15, 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 Regulation 40.2(a) Notification Regarding the Initial Listing of the “Will the Supreme Court rule in favor of the petitioners in *Loper Bright Enterprises v. Raimondo*?” 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 the Supreme Court rule in favor of the petitioners in *Loper Bright Enterprises v. Raimondo*?” contract (Contract). The Exchange intends to list the contract once. The Contract’s terms and conditions (Appendix A) includes the following strike conditions:

- **<date> (the target date)**

Along with this letter, Kalshi submits 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,

Xavier Sottile  
Head of Markets  
KalshiEX LLC  
emishory@kalshi.com

KalshiEX LLC

Official Product Name: Will the Supreme Court rule in favor of the petitioners in *Loper Bright Enterprises v. Raimondo*?

Rulebook: LOPER

Kalshi Contract Category: Political Decision

Loper Bright v. Raimondo

August 15, 2023

## 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 the Supreme Court rule in favor of the petitioners in *Loper Bright Enterprises v. Raimondo*?” Contract is a contract relating to an upcoming Supreme Court decision regarding the level of deference courts show bureaucratic agencies. After careful analysis, Kalshi (hereafter referred to as “Exchange”) has determined that the Contract complies with its vetting framework.

In the 1980s, the Supreme Court ruled that, in cases where the legislature is ambiguous about the law, courts should defer to interpretations made by bureaucratic agencies as long as those interpretations are reasonable. This standard is known as *Chevron* deference. In early May, the Supreme Court accepted *Loper Bright Enterprises v. Raimondo*, a case challenging *Chevron* deference. Other cases may also challenge *Chevron* deference.

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 event 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 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 Supreme Court rules in favor of the petitioners in *Loper Bright Enterprises v. Raimondo*, 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.

**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: Xavier Sottile  
Title: Head of Markets  
Date: August 15, 2023

**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**

**Official Product Name: Will the Supreme Court rule in favor of the petitioners in *Loper Bright Enterprises v. Raimondo*?**

**Rulebook: LOPER**

## LOPER

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

**Underlying:** The Underlying for this Contract is Judgments of the Court and Opinions of the Court from the Supreme Court of the United States (collectively called “rulings”) in the case of *Loper Bright Enterprises v. Raimondo* (Docket No. 22-451). Revisions to the Underlying made after Expiration will not be accounted for in determining the Expiration Value.

**Instructions:** Slip opinions can be found [here](#).<sup>1</sup> Click on Loper Bright Enterprises v. Raimondo. 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 Supreme Court of the United States.

**Type:** The type of Contract is an Event Contract.

**Issuance:** The contract will be listed once.

**<date>:** <date> refers to a calendar date specified by Kalshi. Kalshi may list iterations of the Contract corresponding to different statistical periods of <date>.

**Payout Criterion:** The Payout Criterion for the Contract encompasses the Expiration Values that indicate the Supreme Court has ruled in favor of the petitioners. Please note that if the Supreme Court remands the case to lower courts without making any other determination and then re-hears the case, that subsequent ruling is outside of the scope of this contract. Only the initial ruling is considered in the scope of this contract. Even if the decision does not weaken or remove *Chevron* deference, the market resolves to Yes as long as the petitioners are ruled in favor of.

**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 Contract will be the sooner of the first 10:00 AM ET following the release of the Supreme Court’s decision in *Loper Bright* (whereupon the Last Trading Time will be 10:00 AM ET) or <date> (whereupon the Last Trading Time will be 11:59 PM ET).

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<sup>1</sup> <https://www.supremecourt.gov/opinions/slipopinion/22>

**Settlement Date:** The Settlement Date 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 the date of the first 10:00 AM ET following the release of the Supreme Court's decision in *Loper Bright* or one week after <date>.

**Expiration time:** The Expiration time of the Contract 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.