

12/11/2021

**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 40.6(a) Notification Regarding the Amendment of the CAPGAIN Contract

Dear Sir or Madam,

Pursuant to Section 5c(c) of the Commodity Exchange Act and Section 40.6(a) of the regulations of the Commodity Futures Trading Commission, KalshiEX LLC (Kalshi) hereby notifies the Commission that it is amending the CAPGAIN contract (Contract). Contract is intended to be listed for an annual basis. The Contract's terms and conditions (Appendix A) includes the following strike conditions:

- **<date> (the target date)**
- **<percent> (the target capital gains tax rate)**

The changes are as follows:

1. The Expiration Date is moved from a fixed date to the sooner of the nearest 10:00 AM following the occurrence of an event that is encompassed in the Payout Criterion, the first 10:00 AM following the release of the data for all days in the statistical period or one week after <date>. This change benefits members by all but eliminating the risk of an expiration occurring with missing data while minimizing the time lag between the occurrence of the event and people receiving the money.
2. The settlement time has been shortened from one day after Expiration to no later than one day after Expiration, in order to further accelerate members receiving their money.
3. The last trading time has been changed from 10:00 PM to 11:59 PM in response to changing hours on the platform.
4. Additional form language has been added to the Contingency section in order to be consistent with other contracts.

Along with this letter, Kalshi submitted the following documents:

- A clean copy of the amended parts of the originally filed Contract (Introduction and Contract Terms and Conditions, as well as Appendix A); and
- A redline showing the amendments.

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>.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Elie Mishory  
Chief Regulatory Officer  
KalshiEX LLC  
emishory@kalshi.com

KalshiEX LLC

Official Product Name: Will capital gains taxes rise?

Ticker: CAPGAIN

Kalshi Contract Category: Political Decision

12/11/2021

## **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 capital gains taxes rise?” Contract is a contract relating to the rate of capital gains taxes imposed by the United States. After careful analysis, Kalshi (hereafter referred to as “Exchange”) has determined that the Contract complies with its vetting framework, which has been reviewed by the CFTC and formed part of the Exchange’s application for designation as a Contract Market (“DCM”) that was approved by the Commission.

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, including regulations under the Act.

**General Contract Terms and Conditions:** The Contract operates similar to other binary 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 a bill raising the long-term capital gains tax above <percent> has become law between Issuance and <date>, 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.

**APPENDIX A – CONTRACT TERMS AND CONDITIONS**

**TERMS OF CONTRACTS TRADED ON KALSHI**

**Official Product Title: Will capital gains taxes rise?**

**Contract: CAPGAIN**

## CAPGAIN

**Scope:** These rules shall apply to the **CAPGAIN** contract.

**Underlying:** The Underlying for this Contract is all bills that became law between Issuance and <date> according to Congress.gov. Revisions after the Expiration time on the Expiration Date will not be accounted for in determining the Expiration Value.

**Instructions:** The site contains both the direct text of the law and the status of the law. The list of bills that have become law is available here:  
<https://www.congress.gov/search?q=%7B%22congress%22%3A%5B%22117%22%5D%2C%22source%22%3A%22all%22%2C%22bill-status%22%3A%22law%22%7D>. These instructions are non-binding and are provided for convenience only. They may be clarified at any time.

**Source Agency:** The Source Agency is the Library of Congress.

**Type:** The type of Contract is a Binary Contract.

**Issuance:** After the initial Contract, Contract iterations will be listed on an as-needed basis at the discretion of the Exchange and corresponding to the risk management needs of Members.

**Percent:** Kalshi may list iterations of the contract with <percent> levels that fall within an inclusive range between a maximum value of 100% and a minimum value of 0% at consecutive increments of .01%. Due to the potential for variability in the Underlying, the Exchange may modify <percent> levels in response to suggestions by Members.

<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 contain documentation of a bill that has the effect of raising the top federal capital gains tax rate on net long-term capital gains to be strictly greater than <percent>. Subsequent legislation which has the effect of lowering the top capital gains tax rate on net long-term capital gains below <percent> does not affect the Payout Criterion. Documentation of a bill which would treat net long-term capital gains as ordinary income for the purpose of taxation is encompassed in the Payout Criterion if the top tax rate on such income is above <percent>. Bills which change the income which is taxable by the long-term capital gains tax or which is a surtax on the same taxable income are not encompassed in the Payout Criterion, if unaccompanied by an increase in the top federal capital gains tax rate on net long-term capital gains.

For the purposes of this contract, net long-term capital gains is defined to have the same meaning as it does in Internal Revenue Code Title 26 Subtitle A, Chapter 1, Subchapter P, Part III.

**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 and Time will be the sooner of the first 10:00 AM following the occurrence of an event which is encompassed in the Payout Criterion, or 11:59 PM on <date>.

**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 initial Contract shall be the earlier of the first 10:00 AM ET following the occurrence of an event that is encompassed in the Payout Criterion, the first 10:00 AM ET following the release of the data for <date>, 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 time on the Expiration Date.

**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.