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July 24, 2023

The Honorable Rostin Behnam
Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

Re: Comment on KalshiEX, LLC's Congressional Control Contracts

Dear Chairman Behnam,

On behalf of Common Cause's 1.5 million members and supporters working for open, honest, and accountable government, we write in response to the Commodity Futures Trading Commission (CFTC)'s request for public comment on KalshiEX, LLC ("Kalshi")'s Congressional control event contract. Attached to this comment is an appendix of Common Cause members and supporters who have co-signed this submission.

Put simply: we oppose efforts to authorize gambling on the outcome of United States elections. Such a scheme will create new and profound threats to the integrity of our democracy and our elections, including dangerous incentives for disinformation and election interference, growing the undue influence of money in politics, and supercharging the risk of corruption and the appearance of corruption.

The CFTC should reject Kalshi's proposal pursuant to 17 C.F.R. § 40.11 as contrary to the public interest.

Expanding and delivering on the promise of democracy is an urgent matter. The key pillars we need to strengthen are participation, accountability, and trust that the will of the people always prevails in our elections. Allowing major financial interests to gamble on electoral outcomes—including when those same interests can use their wealth to tilt electoral outcomes in their favor—undermines basic principles of fairness upon which our democracy depends and introduces new factors that undermine trust and confidence in representative government.

Public confidence in American democracy is eroding, and allowing gambling on political outcomes will make matters worse.¹ Wealthy gamblers, institutional or otherwise, would stand to make significant sums of money by exploiting vectors of disinformation, misinformation, and malinformation to suppress

¹ Gabriel R. Sanchez and Keesha Middlemass, "Misinformation is eroding the public's confidence in democracy," Brookings, July 26, 2022, <https://www.brookings.edu/articles/misinformation-is-eroding-the-publics-confidence-in-democracy/> (citing recent public opinion research).

the vote and influence electoral outcomes to protect gamblers' bottom line.² This in turn opens up a significant risk to the perception that the winners and losers of an election are not determined by voters but by those who stand to gain financially by betting on—and shaping—the outcome of an election. This will lead to a decline in voter confidence that elections are decided by the people. It is deeply damaging to election integrity.

For example, empowered by *Citizens United*, wealthy special interests, including corporations and secret money front groups, could secure an enormous return on their bet by injecting money into specific electoral races via independent expenditures that drown out the voices of constituents. They could back certain candidates who themselves could cut a deal to run their election in a way that would incentivize them to take a cut of the winnings. Because laws mandating disclosure and transparency in campaign spending have not kept pace with how campaigns are run today, much of this money could be undisclosed, making it harder for the American people to follow-the-money behind who is influencing a political campaign and what they will get in return.

The proposal before the CFTC poses significant risks of bribery and election manipulation that is intolerable and against the public interest. Winning an election is often a game of inches. Information is power—and in a political campaign, nonpublic information can be the most valuable information of all. It is not hard to imagine how the strategic use of a campaign's nonpublic information could be shared to gain an unfair advantage in a bet.

Ultimately, our concern with Kalshi's proposal is how it would dangerously distort our elections and encourage wealthy gamblers to gerrymander the political marketplace to maximize their winnings. It is a direct threat to the principle of one person, one vote. The proposal before the CFTC puts a gambler's financial interest ahead of the public interest. This is fundamentally corrupting and undermines the integrity of our elections.

Elections are supposed to be a competition of ideas and visions for the country's future. Democracy is how we peacefully choose our leaders who represent the will of the people. Elections have a real and meaningful impact on people's lives and should not be commodified. Kalshi's proposal before the CFTC is incompatible with these basic principles and ought to be rejected.

In Las Vegas, it is generally understood that when visitors go to a casino, "the house always wins." In this instance the house is democracy, and it loses under this scheme.

Sincerely,

Marilyn Carpinteyro
Interim Co-President
Common Cause

² See generally *A Growing Threat: How Disinformation Damages American Democracy*, Hearing before the United States House of Representatives' Committee on House Administration, June 22, 2022, <https://www.youtube.com/watch?v=5dnru3z7ucY>.