

My name is Seth Weinstein. I am a private angel investor in more than 25 seed-stage startups. One of those investments includes Kalshi. I formerly worked as a managing director and CEO of Morgan Stanley Fund Services. Kalshi's Congressional control event contract promotes the public interest and should be accepted. I shall address several questions that the CFTC has put forward.

Question 6: Do the contracts serve a hedging function? Are the economic consequences of congressional control predictable enough for a contract based on that control to serve a hedging function? Please provide tangible examples of commercial activity that can be hedged directly by the contracts or economic analysis that demonstrates the hedging utility of the contracts.

These contracts indisputably serve a hedging function. As an investor, I have heard countless pitches from would-be businesses that face risks from changes in federal policy. Some of these companies are financial firms, whose entire business model could be undone by a change in financial regulation. Others are more capital-intensive industries whose efforts might be set back years by changes in the tax code or other policy. The policy risks that these companies face are no different from a business standpoint than physical risks like natural disasters—both require proper hedging.

The economic consequences of Congressional control are sufficiently predictable such that the contract can be used for hedging purposes. It is somewhat surprising to hear the CFTC, an arm of the federal government, query whether the government matters enough that people might be affected by it. If the consequences of Congressional control were so unpredictable, why would people vote? The fact is that Congressional parties put out mountains of white papers, speeches, policy documents and proposals that make it clear what their priorities are.

Moreover, this question misunderstands how Congress impacts many businesses. Suppose a finance-critical Congress came into power. One may argue that one does not know for certain that this Congress will pass a bill that tightens regulations, and this is true. But it does not follow from that statement that the firm need not hedge. Any competent bank, venture capital firm, or investor thinking about investing in a finance firm will be worried that the Congress might pass such a bill, and think twice before lending money or investing in the company. They might charge a higher interest rate, or demand more equity in exchange for taking on the greater risk. Since financial markets are forward-looking, the impacts of Congressional control manifest far before the bill actually becomes law, and indeed even prior to the new Congress being sworn in. As a result, even though it is true that Congressional policy outcomes *are* sufficiently predictable that the contract can be used for hedging, that argument is not even necessary: the directional economic impact for specific firms can be known even without knowing the policy outcomes.

Question 7: Are there unique economic risks tied to the outcome of congressional control that cannot be hedged via derivative products on equities, debt, interest rates, tax rates, asset values, and other commodity prices?

Existing derivative products are useful, but they cannot fully hedge this risk. For example, in the above example about an early-stage financial firm, the concern is that their loan payments might rise due to expectations of greater policy risk (or the terms they are offered on their term sheet might get worse). One may wonder why they could not buy a derivative product that pays out if interest rate rises. But the issue is that in this example, the economy-wide interest rate is not rising—it's just rising for specific firms who face elevated risks. A product based on benchmark interest rates simply does not cover increases in risk premia, just increases in the risk-free interest rate.

But the most substantial issue is: why does it matter if the economic risk is unique? There is nothing in the regulations nor in the Commodity Exchange Act that authorizes the CFTC to perform a uniqueness test. If anything, a uniqueness test would be highly anticompetitive, as it would prohibit any challenger from offering a product that is already being offered by an incumbent firm. It also would stifle innovation, since it would prohibit a challenger from offering a product that improves upon any existing product, because it would be duplicating the economic risk of the incumbent.

In short, not only are these risks unique, but the requirement to prove uniqueness has no legal basis and, if implemented, would compromise the public interest.

10. Should the Commission consider the contract design and payout when trying to assess the economic utility of the contract? For example, are binary contracts useful for hedging nonbinary economic events?

The Commission should not consider design and payout, the market should. There is no basis in the regulations or the CEA for such an analysis. If a contract's design is a poor fit for hedging, then the contract will get less volume and the exchange will suffer financially. They will then iterate and improve upon the contract until it's a better fit. This is how a market should function. Moreover, the Commission—who does not speak to potential customers daily like an exchange does—is not in an epistemically strong position to evaluate a contract's design and payout. They should not replace the market's judgment with their own.

Nevertheless, binary contracts are useful for hedging nonbinary economic events. All economic events have a range of outcomes for any individual hedging party, and yet the CFTC has allowed several exchanges, including Kalshi, Nadex and the Chicago Mercantile Exchange to list binary contracts. Any scalar risk can be decomposed into a series of binary risks.

This question fits into a broader theme with many of the CFTC's questions: it supposes the existence of some form of test that the regulations and CEA do not allow and even though Kalshi's contract consistently passes these tests, even the consideration of these factors should be a cause for concern about the Commission's level of arbitrariness and caprice.

11. Do the contracts serve a price-basing function? For example, could they form the basis of pricing a commercial transaction in a physical commodity, financial asset, or service?

Yes. Indeed, as someone who has spent my career on Wall Street, I can say with confidence that political control matters for accurately pricing commodities and other financial assets. As mentioned previously, financial markets (especially futures markets and equity markets) are forward-looking. Futures markets, for instance, consider the expectation of the future spot price when determining the price to pay for the future today. If a new Congress comes into power, that changes future expectations of supply and demand (affecting the expectation of the future price), so it will be capitalized into today's prices. For instance, this paper using data from Jim Jeffords's unexpected party switch found effects of changes in Congressional control on the stock price of many firms.¹ So not only *could* estimates of the probability of a given party winning serve a price-basing function, they *already are*. These contracts would merely improve that price discovery by providing a more accurate, market-driven datapoint.

¹ <https://www.journals.uchicago.edu/doi/abs/10.1086/501091>