

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81771; File No. TP 17-11)

September 29, 2017

Order Granting Limited Exemptions from Exchange Act Rule 10b-17 and Rules 101 and 102 of Regulation M to VanEck Vectors NDR CMG Long/Flat Allocation ETF Pursuant to Exchange Act Rule 10b-17(b)(2) and Rules 101(d) and 102(e) of Regulation M

By letter dated September 29, 2017 (the “Letter”), counsel for VanEck Vectors ETF Trust (the “Trust”), on behalf of the Trust, VanEck Vectors NDR CMG Long/Flat Allocation ETF (the “Fund”), any national securities exchange on or through which shares issued by the Fund (“Shares”) may subsequently trade, Van Eck Securities Corporation (the “Distributor”), and persons or entities engaging in transactions in Shares (collectively, the “Applicants”), requested exemptions, or interpretive or no-action relief, from Rule 10b-17 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and Rules 101 and 102 of Regulation M, in connection with secondary market transactions in Shares and the creation or redemption of aggregations of Shares of at least 50,000 shares (“Creation Units”).

The Trust is registered with the Securities and Exchange Commission (“Commission”) under the Investment Company Act of 1940, as amended (“1940 Act”), as an open-end management investment company. The Fund is an exchange-traded fund (“ETF”) organized as a series of the Trust. The Fund will seek to provide investment results that closely correspond, before fees and expenses, to the performance of the Ned Davis Research CMG US Large Cap Long/Flat Index (the “Index”).¹ The Fund intends, at least initially, to operate as an “ETF of

¹ The Index is a rules-based index that follows a proprietary model developed by Ned Davis Research, Inc. in conjunction with Capital Management Group, Inc. To help limit loss associated with adverse market conditions, the model produces trade signals that dictate the Index’s equity allocation ranging from 100% fully invested (*i.e.*, “long”) to 100% in cash (*i.e.*, “flat”). The Index 100% replicates the S&P 500 Index (the “S&P 500”) when the Index is long and holds U.S. Treasury Bills when the Index is flat (*i.e.*, it will be allocated to the Solactive 13-week U.S. T-bill Index). When the Index is not completely long or flat, either 80% or 40% of it will be allocated to the S&P 500, with the remaining portion (20% or 60% respectively) allocated to U.S. Treasury Bills.

ETFs” by seeking to track the performance of its underlying Index by holding shares of one or more ETFs (each, an “Underlying ETF”) whose investment objective is to track the performance of the S&P 500.²

In order to track the Index, the Fund will invest at least 80% of its total assets (but typically far more) in component securities of the Index (directly or by indirect investments through one or more Underlying ETFs). The Fund may invest the remaining 20% of its total assets in securities not included in the Index, money market instruments, including repurchase agreements or other funds which invest exclusively in money market instruments, convertible securities, structured notes, and certain derivatives, which the Investment Advisor believes will help the Fund track the Index. Depositary receipts not included in the Index may also be used by the Fund in seeking performance that corresponds to the Index.³ Except for the fact that the Fund will operate as an ETF of ETFs, the Fund will operate in a manner similar to the Underlying ETFs.

The Applicants represent, among other things, the following:

- Shares of the Fund will be issued by the Trust, an open-end management investment company that is registered with the Commission;

² The Fund will operate as an ETF of ETFs until the Fund reaches, in the opinion of the Investment Adviser, an adequate asset size. When the Fund reaches an adequate size and the Index has an equity allocation, the Fund will then seek to track the Index by investing directly in the shares of the 500 companies comprising the S&P 500. In the rare event the Fund does not operate as an ETF of ETFs for that day, the Fund will operate to meet the conditions of the ETF Class Relief, including the Equity ETF Class Letter. Applicants do not believe that either option will have an effect on the efficacy of the arbitrage process for the Fund.

³ American depositary receipts not included in the Index may be used by the Fund in seeking performance that corresponds to the Index, and in managing cash flows, and may count towards compliance with the Fund’s 80% policy.

- Creation Units will be continuously redeemable at the net asset value (the “NAV”) next determined after receipt of a request for redemption by the Fund,⁴ and the secondary market price of the Shares should not vary substantially from the NAV of such Shares;
- Shares of the Fund will be listed and traded on NYSE Arca, Inc. or another exchange in accordance with exchange listing standards that are, or will become, effective pursuant to Section 19(b) of the Exchange Act (the “Listing Exchange”);
- All Underlying ETFs in which the Fund invests will either meet all conditions set forth in relevant class relief, will have received individual relief from the Commission, or will be able to rely upon individual relief even though they are not named parties;
- All of the components of the Index will have publicly available last sale trade information;
- The intra-day indicative value of the Fund per share and the intra-day value of the Index will be publicly disseminated every 15 seconds throughout the trading day through the facilities of the Consolidated Tape Association;
- On each business day before the opening of business on the Listing Exchange, the Fund’s custodian, through the National Securities Clearing Corporation, will make publicly available the list of the names and the numbers of securities of the Fund’s portfolio that will be applicable that day to creation and redemption requests;
- The Listing Exchange will disseminate continuously every 15 seconds throughout the trading day, through the facilities of the Consolidated Tape Association, the market value of a Share, and the Listing Exchange, market data vendors, or other information providers

⁴ The NAV of the Fund generally is determined each business day as of the close of trading (ordinarily 4:00 p.m., Eastern Time) on the New York Stock Exchange.

will disseminate, every 15 seconds throughout the trading day, a calculation of the intra-day indicative value of a Share;

- The arbitrage mechanism will be facilitated by the transparency of the Fund’s portfolio and the availability of the intra-day indicative value, the liquidity of securities and other assets held by the Fund, the ability to acquire such securities, as well as the arbitrageurs’ ability to create workable hedges;
- The Fund will invest solely in liquid securities and financial instruments;
- The Fund will invest in securities that will facilitate an effective and efficient arbitrage mechanism and the ability to create workable hedges;
- The Applicants believe that arbitrageurs are expected to take advantage of price variations between the Fund’s market price and its NAV; and
- A close alignment between the market price of Shares and the Fund’s NAV is expected.

Regulation M

While redeemable securities issued by an open-end management investment company are excepted from the provisions of Rule 101 and 102 of Regulation M, the Applicants may not rely upon that exception for the Shares.⁵ However, we find that it is appropriate in the public interest and is consistent with the protection of investors to grant a conditional exemption from Rules 101 and 102 to persons who may be deemed to be participating in a distribution of Shares of the Fund as described in more detail below.

Rule 101 of Regulation M

Generally, Rule 101 of Regulation M is an anti-manipulation rule that, subject to certain

⁵ While ETFs operate under exemptions from the definitions of “open-end company” under Section 5(a)(1) of the 1940 Act and “redeemable security” under Section 2(a)(32) of the 1940 Act, the Fund and its securities do not meet those definitions.

exceptions, prohibits any “distribution participant” and its “affiliated purchasers” from bidding for, purchasing, or attempting to induce any person to bid for or purchase any security which is the subject of a distribution until after the applicable restricted period, except as specifically permitted in the rule. Rule 100 of Regulation M defines “distribution” to mean any offering of securities that is distinguished from ordinary trading transactions by the magnitude of the offering and the presence of special selling efforts and selling methods. The provisions of Rule 101 of Regulation M apply to underwriters, prospective underwriters, brokers, dealers, or other persons who have agreed to participate or are participating in a distribution of securities. The Shares are in a continuous distribution and, as such, the restricted period in which distribution participants and their affiliated purchasers are prohibited from bidding for, purchasing, or attempting to induce others to bid for or purchase extends indefinitely.

Based on the representations and facts presented in the Letter, particularly that the Trust is a registered open-end management investment company, that Creation Unit size aggregations of the Shares of the Fund will be continuously redeemable at the NAV next determined after receipt of a request for redemption by the Fund, and that a close alignment between the market price of Shares and the Fund’s NAV is expected, the Commission finds that it is appropriate in the public interest and consistent with the protection of investors to grant the Trust an exemption under paragraph (d) of Rule 101 of Regulation M with respect to the Fund, thus permitting persons participating in a distribution of Shares of the Fund to bid for or purchase such Shares during their participation in such distribution.⁶

⁶ Additionally, we confirm the interpretation that a redemption of Creation Unit size aggregations of Shares of the Fund and the receipt of securities in exchange by a participant in a distribution of Shares of the Fund would not constitute an “attempt to induce any person to bid for or purchase, a covered security during the applicable restricted period” within the meaning of Rule 101 of Regulation M and, therefore, would not violate that rule.

Rule 102 of Regulation M

Rule 102 of Regulation M prohibits issuers, selling security holders, and any affiliated purchaser of such person from bidding for, purchasing, or attempting to induce any person to bid for or purchase a covered security during the applicable restricted period in connection with a distribution of securities effected by or on behalf of an issuer or selling security holder.

Based on the representations and facts presented in the Letter, particularly that the Trust is a registered open-end management investment company, that Creation Unit size aggregations of the Shares of the Fund will be continuously redeemable at the NAV next determined after receipt of a request for redemption by the Fund, and that a close alignment between the market price of Shares and the Fund's NAV is expected, the Commission finds that it is appropriate in the public interest and consistent with the protection of investors to grant the Trust an exemption under paragraph (e) of Rule 102 of Regulation M with respect to the Fund, thus permitting the Fund to redeem Shares of the Fund during the continuous offering of such Shares.

Rule 10b-17

Rule 10b-17, with certain exceptions, requires an issuer of a class of publicly traded securities to give notice of certain specified actions (for example, a dividend distribution) relating to such class of securities in accordance with Rule 10b-17(b). Based on the representations and facts in the Letter, and subject to the conditions below, we find that it is appropriate in the public interest, and consistent with the protection of investors to grant the Trust a conditional exemption from Rule 10b-17 because market participants will receive timely notification of the existence and timing of a pending distribution, and thus the concerns that the Commission raised in adopting Rule 10b-17 will not be implicated.⁷

⁷ We also note that timely compliance with Rule 10b-17(b)(1)(v)(a) and (b) would be impractical in light of the nature of the Fund. This is because it is not possible for the Fund to accurately project ten

Conclusion

IT IS HEREBY ORDERED, pursuant to Rule 101(d) of Regulation M, that the Trust, based on the representations and facts presented in the Letter, is exempt from the requirements of Rule 101 with respect to the Fund, thus permitting persons who may be deemed to be participating in a distribution of Shares of the Fund to bid for or purchase such Shares during their participation in such distribution.

IT IS FURTHER ORDERED, pursuant to Rule 102(e) of Regulation M, that the Trust, based on the representations and the facts presented in the Letter, is exempt from the requirements of Rule 102 with respect to the Fund, thus permitting the Fund to redeem Shares of the Fund during the continuous offering of such Shares.

IT IS FURTHER ORDERED, pursuant to Rule 10b-17(b)(2), that the Trust, based on the representations and the facts presented in the Letter and subject to the conditions below, is exempt from the requirements of Rule 10b-17 with respect to transactions in the shares of the Fund.

This exemptive relief is subject to the following conditions:

- The Trust will comply with Rule 10b-17 except for Rule 10b-17(b)(1)(v)(a) and (b); and
- The Trust will provide the information required by Rule 10b-17(b)(1)(v)(a) and (b) to the Exchange as soon as practicable before trading begins on the ex-dividend date, but in no event later than the time when the Exchange last accepts information relating to distributions on the day before the ex-dividend date.

days in advance what dividend, if any, would be paid on a particular record date. Further, the Commission finds, based on the Applicants' representations in the Letter, that the provision of notices as described in the Letter would not constitute a manipulative or deceptive device or contrivance comprehended within the purpose of Rule 10b-17.

This exemptive relief is subject to modification or revocation at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act. Persons relying upon this exemptive relief shall discontinue transactions involving the Shares of the Fund, pending presentation of the facts for the Commission's consideration, in the event that any material change occurs with respect to any of the facts or representations made by the Applicants and, consistent with all preceding letters, particularly with respect to the close alignment between the market price of Shares and the Fund's NAV. In addition, persons relying on this exemption are directed to the anti-fraud and anti-manipulation provisions of the Exchange Act, particularly Sections 9(a) and 10(b), and Rule 10b-5 thereunder.

Responsibility for compliance with these and any other applicable provisions of the federal securities laws must rest with the persons relying on this exemption. This order should not be considered a view with respect to any other question that the proposed transactions may raise, including, but not limited to the adequacy of the disclosure concerning, and the applicability of other federal or state laws to, the proposed transactions.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Eduardo A. Aleman
Assistant Secretary

⁸ 17 CFR 200.30-3(a)(6) and (9).