VanEck Investments Limited
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27 July 2021

[redacted]
by email

Dear Madam or Sir

CP 343 Submission

Introduction

VanEck Investments Limited is the Responsible Entity and AQUA product issuer of 28 exchange traded funds currently on ASX and has lodged a submission with ASX for the launch of a new ETF that will invest wholly in bitcoin.

VanEck Investments Limited is a wholly owned Australian subsidiary of New York based asset manager Van Eck Associates Corporation. VanEck's exchange traded products ('ETPs') have been offered in the US since 2006 and span many asset classes including equities and fixed income in both developed and emerging markets.

The VanEck global group also has exchange traded products listed in Europe which include the VanEck Vectors Bitcoin ETN and the VanEck Vectors Ethereum ETN.

In the United States, VanEck has lead the charge to convince the SEC to allow exchange traded products that invest in crypto assets.

As at 31 May 2021 VanEck's family of ETPs totalled over A$95 billion in assets under management, making it one of the largest ETP families worldwide.

Response to CP 343

VanEck welcomes the release of Consultation Paper 343, *Crypto assets as underlying assets for ETPs and other investment products.*

VanEck supports each of the principles proposed in the paper. It is important to get the balance right between protecting investors but recognising that all investment involves some risk and investors have a right to take on assets like crypto assets where the risk is higher than is usual. Seeking a high standard of capability from product issuers while providing for investors who prefer a professionally managed investment rather to an opaque crypto exchange app that they can download to their phone, is the right balance.

We did a lot of due diligence before deciding to lodge a submission to launch a bitcoin ETF in Australia. This included consulting with our European colleagues who manage such products already and our United States colleagues who have done so much work with the SEC. We came to the conclusion that a bitcoin ETF would work well for investors if we did things in certain ways. Our conclusions were aligned with the principles in CP 343 and we were not surprised by anything in the paper.

When ASIC publishes its "good practice information" as the next step in this introduction of crypto assets, it will be important how some of these principles are converted into detail. For example, while we agree that product issuers need to have an "appropriate compensation scheme" we are concerned with what will be considered appropriate. As responsible entities, the expected standard for product issuers is already very high and that will be no different with crypto assets. But while an issuer will need to pay attention to the different operational risks and cybersecurity risks that crypto assets bring, these risks cannot be eliminated completely and the investors are going to have to be some residual risk in these areas. Part of the return profile from crypto assets comes from taking on higher risks, including the operational risks.

An important additional safeguard to those proposed in the Paper is the use of an appropriate auditor. ETFs have their financial reports audited as well as their compliance plan and the issuer has its compliance with its AFSL audited. For an ETF holding crypto assets the auditor is going to need additional technological tools. This is not onerous. Before we lodged our submission to launch a bitcoin ETF we confirmed that our current auditor has a high level of skill in and has experience in auditing the holding to crypto assets.

We are aware that an argument is being made that undiversified exchange traded products that hold a single asset rather than a diversified portfolio should not be allowed to use the expression 'ETF'. Rather they should be required to use something different like 'ETI'. We do not support this approach. Expecting investors to learn a series of codes that give clues to the characteristics of a fund is unrealistic. Trying to teach investors that not all funds (F) that are exchange (E) traded (T) are called 'ETFs' is making things harder for them. The emphasis should be on the actual name given to the fund, the description of the fund on the issuer's website and the marketing material that promotes the fund.

As always, we are keen to assist this process in any way we can. Let us know if you have any further questions.

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