VanEck®

April 21, 2022

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506
E-mail: pubcom@finra.org

Re: FINRA Regulatory Notice 22-08 (the "Notice")

Dear Ms. Mitchell:

Van Eck Securities Corporation ("VanEck")[1] appreciates the opportunity to comment on the Notice. VanEck commends the Financial Industry Regulatory Authority, Inc. ("FINRA") for reminding members of their current regulatory obligations. However, VanEck has grave concerns regarding the possibility suggested by the Notice that investor access to publicly offered securities of "complex products" will be unduly restricted.

For over 85 years, the United States securities laws have been predicated on a disclosure-based regime. As stated on the Securities and Exchange Commission's ("SEC") website, "[W]e require public companies, fund and asset managers, investment professionals, and other market participants to regularly disclose significant financial and other information so investors have the timely, accurate, and complete information they need to make confident and informed decisions about when or where to invest."[2] As such, the current regulatory requirements governing our disclosure-based regime are designed to protect investors – including those with self-directed accounts.

Additionally, this premise was cited this past March when SEC Chair Gary Gensler said, "Our core bargain from the 1930s is that investors get to decide which risks to take, as

[1] VanEck has been a member of FINRA and its predecessor, the National Association of Securities Dealers, since 1955. VanEck is a wholly-owned subsidiary of Van Eck Associates Corporation ("VEAC") and an affiliate of Van Eck Absolute Return Advisers Corporation ("VEARA"). Together with other affiliates of VanEck, VEAC and VEARA manage approximately $82 billion in various accounts, including numerous exchange-traded funds and mutual funds.

[2] https://www.sec.gov/about/what-we-do. Additionally, the Investment Company Act of 1940 amplifies this disclosure-based regime by strictly prescribing how investment companies (e.g., ETFs, mutual funds, and closed-end funds) operate.

long as public companies provide full and fair disclosure and are truthful in those disclosures."[3]

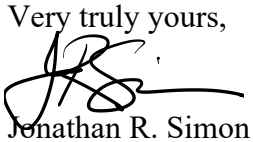
The Notice foreshadows a world that upends this bargain, where a FINRA member would be required to substitute its judgment and risk tolerance for that of its clients. Disclosures that have been opined on by the SEC, disclosures designed to provide investors with relevant information about an issuer, would be rendered superfluous – or worse - irrelevant.

We are concerned that various points FINRA is inquiring about, such as an enhanced account approval process before an account may trade in complex products, requiring a customer to complete training or a learning course before being approved to trade in certain complex products, requiring customer attestations regarding knowledge and experience or restricting or limiting access by retail customers to complex products based on their net worth or other categories would, if required to be implemented, unduly restrict investor access to publicly offered securities and run contrary to the disclosure-based system that underpins our securities laws.

If FINRA deems our current disclosure-based regime inadequate, the solution is not for FINRA to erect arbitrary barriers to a vast universe of publicly offered securities but for the SEC to review and consider enhancing the regime.

Once again, VanEck appreciates this opportunity to submit comments. If you have any questions, please do not hesitate to contact me at (212) 293-2029 or at jsimon@vaneck.com.

Very truly yours,



Jonathan R. Simon
General Counsel
Van Eck Securities Corporation

[3] SEC Proposes Rules to Enhance and Standardize Climate-Related Disclosures for Investors, March 21, 2022. https://www.sec.gov/news/press-release/2022-46