

## MIAX Pearl Equities Exchange Product Circular 2024-3538

**DATE:** January 12, 2024

**TO:** MIAX Pearl Equities Member

**FROM:** MIAX Pearl Equities Listings Department

**RE:** VanEck Bitcoin Trust- HODL

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This Product Circular is being issued to advise you that the following security has been approved for trading pursuant to unlisted trading privileges (“UTP”) on the Exchange as a UTP Derivative Security pursuant to Exchange Rule 2900.

**Security (the “Fund”)**

VanEck Bitcoin Trust

**Symbol**

HODL

**Issuer/Trust:** VanEck Bitcoin Trust

**Issuer/Website:** [www.vaneck.com](http://www.vaneck.com)

**Primary Listing Exchange:** CBOE BZX Exchange

The purpose of this Product Circular is to outline various rules and policies that will be applicable to trading in this new product pursuant to the Exchange’s unlisted trading privileges, as well as to provide certain characteristics and features of the Shares. For a more complete description of the Issuer, the Shares and the underlying market instruments or indexes, visit the Issuer Website, consult the Prospectus available on the Issuer Website, examine the Issuer Registration Statement or review the most current information bulletin issued by the Primary Listing Exchange. The Issuer Website, the Prospectus, the Issuer Registration Statement and the Primary Exchange Circular are hereafter collectively referred to as the “Issuer Disclosure Materials.”

### **Background Information on the Fund**

As more fully explained in the Registration Statement (No. 333-251808) for the Trust (the “Registration Statement”), the Trust issues VanEck Bitcoin Trust shares (the “Shares”), which represent Shares of fractional undivided beneficial interest in the Trust. The Trust is a passive investment vehicle that does not seek to pursue any investment strategy beyond tracking the price of bitcoin. As a result, the Trust will not attempt to avoid losses or hedge exposure arising from the risk of changes in the price of bitcoin. The Trust’s investment objective is to reflect the performance of the price of bitcoin less the expenses of the Trust’s operations. In seeking to achieve its investment objective, the Trust will hold bitcoin and will value its Shares daily based on the reported MarketVector Bitcoin Benchmark Rate, which is calculated based on prices contributed by trading platforms that the Sponsor’s affiliate, MarketVector Indexes GmbH

(“MarketVector”), believes represent the top five bitcoin trading platforms based on the industry leading CCData Centralized Exchange Benchmark review report. See “The Trust and Bitcoin Prices—Description of the MarketVector Bitcoin Benchmark Rate Construction and Maintenance” for more information. The Trust will not utilize leverage, derivatives or any similar arrangements in seeking to meet its investment objective. The Trust is sponsored by VanEck Digital Assets, LLC (the “Sponsor”), a wholly-owned subsidiary of Van Eck Associates Corporation (“VanEck”), a U.S. registered investment adviser with approximately \$80.77 billion in assets under management. The Trust, the Sponsor and the service providers will not loan or pledge the Trust’s assets, nor will the Trust’s assets serve as collateral for any loan or similar arrangement. The Trust is not actively managed.

The Trust’s investment objective is to reflect the performance of the price of bitcoin less the expenses of the Trust’s operations. In seeking to achieve its investment objective, the Trust will hold bitcoin and will value its Shares daily based on the reported MarketVector Bitcoin Benchmark Rate, which is calculated based on prices contributed by exchanges that the Sponsor’s affiliate, MarketVector, believes represent the top five bitcoin trading platforms based on the industry leading CCData Centralized Exchange Benchmark review report as described below, and process all creations and redemptions in transactions with Authorized Participants as described below. The Trust is a passive investment vehicle that does not seek to pursue any investment strategy beyond tracking the price of bitcoin. As a result, the Trust will not attempt to speculatively sell bitcoin at times when its price is high or speculatively acquire bitcoin at low prices in the expectation of future price increases, nor will the Trust attempt to avoid losses or hedge exposure arising from the risk of changes in the price of bitcoin. The Trust will not utilize leverage, derivatives or any similar arrangements in seeking to meet its investment objective.

When the Trust sells or redeems its Shares, it will do so in blocks of 50,000 Shares (“Creation Baskets”) that are based on the amount of bitcoin represented by the Creation Basket being created, the amount of bitcoin being equal to the combined net asset value of the number of Shares included in the Creation Basket (net of the accrued but unpaid remuneration due the Sponsor (“Sponsor Fee”) and any accrued but unpaid expenses or liabilities not assumed by the Sponsor). The Trust currently conducts subscriptions and redemptions solely in cash. Financial firms that are authorized to purchase or redeem Shares with the Trust (known as “Authorized Participants” or “APs”) will deliver only cash to create Shares and will receive only cash when redeeming Shares. Authorized Participants must be registered broker-dealers. Registered broker-dealers are subject to various requirements of the federal securities laws and rules, including financial responsibility rules such as the customer protection rule, the net capital rule and recordkeeping requirements. There has yet to be definitive regulatory guidance on whether and how registered broker-dealers can comply with these rules with regard to transacting in or holding spot bitcoin. Until further regulatory clarity emerges regarding whether registered broker-dealers can hold and deal in bitcoin under such rules, there is a risk that registered broker-dealers participating in the in-kind creation or redemption of Shares for bitcoin may be unable to demonstrate compliance with such requirements. While compliance with these requirements would be the broker-dealer’s responsibility, a national securities exchange is required to enforce compliance by its member broker-dealers with applicable federal securities law and rules. As a result, the SEC is unlikely to permit an exchange to adopt listing rules for a product if it is not clear that the exchange’s members would be able to comply with applicable rules when transacting in the product as designed.

To the extent further regulatory clarity emerges, the Sponsor expects the Exchange to seek InKind Regulatory Approval to amend its listing rules to permit the Trust to create and redeem Shares in-kind for bitcoin, in which Authorized Participants or their designees would deposit bitcoin directly with the Trust or receive bitcoin directly from the Trust. However, there can be no assurance as to when such regulatory clarity will emerge, or when the Exchange will seek or obtain In-Kind Regulatory Approval, if at all.

Authorized Participants will not directly or indirectly purchase, hold, deliver, or receive bitcoin as part of the Creation Basket subscription or redemption process. For a subscription in cash, the Authorized Participant's subscription for Shares shall be in the amount of cash needed to purchase the amount of bitcoin represented by the Creation Basket being created, as calculated by the Administrator based on the Index or the other valuation policies described herein. The AP will deliver the cash to the Trust's account at the Cash Custodian, which the Sponsor will then use to purchase bitcoin from a third party selected by the Sponsor who (1) is not the Authorized Participant and (2) will not be acting as an agent, nor at the direction, of the Authorized Participant with respect to the delivery of bitcoin to the Trust (such third party, a "Liquidity Provider"). For a redemption in cash, the Sponsor shall arrange for the bitcoin represented by the Creation Basket to be sold to a Liquidity Provider selected by the Sponsor and the cash proceeds distributed from the Trust's account at the Cash Custodian to the Authorized Participant in exchange for their Shares. In the future, subject to the Exchange receiving the necessary regulatory approval to permit the Trust to purchase and redeem Shares in-kind for bitcoin (the "In-Kind Regulatory Approval"), the Trust may elect to permit Authorized Participants to also deliver or direct the delivery of bitcoin by third parties, or take delivery or direct the taking of delivery of bitcoin by third parties, in connection with in-kind subscription or redemption transactions. There can be no assurance that In-Kind Regulatory Approval will ever be obtained or that "in-kind" subscription or redemption transactions will ever occur, meaning that the Trust may conduct subscriptions and redemptions solely in cash for the foreseeable future and indefinitely if necessary. The timing of In-Kind Regulatory Approval is unknown and that there is no guarantee that the Exchange will receive In-Kind Regulatory Approval at any point in the future. To the extent that the Exchange receives In-Kind Regulatory Approval and the Sponsor chooses to allow in-kind creations and redemptions, notification will be made to Shareholders via a prospectus supplement and/or a current report filed with the SEC.

In addition to selling bitcoin to distribute cash to Authorized Participants redeeming Shares, the Sponsor may sell bitcoin to pay certain expenses not assumed by the Sponsor (described below), which may be facilitated by one or more Liquidity Providers and/or the Bitcoin Custodian or an affiliate thereof. All bitcoin will be held by the Bitcoin Custodian, a third-party custodian that carries insurance and is chartered as a trust company under the New York Banking Law. The Transfer Agent (as defined below) will facilitate the processing of purchase and sale orders in Creation Baskets from the Trust.

The Trust will hold only bitcoin, cash, and cash equivalents.

When the Trust sells or redeems its Shares, bitcoin will be transferred into or out of the Trust, as applicable, in exchange for blocks of 50,000 Shares (a "Creation Unit") that are based on the quantity of bitcoin attributable to each Share of the Trust. The Shares are not individually redeemable. Financial firms that are authorized to purchase Shares from or redeem Shares to the Trust (known as "Authorized Participants") will purchase Shares by depositing cash in the Trust's account with the Cash Custodian. This will cause the Sponsor, on behalf of the Trust, to automatically instruct a designated third party, who is not an Authorized Participant, to (i) purchase the amount of bitcoin equivalent in value to the cash deposit amount associated with the order and (ii) deposit the resulting bitcoin deposit amount in the Trust's account with the Bitcoin Custodian, resulting in the Transfer Agent crediting the applicable amount of Shares to the Authorized Participant.

Net asset value ("NAV") means the total assets of the Trust (which includes all bitcoin and cash holdings) less total liabilities of the Trust. The Administrator determines the NAV of the Trust on each day that the Exchange is open for regular trading, as promptly as practical after 4:00 p.m. ET. The NAV of the Trust is the aggregate value of the Trust's assets less its estimated accrued but unpaid liabilities (which include accrued expenses). The Administrator determines the NAV of the Trust on each day that the Exchange is open for regular trading, as promptly as practical after 4:00 p.m. Eastern time based on the MarketVector

Bitcoin Benchmark Rate. The Net Asset Value of the Trust will be published by a Sponsor on each day that the Exchange is open for regular trading and will be posted on the Sponsor's website.

The Intraday Indicative Value ("IIV") will be calculated by using the prior day's closing NAV per Share as a base and updating that value during Regular Trading Hours to reflect changes in the value of the Trust's bitcoin holdings during the trading day. The IIV disseminated during Regular Trading Hours should not be viewed as an actual real-time update of the NAV, which will be calculated only once at the end of each trading day. There are many instances in the market today where the IIV and the NAV of an ETF are subtly different, whether due to the calculation methodology, market hours overlap or other factors. The Sponsor has seen limited or no negative impact on trading, liquidity or other factors for exchange-traded funds in this situation. The Sponsor believes that the IIV will closely track the globally integrated bitcoin price as reflected on the contributing real bitcoin trading platforms. The Trust will provide an IIV per Share updated every 15 seconds, as calculated by the Exchange or a third-party financial data provider during the Exchange's Regular Trading Hours (9:30 a.m. to 4:00 p.m. E.T.). The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange's Regular Trading Hours through the facilities of the consolidated tape association (CTA) and Consolidated Quotation System (CQS) high speed lines. In addition, the IIV will be available through on-line information services such as Bloomberg and Reuters.

There is no regulated source of last sale information regarding bitcoin, the Securities and Exchange Commission (the "Commission") has no jurisdiction over the trading of bitcoin as a commodity, and the Commodity Futures Trading Commission (the "CFTC") has regulatory jurisdiction over the trading of bitcoin futures contracts and options on bitcoin futures contracts.

### **Principal Risks**

Interested persons are referred to the discussion in the prospectus for the Fund of the principal risks of an investment in the Fund. These include tracking error risk (factors causing a Fund's performance to not match the performance of its underlying index), market trading risk (for example, trading halts, trading above or below net asset value), investment style risk, sector risk, investment approach risk, non-diversification risk, issuer-specific risk, management risk, concentration risk, equity securities risk, and passive investment risk.

### **Exchange Rules Applicable to Trading in the Shares**

Trading in the Shares on MIAX PEARL is subject to MIAX PEARL trading rules

### **Trading Hours**

The value of the Index underlying the Shares will be disseminated to data vendors every 15 seconds during the Regular Trading Session.

The Shares will trade on MIAX PEARL between 9:30 a.m. and 4:00 p.m. Please note that trading in the Shares during the Exchange's Pre-Market and Post-Market Sessions ("Extended Market Sessions") may result in additional trading risks which include: (1) that the current underlying indicative value may not be updated during the Extended Market Sessions, (2) lower liquidity in the Extended Market Sessions may impact pricing, (3) higher volatility in the Extended Market Sessions may impact pricing, (4) wider spreads may occur in the Extended Markets Sessions, and (5) because the indicative value is not calculated or widely disseminated during the Extended Market Sessions, an investor who is unable to calculate an implied value for the Shares in those sessions may be at a disadvantage to market professionals.

**Dissemination of Data**

The Consolidated Tape Association will disseminate real time trade and quote information for the Shares to Tape B.

VanEck Bitcoin Trust	CBOE BZX Exchange	HODL	HODL.IV	HODL.NV

**Delivery of a Prospectus**

MIAX PEARL Equity Members should be mindful of applicable prospectus delivery requirements under the federal securities laws with respect to transactions in the Fund. Prospectuses may be obtained through the Fund’s website. The prospectus for the Fund does not contain all of the information set forth in the Fund’s Registration Statement (including the exhibits to the Registration Statement), parts of which have been omitted in accordance with the rules and regulations of the SEC. For further information about the Fund, please refer to its Registration Statement.

In the event that the Fund relies upon an order by the SEC exempting the Shares from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940 and in the future make available a written product description, MIAX PEARL Rules requires that MIAX PEARL Equity Members provide to all purchasers of Shares a written description of the terms and characteristics of such securities, in a form prepared by the Issuer of the Fund, no later than the time a confirmation of the first transaction in the Shares is delivered to such purchaser. In addition, MIAX PEARL Equity Members shall include such a written description with any sales material relating to the Shares that is provided to customers or the public. Any other written materials provided by an MIAX PEARL Equity Member to customers or the public making specific reference to the Shares as an investment vehicle must include a statement in substantially the following form: “A circular describing the terms and characteristics of [the UTP Exchange Traded Products] has been prepared by the [open-ended management investment company name] and is available from your broker. It is recommended that you obtain and review such circular before purchasing [the UTP Exchange Traded Products].”

A MIAX PEARL Equity Member carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase Shares for such omnibus account will be deemed to constitute agreement by the non-member to make such written description available to its customers on the same terms as are directly applicable to MIAX PEARL Equity Member under this rule. Upon request of a customer, MIAX PEARL Members also shall provide a copy of the Prospectus.

**Suitability**

Trading in the securities on the Exchange will be subject to the provisions of MIAX PEARL Rule 2107 and other applicable suitability rules. Equity Members recommending transactions in the securities to customers should make a determination that the recommendation is suitable for the customer.

## **Trading Halts**

MIAX PEARL will halt trading in the Shares of a security in accordance with MIAX PEARL Rules. The grounds for a halt under MIAX PEARL Rules include a halt by the primary market because the intraday indicative value of the security and/or the value of its underlying index are not being disseminated as required, or a halt for other regulatory reasons. In addition, MIAX PEARL will stop trading the Shares of a security if the primary market de-lists the security.

## **Exemptive, Interpretive and No-Action Relief Under Federal Securities Regulations**

The Securities and Exchange Commission (the “SEC”) has issued letters granting exemptive, interpretive and no-action relief from certain provisions of rules under the Securities Exchange Act of 1934 for exchange-traded securities listed and traded on a registered national securities exchange that meet certain criteria. AS WHAT FOLLOWS IS ONLY A SUMMARY OF THE RELIEF OUTLINED IN THE NO-ACTION LETTERS REFERENCED ABOVE, THE EXCHANGE ADVISES INTERESTED PARTIES TO CONSULT THE NO-ACTION LETTERS FOR MORE COMPLETE INFORMATION REGARDING THE MATTERS COVERED THEREIN AND THE APPLICABILITY OF THE RELIEF GRANTED IN RESPECT OF TRADING IN SECURITIES. INTERESTED PARTIES SHOULD ALSO CONSULT THEIR PROFESSIONAL ADVISORS.

## **Regulation M Exemptions**

Generally, Rules 101 and 102 of Regulation M prohibit 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 Regulation M. The provisions of the Rules apply to underwriters, prospective underwriters, brokers, dealers, and other persons who have agreed to participate or are participating in a distribution of securities.

The SEC has granted an exemption from Rule 101 under Regulation M to permit persons participating in a distribution of shares of the above-mentioned Fund to engage in secondary market transactions in such shares during their participation in such a distribution. In addition, the SEC has granted relief under Regulation M to permit persons who may be deemed to be participating in the distribution of Shares of the above-mentioned Fund (i) to purchase securities for the purpose of purchasing Creation Unit Aggregations of Fund Shares and (ii) to tender securities for redemption in Creation Unit Aggregations. Further, the SEC has clarified that the tender of Fund Shares to the Fund for redemption does not constitute a bid for or purchase of any of the Fund’s securities during the restricted period of Rule 101. The SEC has also granted an exemption pursuant to paragraph (e) of Rule 102 under Regulation M to allow the redemption of Fund Shares in Creation Unit Aggregations during the continuous offering of Shares.

## **Rule 10b-10 (Customer Confirmations for Creation or Redemption of Fund Shares)**

Broker-dealers who handle purchases or redemptions of Fund Shares in Creation Unit size for customers will be permitted to provide such customers with a statement of the number of Creation Unit Aggregations created or redeemed without providing a statement of the identity, number and price of shares of the individual securities tendered to the Fund for purposes of purchasing Creation Unit Aggregations (“Deposit Securities”) or the identity, number and price of shares to be delivered by the Trust for the Fund to the redeeming holder (“Redemption Securities”). The composition of the securities required to be tendered to the Fund for creation purposes and of the securities to be delivered on redemption will be disseminated each business day and will be applicable to requests for creations or redemption, as the case may be, on that day.

This exemptive relief under Rule 10b-10 with respect to creations and redemption is subject to the following conditions:

- 1) Confirmations to customers engaging in creations or redemptions must state that all information required by Rule 10b-10 will be provided upon request;
- 2) Any such request by a customer for information required by Rule 10b-10 will be filed in a timely manner, in accordance with Rule 10b-10(c); and
- 3) Except for the identity, number, and price of shares of the component securities of the Deposit Securities and Redemption Securities, as described above, confirmations to customers must disclose all other information required by Rule 10b-10(a).

### **Rule 10b-17 (Untimely Announcement of Record Dates)**

The SEC has granted an exemption from the requirements of Rule 10b-17 that will cover transactions in the Shares.

### **Section 11(d)(1); Rule 11d1-2 (Customer Margin)**

The SEC has taken a no-action position under Section 11(d)(1) that will permit broker-dealers that do not create Shares but engage in both proprietary and customer transactions in such Shares exclusively in the secondary market to extend or maintain or arrange for the extension or maintenance of credit on the Shares, in connection with such secondary market transactions. For broker-dealers that engage in the creation of Shares, the SEC has also taken a no-action position under Rule 11d1-2 that will cover the extension or maintenance or the arrangement for the extension or maintenance of credit on the Shares that have been owned by the persons to whom credit is provided for more than 30 days.

### **Rule 14e-5**

An exemption from Rule 14e-5 has been granted to permit any person acting as a dealer-manager of a tender offer for a component security of the Fund (1) to redeem Fund Shares in Creation Unit Aggregations from the issuer that may include a security subject to such tender offer and (2) to purchase Fund Shares during such tender offer. In addition, a no-action position has been taken under Rule 14e-5 if a broker-dealer acting as a dealer-manager of a tender offer for a security of the Fund purchases or arranges to purchase such securities in the secondary market for the purpose of tendering such securities to purchase one or more Creation Unit Aggregations of Shares, if made in conformance with the following:

- 1) such bids or purchases are effected in the ordinary course of business, in connection with a basket of 20 or more securities in which any security that is the subject of a distribution, or any reference security, does not comprise more than 5% of the value of the basket purchase; or
- 2) purchases are effected as adjustments to such basket in the ordinary course of business as a result of a change in the composition of the underlying index; and
- 3) such bids or purchases are not effected for the purpose of facilitating such tender offer.

### **SEC Rule 15c1-5 and 15c1-6 (Disclosure of Control and interest in Distributions)**

The SEC has taken a no-action position under Rule 15c1-5 that will permit a broker-dealer to execute transactions in Shares without disclosing any control relationship with an issuer of a component security. In

addition, the SEC has taken a no-action position under Rule 15c1-6 that will permit a broker dealer to execute transactions in the Shares without disclosing its participation or interest in a primary or secondary distribution of a component security.

This Product Circular is not a statutory prospectus. MIAX PEARL Equity Members should consult the prospectus for a security and the security's website for relevant information.

Please direct product listing questions to MIAX PEARL Equities Listings at [Listings@miaxglobal.com](mailto:Listings@miaxglobal.com) or (609) 897-7308.

Please direct regulatory questions to the MIAX PEARL Regulatory Department at (609) 897-7309 or [Regulatory@miaxglobal.com](mailto:Regulatory@miaxglobal.com).