



DIVISION OF
TRADING AND MARKETS

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

January 15, 2014

Suzanne M. Russell
Chapman and Cutler LLP
111 West Monroe Street
Chicago, IL 60603-4080

**Re: Additional Limited Exemptions for First Trust Dorsey Wright Focus 5 ETF
File No. TP 15-04**

Dear Ms. Russell:

In your letter dated January 15, 2014, as supplemented by conversations with the staff ("Revised Request Letter"), you request on behalf of First Trust Exchange-Traded Fund VI ("Trust"), First Trust Dorsey Wright Focus 5 ETF ("Fund"), any national securities exchange or national securities association on or through which shares of the Fund ("Shares") are listed and/or trade, First Trust Portfolios L.P., and other persons engaging in transactions in Shares, including authorized participants, exemptive relief from Rule 10b-17 under the Securities Exchange Act of 1934, as amended ("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. Each defined term in our response has the same meaning as defined, directly or by reference, in your attached Revised Request Letter, unless we note otherwise.

On March 5, 2014, the staff, acting pursuant to delegated authority of the Securities and Exchange Commission ("Commission"), granted the Trust an exemption from Rule 101 of Regulation M to permit 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, an exemption from Rule 102 of Regulation M to permit the Fund to redeem Shares of the Fund during the continuous offering of such Shares, and a conditional exemption from Rule 10b-17 (the "Original Relief").¹ The Original Relief was granted based upon specific representations made in the letter requesting the Original Relief ("Original Request Letter"). As relevant to your new request, these included representations that (1) "at least 70% of the [Fund is] comprised of Component Securities that meet the minimum public float and minimum average daily trading volume thresholds under the 'actively-traded securities' definition found in Regulation M for excepted securities during each of the previous two months of trading prior to the formulation of the [Fund]; provided, however, that if the [Fund] has 200 or more Component Securities then 50% of the Component Securities must meet [this standard];"

¹ Exchange Act Rel. No. 71652 (Mar. 5, 2014); 79 FR 13691 (Mar. 11, 2014).

and (2) all ETFs in which the Fund is invested will meet all conditions set forth in a relevant class relief letter,² will have received individual relief from the Commission, or would be able to rely on individual relief even though the Fund and the Trust were not named parties.

In your Revised Request Letter, you state that the index upon which the Fund seeks to track may be expanded to include new ETFs. As a result of this change, (1) the Fund may in that circumstance fail to include enough securities that meet the actively-traded security definition and (2) may include actively managed ETFs, which were not included in the list of securities that the Fund would invest in as set forth in the Original Relief.³

In support of the proposed changes, you state that the representations made in the your Original Request Letter that the Trust is an open-end investment company, that Shares of the Fund are redeemed on a continuous basis at NAV in creation unit size aggregations, and that a close alignment between the market price of Shares and the Fund's NAV is expected, will remain in effect. Moreover, with respect to Rule 10b-17, market participants will continue to 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 by this request. You further note that the Commission has recently issued substantially identical relief, based on representations that are consistent with your proposed modifications, with respect to the First Trust Dorsey Wright International Focus 5 ETF.⁴

You also confirm that, other than these two changes regarding the types of securities in which the Fund would invest, the Fund will continue to satisfy the representations made in connection with the Original Relief and, except as described in your Original Request Letter, as modified by the facts and representations presented in

² The Original Relief did not contemplate investments by the Fund in actively managed ETFs. Exchange Act Rel. No. 71652 (Mar. 5, 2014); 79 FR 13691 (Mar. 11, 2014). See also Exchange Act Rel. No. 67215 (Jun. 19, 2012); 77 FR 37941 (Jun. 25, 2012) (exempting actively managed ETFs from Rule 10b-17) and Staff Legal Bulletin No. 9, "Frequently Asked Questions About Regulation M" (Apr. 12, 2002) (regarding the application of Regulation M to actively-managed ETFs).

³ We note that the staff has interpreted certain actively managed ETFs to fall within existing exceptions to Rules 101 and 102 of Regulation M. *Id.* The Commission has also exempted actively managed ETFs from Rule 10b-17. Exchange Act Rel. No. 67215 (Jun. 19, 2012); 77 FR 37941 (Jun. 25, 2012).

⁴ Exchange Act Release No. 72655 (Jul. 22, 2014); 79 FR 43799 (Jul. 28, 2014).

your Revised Request Letter, the Fund will continue to meet all of the criteria of the 2006 class letter that extends relief to many equity index-based ETFs.⁵

Response:

Based on the facts and representations in your Original Request Letter as amended by your Revised Request Letter, the Commission finds that it is necessary or appropriate in the public interest, and is consistent with the protection of investors, to grant, and hereby grants, the Trust an exemption from Rule 101 of Regulation M to permit 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, an exemption from Rule 102 of Regulation M to permit the Fund to redeem Shares of the Fund during the continuous offering of such Shares, and an exemption from Rule 10b-17 subject to the same conditions as in the Original Relief.

These exemptions are based on the facts presented and the representations made in your Original Request Letter as amended by your Revised Request Letter. Any different facts or representations may require a different response. In the event that any material change occurs in the facts or representations in your Original Request Letter as amended by your Revised Request Letter, transactions in Shares of the Funds must be discontinued, pending presentation of the facts for our consideration. In addition, your attention is directed to the anti-fraud and anti-manipulation provisions of the Exchange Act, including 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 participants in the various transactions. We express no view with respect to any other questions that the proposed transactions may raise, including, but not limited to, the adequacy of disclosure concerning, and the applicability of any other federal or state laws to, the proposed transactions.

For the Commission,
by the Division of Trading and Markets,
pursuant to delegated authority,⁶



Josephine J. Tao
Assistant Director

Attachment

⁵ Letter from James A. Brigagliano, Acting Associate Director, Division of Market Regulation, to Stuart M. Strauss, Esq., Clifford Chance US LLP (Oct. 24, 2006).

⁶ 17 CFR 200.30-3(a)(6) and (9).

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Josephine J. Tao
Assistant Director
Division of Trading and Markets
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Re: Request of First Trust Exchange-Traded Fund VI Regarding a Prior Order Granting Limited Exemptions from Rule 10b-17 Under, and Rules 101 and 102 of Regulation M Promulgated Under, the Securities Exchange Act of 1934, as amended

Dear Ms. Tao:

SUMMARY OF REQUEST FOR RELIEF

I am writing on behalf of First Trust Exchange-Traded Fund VI (the "*Trust*"), with respect to the First Trust Dorsey Wright Focus 5 ETF (the "*Fund*"), a series of the Trust. The Trust is an open-end management investment company registered with the Securities and Exchange Commission (the "*Commission*") under the Investment Company Act of 1940, as amended (the "*1940 Act*"). On March 5, 2014, the Commission issued an order granting limited exemptions to the Trust, with respect to the Fund, from Rule 10b-17 under the Securities Exchange Act of 1934, as amended (the "*Exchange Act*"), and Rules 101 and 102 of Regulation M promulgated under the Exchange Act (such order is referred to as the "*Prior Order*"; the Rules previously referenced in this sentence are referred to as the "*Exchange Act Rules*").¹ The Prior Order was based on the facts and representations presented in a letter dated March 5, 2014 (such representations, collectively, the "*Prior Representations*" and such letter, the "*Prior Letter*"), submitted by the undersigned on behalf of the Trust. As described in further detail below, in light of certain of the Prior Representations which the Trust seeks to modify, the Trust is now requesting additional exemptive relief from the Exchange Act Rules (such relief, the "*Additional Relief*"). Accordingly, the Trust, on behalf of itself; the Fund; any national securities exchange or national securities association on or through which shares of the Fund ("*Shares*")² are listed (each, a "*Listing Exchange*") and/or may subsequently trade (with each

¹ Release No. 34-71652, dated March 5, 2014.

² The Shares of the Fund are currently listed on The NASDAQ Stock Market LLC ("*NASDAQ*").

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such market referred to herein as a “Market”³; First Trust Portfolios L.P. (the “Distributor”); and other persons or entities engaging in transactions in Shares, including “authorized participants” (“APs”), hereby requests that the staff of the Division of Trading and Markets (the “Staff”) or the Commission issue the Additional Relief.

THE TRUST, THE FUND AND THE UNDERLYING INDEX

The Fund is an exchange-traded fund (“ETF”) organized as a series of the Trust (which currently consists of ten separate ETFs). First Trust Advisors L.P. (the “Advisor”) acts as investment adviser to the Fund. The Fund seeks to track the performance of an underlying index developed by Dorsey, Wright & Associates, LLC (the “Index Provider”) and operates as an “ETF of ETFs.” As such, the Fund seeks to track the performance of its underlying index by investing at least 90% of its net assets (plus the amount of any borrowings for investment purposes) in the ETFs which comprise its underlying index (“Underlying ETFs”). More specifically, the Fund seeks results that correspond generally to the price and yield (before the Fund’s fees and expenses) of the Dorsey Wright Focus Five Index (the “Underlying Index”), which is designed to provide targeted exposure to the five First Trust sector-based ETFs (*i.e.*, sector-based ETFs also advised by the Advisor) that the Index Provider believes offer the greatest potential to outperform the other First Trust sector-based ETFs. The Fund issues and redeems Shares on a continuous basis, at net asset value (“NAV”), only in large specified blocks of 50,000 Shares, each of which is called a “Creation Unit.” The Trust and the Fund are described in further detail in the Prior Letter.

THE PRIOR REPRESENTATIONS AND REASONS FOR THE REQUEST FOR ADDITIONAL RELIEF

As described in the Prior Letter, because the Fund operates as an ETF of ETFs, the Trust was concerned that the “ETF Class Relief” previously issued by the Staff with respect to certain types of ETFs would not extend to the Fund.⁴ The ETF Class Relief provides exemptive and/or

³ In the future, the Trust may determine to list Shares on a Market other than the Listing Exchange. If the Trust lists Shares on a Market other than the Listing Exchange, Shares will be listed in accordance with exchange listing standards that are, or will become, effective pursuant to Section 19(b) of the Exchange Act. If the Shares also trade on a Market pursuant to unlisted trading privileges, such trading will be conducted pursuant to self-regulatory organization rules that have become effective pursuant to Section 19(b) of the Exchange Act.

⁴ See Letter from James A. Brigagliano, Esq., Assistant Director, Division of Market Regulation, to Claire P. McGrath, Esq., Vice President and Special Counsel, The American Stock Exchange, dated August 17, 2001 (re: Exemptive Relief for Exchange Traded Index Funds) (“2001 Class Letter”); Letter from James A. Brigagliano, Esq., Assistant Director, Division of Market Regulation, to Ira Hammerman, Senior Vice President and General Counsel, Securities Industry Association, dated January 3, 2005 (re: No-action relief from Rule 200(g) of Regulation SHO); Letter from Catherine McGuire, Esq., Chief Counsel, Division of Market Regulation, to the Securities Industry Association Derivative Products Committee, dated

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no-action or interpretive relief with respect to Rule 10b-17, as well as Rules 101 and 102 of Regulation M, to any ETF that meets the criteria set forth in the Equity ETF Class Relief Letter. The Equity ETF Class Relief Letter sets forth five criteria that an ETF must meet in order to rely upon the ETF Class Relief.⁵ These are:

- “1. The ETF Shares are issued by an open-end investment company or unit investment trust registered with the Commission under the [1940] Act;
2. The ETF consists of a basket of twenty or more Component Securities,⁶ with no one Component Security constituting more than 25% of the total value of the ETF;⁷
3. At least 70% of the ETF must be comprised of Component Securities that meet the minimum public float and minimum average daily trading volume thresholds under the ‘actively-traded securities’ definition found in Regulation M for excepted securities during each of the previous two months of trading prior to the formation of the relevant ETF; provided, however, that if the ETF has 200 or more Component Securities then 50% of the

November 21, 2005 (re: Expanded class relief for ETFs with respect to Section 11(d)(1) of the Exchange Act and Rules 10b-10, 11d1-2, 15c1-5, and 15c1-6 under the Exchange Act) (“*SIA Letter*”); Letter from James A. Brigagliano, Acting Associate Director, Division of Market Regulation, to Stuart M. Strauss, Esq., Clifford Chance US LLP, dated October 24, 2006 (re: ETFs comprised of equity securities and incorporating relief from certain prior letters) (“*Equity ETF Class Relief Letter*”); Letter from James A. Brigagliano, Associate Director, Division of Market Regulation, to Benjamin Haskin, Esq., Willkie, Farr & Gallagher LLP, dated April 9, 2007 (“*Fixed Income ETF Class Relief Letter*”); and Letter from Josephine Tao, Assistant Director, Division of Trading and Markets, to Domenick Pugliese, Esq., Paul, Hastings, Janofsky and Walker LLP, dated June 27, 2007 (re: ETFs that are comprised of both equity and fixed-income securities) (“*Combination ETF Class Relief Letter*”) (collectively, “*ETF Class Relief*” or “*ETF Class Relief Letters*”).

⁵ The Trust requested the Prior Order because the Fund does not meet the terms of Condition 2 of the Equity ETF Class Relief Letter.

⁶ For purposes of the Commission’s response, “Component Securities” are defined as individual securities that comprise the ETF basket, e.g., securities that are assembled to replicate the particular index that the ETF tracks.

⁷ For purposes of the Commission’s response, whether any one Component Security constitutes more than 25% of the total value of the ETF shall be determined as of the most recent rebalancing of the ETF’s reference securities index.

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Component Securities must meet the actively-traded securities thresholds;

4. ETF shares are to be issued and redeemed in Creation Unit aggregations of 50,000 shares or such other amount where the value of a Creation Unit is at least \$1 million at the time of issuance; and

5. The ETF must be managed to track a particular index all the components of which have publicly available last sale trade information. The intra-day proxy value of the ETF per share and the value of the ‘benchmark’ index must be publicly disseminated by a major market data vendor throughout the trading day.”⁸

The Prior Representations included, among other things, (1) that the Fund would meet all of the criteria of the Equity ETF Class Relief Letter set forth above, with the exception of Condition 2 (since the Fund did not expect to hold twenty (20) or more “Component Securities” and might, at times, hold Underlying ETFs in excess of 25% of its total portfolio value) and (2) that Underlying ETFs in which the Fund invests would either meet all conditions set forth in one or more of the ETF Class Relief Letters or the ETV Class Relief Letter⁹, respectively, or would have received individual relief from the Commission, or would be able to rely on individual relief even though the Fund and the Trust were not named parties. Further, the Prior Representations included that: (a) the arbitrage mechanism would be facilitated by the transparency of the Fund’s portfolio and the availability of the intra-day indicative value, the liquidity of securities held by the Fund and the ability to acquire such securities, as well as the arbitrageurs’ ability to create workable hedges; (b) the Fund would invest solely in liquid securities; (c) the Fund would invest in securities that would facilitate an effective and efficient arbitrage mechanism and the ability to create workable hedges; (d) the Trust believed that arbitrageurs were expected to take advantage of price variations between the Fund’s market price and its NAV; and (e) a close alignment between the market price of Shares and the Fund’s NAV was expected.

Since the Fund’s launch, it has complied with all of the Prior Representations. However, in light of the potential expansion of the Underlying ETFs in the First Trust fund complex that

8 See Equity ETF Class Relief Letter at 2.

9 Letter from Racquel L. Russell, Branch Chief, Office of Trading Practices and Processes, Division of Market Regulation, to George T. Simon, Esq., Foley & Lardner LLP, dated June 21, 2006 (“*ETV Class Relief Letter*”).

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the Advisor currently expects may become eligible for inclusion in the Underlying Index (*i.e.*, sector-based ETFs advised by the Advisor), in the event the Index Provider determines to expand the universe of Underlying ETFs to include those that (1) may cause the Fund to fail to comply with the minimum public float and minimum average daily trading volume thresholds set forth in Condition 3 and/or (2) are actively managed ETFs relying on applicable class relief, the Trust is therefore requesting the Additional Relief and is seeking to modify the Prior Representations in the following two respects. First, the Trust proposes to represent that the Fund will meet Conditions 1, 4 and 5 of the Equity ETF Class Relief Letter set forth above. Second, the Trust proposes to represent that all Underlying ETFs in which the Fund invests will either meet all conditions set forth in one or more of the ETF Class Relief Letters or the ETV Class Relief Letter, respectively, will have received individual relief from the Commission, will be able to rely on individual relief even though they are not named parties, *or will be able to rely on applicable class relief for actively managed ETFs*.¹⁰ The Trust notes that the Commission has recently issued to it substantially identical relief, based on representations that are consistent with the foregoing proposed modifications, with respect to the First Trust Dorsey Wright International Focus 5 ETF.¹¹ In addition, the Trust notes that the Commission has previously granted to an existing ETF relief similar to that requested herein regarding Condition 3.¹² Further, if the Additional Relief is granted, the Prior Representations that the Trust is an open-end investment company, that Shares of the Fund are redeemed on a continuous basis at NAV in Creation Unit size aggregations, and that a close alignment between the market price of Shares and the Fund's NAV is expected will remain in effect. Moreover, with respect to the relief from Rule 10b-17, market participants will continue to 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 if the Additional Relief is granted.

Except as described herein, the Fund will continue to satisfy the Prior Representations and, except as described in the Prior Letter, as modified herein, the Fund will continue to meet all of the criteria of the Equity ETF Class Relief Letter.

¹⁰ With respect to Rules 101 and 102 of Regulation M, such relief is set forth in the Division of Market Regulation Staff Legal Bulletin No. 9, as revised on September 10, 2010 ("*SLB 9*"), which stated that, subject to certain conditions, actively managed exchange-traded funds ("*Active ETFs*") could rely on the exceptions in Rules 101(c)(4) and 102(d)(4) of Regulation M under the Exchange Act which are only available to open-end investment companies, notwithstanding the fact that shares of Active ETFs are redeemable only in creation units. With respect to Rule 10b-17, such relief is set forth in Release No. 34-67215, dated June 19, 2012.

¹¹ Release No. 34-72655, dated July 22, 2014. *See also* Release No. 34-73298, dated October 3, 2014 (re: ProShares Morningstar Alternatives Solution ETF).

¹² *See* Letter from Josephine J. Tao, Assistant Director, Division of Trading and Markets, to Jeremy Senderowicz, Esq., dated December 16, 2011 (re: Claymore Exchange-Traded Fund Trust).

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REQUEST FOR ADDITIONAL RELIEF

Based on the above, the Trust, on behalf of itself, the Fund, the Listing Exchange, other Markets, the Distributor, APs and other persons or entities engaging in transactions in the Shares, requests that the Staff or the Commission issue the Additional Relief.

Thank you for your consideration of this request. Should you have any questions or require additional information, please do not hesitate to call the undersigned at (312) 845-3446.

Very truly yours,

CHAPMAN AND CUTLER LLP

By  _____
Suzanne M. Russell