



April 4, 2022

VIA ELECTRONIC DELIVERY

Ms. Vanessa A. Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

RE: Notice of Filing of Proposed Rule Change to List and Trade Shares of Grayscale Bitcoin Trust (BTC) under NYSE Arca Rule 8.201-E
File No.: SR-NYSEArca-2021-90
Release No.: 34-93504

Dear Ms. Countryman:

Virtu Financial, Inc. (“Virtu”) respectfully submits this letter in support of the application by NYSE Arca Inc. pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (as amended the “Exchange Act”) to list shares of Grayscale Bitcoin Trust (“GBTC”¹) under NYSE Arca Rule 8.201-E as an exchange-traded product (“ETP”). Our purpose in submitting this letter is to provide Virtu’s perspective on the marketplace’s readiness for a spot Bitcoin ETP and to encourage the Securities and Exchange Commission (the “Commission”) to approve NYSE Arca’s application.

Virtu Financial, Inc.

By way of background, Virtu is a leading financial firm that leverages cutting edge technology to deliver liquidity to the global markets and innovative, transparent trading solutions to its clients. Virtu operates as a market maker across numerous exchanges in the U.S. and is a member of all U.S. registered stock exchanges. Virtu’s market structure expertise, broad diversification, and execution technology enables it to provide competitive bids and offers in over 25,000 securities, at over 235 venues, in 36 countries worldwide. Virtu’s cryptocurrency market making includes spot, perpetuals, futures, and ETPs across more than fifty venues, exchanges and other platforms. Virtu broadly and consistently supports marketplace innovations which promote and enhance liquidity and efficiency to the benefit of all participants.

Statement in Support of the Proposal

GBTC and the Current Marketplace

As a market maker in digital assets across spot, futures and exchange traded products, Virtu has witnessed first-hand the market’s evolution and maturation. With total market capitalization in the range of \$2 trillion, growing adoption amongst both institutional and retail² market participants, and the preponderance of exchanges, platforms, protocols and products offering direct and indirect exposure to the asset class, it is apparent that cryptocurrencies and digital assets are an increasingly important component of the financial

¹ We refer to the Grayscale Bitcoin Trust as “GBTC”, though we understand that upon an approved listing as sought by the referenced proposal, it would be listed under the symbol “BTC”.

² https://go.morningconsult.com/rs/850-TAA-511/images/220120_State_of_Consumer_Banking.pdf



markets landscape. Investors seeking exposure to digital assets, such as Bitcoin, can obtain it directly on a cryptocurrency exchange or platform or indirectly through another financial instrument. Though direct ownership may meet the needs of certain Bitcoin investors, others would benefit from the familiarity, accessibility and convenience of acquiring indirect exposure via a spot Bitcoin ETP. Such products have been approved for listing in other jurisdictions such as Canada, Europe and Brazil, but to the detriment of domestic investors, none has been approved in the US to date.

GBTC is extremely popular with investors – it has been reported that over 850,000 investors hold GBTC³ and that as of a recent date GBTC held approximately 3.4% of outstanding Bitcoins.⁴ Its shares are registered under Section 12(g) of the Securities Exchange Act of 1934 (the “Exchange Act”) and it is subject to public reporting requirements under Section 13 of the Exchange Act. However, its accessibility is limited by its unlisted status, as it can only be purchased by an accredited investor in a private placement or else in an exempt secondary transaction on an over-the-counter market place.

Additionally, its usefulness as a tracking investment for Bitcoin has been undermined by periodic dislocations from the value of its underlying holdings less its expenses (i.e., its net-asset value, or “NAV”). GBTC has traded at substantial premiums or discounts which have reached as high as 142% and as low as 79%⁵ as a percentage of NAV. These dislocations occur, and persist, because the primary market-based mechanic which links the price of an ETP to its NAV, a continuous creation and redemption program pursuant to which freely tradable shares can be issued or redeemed, is unavailable to GBTC as an unlisted security.

Virtu is an authorized participant (“AP”) in numerous ETPs globally and in the United States, enabling it to engage in transactions directly with an ETP issuer which “create” new and freely tradeable ETP shares or redeem ETP shares, in each case in exchange for the ETP’s underlying holdings, or in some cases a cash equivalent. We compete with other APs to provide liquidity in a given ETP and its underlying assets with the narrowest spread between the two, and utilize creation and redemption transactions to convert an ETP to its component parts or vice versa in connection with our liquidity provision. Continuous creation and redemption mechanics and the competitive dynamics amongst market making firms drive exceedingly narrow spreads and enables investors in an ETP to realize returns which track very closely those of the underlying basket of assets which can substantially reduce costs upon entry and exit.

In our experience as a market maker and AP in spot cryptocurrency ETPs in Canada, we have observed the positive impact of these dynamics -- as spot cryptocurrency ETP spreads to NAV are compressed to levels observed for non-crypto ETPs. We have observed these outcomes over a wide range of issuers and specific NAV valuation benchmarks and would anticipate similar outcomes for GBTC and its investors upon its listing and implementation of a continuous creation and redemption program for freely tradable shares. Thus, it is apparent that U.S. investors would benefit from the approval of GBTC’s listing and conversion to an ETP as it will become both more widely accessible and a more functional and efficient equivalent to direct ownership of Bitcoin.

³ Based on Broadridge Financial Solutions, Inc. analysis of Grayscale Bitcoin Trust (Symbol: GBTC) as of March 9, 2022.

⁴ Grayscale Investments, LLC, Grayscale Bitcoin Trust Fact Sheet at 2 (Mar. 2022) (“BTC Fact Sheet”) <https://grayscale.com/wp-content/uploads/2022/03/GBTC-Trust-Fact-Sheet-March-2022.pdf>.
https://emmer.house.gov/_cache/files/b/6/b6170d87-c56c-40a3-960a-60a619c02b65/63C9D652A62FF6119A2D0B117D655732.congressional-letter-tosec-on-bitcoin-etfs.pdf

⁵ See Grayscale Bitcoin Trust, Annual Report for the Fiscal Year Ended Dec. 31, 2021 (Form 10-K), at 2 (Feb. 25, 2022) (“BTC 2021 Annual Report”).

Applicable Standards of Review and Investor Protection

We are perplexed by the Commission’s steadfast refusal to date to approve the listing of a spot Bitcoin ETP, despite having authorized exchange-traded funds (“ETF”) that track Bitcoin futures. The Commission has subjected only the spot-based ETPs to loosely defined and difficult to discharge requirements related to potential fraud and manipulation,⁶ consistently concluding that the applications fail to meet the standard. In so doing, the Commission has seemingly arbitrarily applied different standards to two product categories that ultimately track the same underlying asset. From a legal perspective, this disparate treatment of the applications for similarly situated products is inconsistent with both Section 6(b)(5) of the Exchange Act, which prohibits unfair discrimination among issuers, and the Administrative Procedures Act, which precludes arbitrary and capricious administrative action.

As other commenters have noted, the pricing inputs utilized by GBTC for purposes of computing NAV substantially overlaps with the reference price utilized by the futures contracts underlying the approved futures ETFs, with each index including data from 3 of the same 4 constituent exchanges.⁷ Hence concerns about manipulation in the underlying market should be of no greater concern for GBTC than a futures-based Bitcoin ETF. In fact, spot markets may be less prone to manipulation given their daily notional volumes in the range of \$35 billion, with futures volumes in the range of \$1 billion daily notional and other crypto derivatives volumes in excess of \$20 billion daily, notably larger than futures markets volumes but of similar size to spot markets volumes. Further, we believe that the active participation by market makers across all of these linked markets – spot, futures, derivatives and ETP –can mitigate the risk of manipulation through competitive liquidity provision, arbitrage and creation / redemption transactions.

Finally, in continuing to apply an ambiguous and possibly unattainable standard to spot Bitcoin ETPs, the Commission fails to meet a fundamental mandate of promoting competitive markets via investor choice. The investing public has resoundingly demonstrated its appetite for exposure to Bitcoin in the convenient and familiar form of a fund product, as evidenced by GBTC’s popularity notwithstanding its accessibility challenges and susceptibility to dislocation. While the futures-based ETPs generally benefit from the price harmonizing effects of creation and redemption transactions, these products have their own limitations, which may include a decay in NAV over time due to futures market dynamics and may not meet the needs of all would-be Bitcoin ETP investors. While we do not purport to make a merit-based determination

⁶ See, e.g., SolidX Order, 82 Fed. Reg. at 16,247 (“As discussed further below, the Commission is disapproving this proposed rule change because it does not find the proposal to be consistent with Section 6(b)(5) of the Exchange Act, which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest.”); Order Setting Aside Action by Delegated Authority and Disapproving a Proposed Rule Change, as Modified by Amendments No. 1 and 2, To List and Trade Shares of the Winklevoss Bitcoin Trust, Securities Exchange Act Release No. 83723 (July 26, 2018), 83 Fed. Reg. 37,579, 37,604-05 (Aug. 1, 2018) (SR-BatsBZX-2016-30) (“Winklevoss Order”) (similar); Order Disapproving a Proposed Rule Change To List and Trade the Shares of the GraniteShares Bitcoin ETF and the GraniteShares Short Bitcoin ETF, Securities Exchange Act Release No. 83913 (Aug. 22, 2018), 83 Fed. Reg. 43,923, 43,923 (Aug. 28, 2018) (SR-CboeBZX-2018-001) (“GraniteShares Order”) (similar); Order Disapproving a Proposed Rule Change To List and Trade the Shares of the ProShares Bitcoin ETF and the ProShares Short Bitcoin ETF, Securities Exchange Act Release No. 83904 (Aug. 22, 2018), 83 Fed. Reg. 43,934, 43,935 (Aug. 28, 2018) (NYSEArca-2017-139) (“ProShares Order”) (similar); Order Disapproving a Proposed Rule Change, as Modified by Amendment No. 1, To Amend NYSE Arca Rule 8.201-E (Commodity-Based Trust Shares) and To List and Trade Shares of the United States Bitcoin and Treasury Investment Trust Under NYSE Arca Rule 8.201-E, Securities Exchange Act Release No. 88284 (Feb. 26, 2020), 85 Fed. Reg. 12,595, 12,596 (Mar. 3, 2020) (SR-NYSEArca-2019-39) (“Wilshire-Phoenix Order”) (similar); VanEck Order, 86 Fed. Reg. at 64,539 (similar).

⁷ See, e.g., <https://www.sec.gov/comments/sr-nysearca-2021-90/srnysearca202190-9410842-262990.pdf>, comparing CF Benchmarks, CME CF Cryptocurrency Pricing Products, Constituent Exchanges List at 3, <https://docs.cfbenchmarks.s3.amazonaws.com/CME+CF+Constituent+Exchanges.pdf> (last updated Oct. 28, 2019) (listing Bitstamp, Coinbase, Gemini, and Kraken (and previously itBit) as constituent exchanges) with Proposal, 86 Fed. Reg. 61,808 (listing Bitstamp, Coinbase Pro, Kraken and LMAX Digital as constituent exchanges for XBX).



regarding the benefits or drawbacks of any particular ETP for any particular investor, we share these observations to demonstrate that the investing public would benefit from additional choice and market competition in the form of one or several spot Bitcoin ETPs.

For the reasons set forth above, we respectfully request that the Commission approve NYSE Arca's proposal to list and trade GBTC.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Doug A Cifu".

Douglas A. Cifu
Chief Executive Officer

cc: The Honorable Gary Gensler, Chair
The Honorable Hester M. Peirce, Commissioner
The Honorable Allison H. Lee, Commissioner
The Honorable Caroline A. Crenshaw, Commissioner