

May 3, 2022

RE: File No. SR-NYSEArca-2021-90
Rel. No 34-93504
Notice of Filing of Proposed Rule Change to List and Trade Shares of
Grayscale Bitcoin Trust (BTC) under NYSE Arca Rule 8.201.E
(November 2, 2021)

Ms. Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-0609

Dear Ms. Countryman:

We write as shareholders who are in favor of approving the Form 19b-4 that NYSE Arca filed with the SEC to convert Grayscale® Bitcoin Trust (OTCQX: GBTC) into a Bitcoin Spot ETF.¹

GBTC is currently trading at a discount to its Net Asset Value (“NAV”), which means the market price of GBTC is less than the price of the physical asset, Bitcoin. One of the benefits of converting GBTC into an ETF is it would allow for simultaneous creations and redemptions – a core feature of the ETF wrapper. This would cause shares trading at a discount to better reflect NAV, and thus protect the hundreds of thousands of investors currently holding GBTC.

Importantly and impressively, in 2021 you approved several futures-based Bitcoin ETFs. This is significant because to the extent the SEC had previously been concerned over fraud or manipulation in pricing of the underlying spot/cash Bitcoin markets, that concern would have to permeate across both spot-based and futures-based ETFs since both types of products are priced based on the underlying spot/cash Bitcoin markets. However, following approval of several future-based Bitcoin ETFs, you subsequently disapproved several spot-based ETFs.

This inconsistency creates an unlevel playing field for Bitcoin ETFs without reasonable basis for different treatment. To that point, Grayscale’s attorneys at Davis Polk have filed a letter² in the context of this comment letter period arguing that the approval of Bitcoin Futures ETFs but not Bitcoin Spot ETFs, like what GBTC would be, is “arbitrary and capricious”, and therefore a potential violation of the Administrative Procedure Act. Per the above, we strongly agree with this new argument.

The SEC should approve GBTC for conversion to an ETF and allow investors a choice over which product best meets their investment needs. To do otherwise would go against the SEC’s core mission of protecting investors.³

Thank you for your time and consideration.

Sincerely,

Robert L. DiLonardo
Donna S. DiLonardo

¹ In this letter, we use the generic term “ETF” to cover exchange-traded investment vehicles that are required to register under the Investment Company Act of 1940 (as amended, the “1940 Act), also commonly referred to as “exchange-traded funds” or “ETFs”, as well as those, like GBTC that are not subject to the registration requirements of the 1940 Act.

² Letter from Davis Polk & Wardwell LLP, on behalf of Grayscale Investments, LLC, Re: File No. SR-NYSEArca-2021-90 (Nov. 29, 2021), <https://www.sec.gov/comments/sr-nysearca-2021-90/srnysearca202190-9410842-262990.pdf>.

³ Regarding the SEC’s February 4, 2022 Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to List and Trade Shares of Grayscale Bitcoin Trust (BTC) under NYSE Arca Rule 8.201-E, we believe that NYSE Arca has provided sufficient support in GBTC’s 19b-4 to allow for the SEC to approve GBTC.