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April 24, 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 the undersigned are in favor of approving the Form 19b-4 that NYSE Arca filed with you to convert Grayscale® Bitcoin Trust (OTCQX: GBTC)—the world’s largest publicly traded crypto asset fund, with approximately \$30 billion in assets under management (AUM),¹ \$100’s million in daily trading volume,² more than 850,000 investors,³ holding approximately 3.4% of all Bitcoins outstanding—into a Bitcoin Spot ETF.⁴

The GBTC conversion can provide opportunities for average investors to invest in Bitcoin—without the hassles of actual Bitcoin ownership—through the Bitcoin Spot ETF in order to diversify their portfolios, hedge against inflation, and face lower transaction costs for their investment. SEC’s Rejection of the conversion is not a costless act because it deprives the market participants from potential gains from investing in the proposed ETF. A disproportionate share of lost opportunities falls on average, rather than the high end, investors. To the extent that

¹ <https://grayscale.com/products/grayscale-bitcoin-trust/>.

² <https://www.otcm Markets.com/stock/GBTC/overview>.

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

⁴ 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 what GBTC is seeking to convert to, that would not be subject to the registration requirements of the 1940 Act.

market access can produce wealth-enhancing prospects, restricting the less affluent market participants is contrary to the goal of equitable access to means of wealth generation to promote equity, and therefore regressive in spirit and impact.

The following examples are suggestive of the costs that the SEC imposes on U.S. investors by rejecting the GBTC conversion. First, GBTC is currently trading at an approximately 25% discount to its net asset value (NAV), which means the price of GBTC is less than the price of the underlying Bitcoin asset. With approximately \$30 billion in AUM, the gap results in approximately \$7.5 billion of discount for existing U.S. investors. The wealth reducing differential can be partially attributed to the uncertainty around SEC position *vis-à-vis* GBTC conversion. The conversion would allow authorized participants to close the gap between the market price and NAV through creations and redemptions—a core feature of the ETFs. This would cause shares currently trading at a discount to better reflect NAV, and, therefore, help protect the hundreds of thousands of investors currently holding GBTC as well as provide many more investors the opportunity to invest in the proposed ETF.

Second, the GBTC conversion would bring Bitcoin into the regulatory domain, providing an opportunity for average U.S. investors to invest in Bitcoin through safe and secure methods. Third, while future-based Bitcoin ETFs impose higher fees due to Bitcoin futures premium and the cost of rolling future contracts each month, the spot-based Bitcoin ETF provides investors with structured investment vehicle with a lower cost. Moreover, the competition among spot-based and futures-based Bitcoin ETFs can result in reduced ETF fees, benefiting the investors. Such benefits will dissipate should the SEC reject the conversion proposal.

Fourth, rejecting the spot-based Bitcoin ETF can also lead to the migration of investment opportunities to exchanges outside U.S. that have already approved Bitcoin spot ETFs, like Canada and Germany, therefore, diminishing the U.S. competitive advantage in financial innovation and moving attractive opportunities outside the reach of average U.S. investors.

Importantly, last year and earlier this year you approved several futures-based Bitcoin ETFs. This is significant because the SEC's previously expressed concerns about fraud or manipulation in pricing of the underlying spot/cash Bitcoin markets would have to permeate across both spot-based and futures-based ETFs regardless of the level of regulation imposed on the fund or its underlying assets (*i.e.*, CME bitcoin futures/bitcoin) since both types of products are priced based on the underlying spot/cash Bitcoin markets. Specifically, CME futures are settled based on Bitcoin Reference Rate (BRR), determined based on actual trade prices in major Bitcoin spot exchanges. GBTC executes spot transaction in these very same spot exchanges and GBTC's transactions have identical protections against fraud and manipulation as futures contracts.


The points we raise here can be substantiated with data analysis. Accordingly, time series methods can be used to demonstrate these pricing similarities statistically, thus providing evidence on cross-market propagation, and refuting the SEC's stated rationale.

It is also noted that the earlier futures-based Bitcoin ETFs were registered under the Investment Company Act of 1940. The most recent approval (April 2022) was registered under the Securities Act of 1933, the act under which the proposed Bitcoin spot ETF would be registered. Considering the above, we do not see a reasonable basis for differential treatment of future-based and spot-based Bitcoin ETFs. Disparate application of regulatory standards can result in uneven playing field for investors as well as management companies.

We, therefore, believe that the SEC should approve GBTC for conversion to an ETF, avoid differential treatment of identical products, and allow investors to choose the product that best meet their investment needs. To do otherwise would go against the SEC's core mission of protecting investors.⁵

Thank you for your time and consideration.

Sincerely,


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⁵ 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, I believe that NYSE Arca has provided sufficient support in GBTC's 19b-4 to allow for the SEC to approve GBTC.