

June 21, 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:

My name is Alan Lane and I am the CEO of Silvergate Capital Corporation (NYSE: SI) and its wholly-owned subsidiary Silvergate Bank (collectively “Silvergate”), the leading provider of innovative financial infrastructure solutions and services for the bitcoin and broader digital asset industry. Silvergate supports approval of the Form 19b-4 that NYSE Arca filed with you to convert Grayscale® Bitcoin Trust (OTCQX: GBTC) into a Bitcoin Spot ETF.¹

As the CEO of Silvergate during almost all of Bitcoin’s existence, I’ve had firsthand experience of the growth and maturity of this industry since we first took on GBTC as a client in 2014. The digital asset industry that Silvergate provides banking services to today is one of institutionalization and sophistication akin to the traditional financial world. Bitcoin investors and market participants consist of asset managers, exchanges, brokers, university endowments, pension funds, large banks, insurance companies, and public companies, each of which are advised by auditors, accountants, lawyers, and other advisors. Since we began providing banking services to GBTC, Bitcoin’s market cap has grown from single-digit billions to greater than \$1 trillion and sits at approximately \$400 billion today. GBTC has proven to be an effective way for investors seeking to gain their bitcoin exposure in the form of a security.

GBTC launched in September 2013 as a private placement offered under an exemption from SEC registration and was a first-of-its-kind vehicle that offered bitcoin exposure to accredited investors only. GBTC initially and voluntarily provided annual audited financial statements and has consistently striven to become a more transparent, regulated, and accessible way for U.S. investors to gain exposure to bitcoin. In May 2015 GBTC became the first publicly quoted bitcoin fund in the U.S. available to non-accredited investors, providing quarterly and annual reports pursuant to the OTC Markets Alternative

¹ In this letter, I 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.

Reporting Standards. In January 2020, it took yet another step in the name of investor protection by voluntarily becoming an SEC registrant pursuant to the Exchange Act and filer of 10-Ks, 10-Qs, and other reports and audited financial statements familiar to U.S. investors in the public markets. As a result, today GBTC is the first digital currency investment vehicle to become an SEC reporting company and the largest publicly traded bitcoin fund in the world.

Investors desire exposure to bitcoin through U.S. securities markets. During this year, you approved several futures-based Bitcoin ETFs including most recently the Short Bitcoin Strategy ETF² allowing investors to bet against the price of bitcoin. 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 regardless of the level of regulation to which the fund or its underlying assets (*i.e.*, CME bitcoin futures/bitcoin) are subject since both types of products are priced based on the underlying spot/cash bitcoin markets. However, futures-based ETFs are less likely to track spot bitcoin exactly and are subject to costs and limitations that would not be present in a spot-based ETF. A spot-based ETF such as GBTC could enable retail investors to gain exposure to bitcoin through a securities product that could be held in investors' brokerage accounts and allow them to buy and sell bitcoin exposure the same way they buy and sell other exchange-listed products.

In plain English, I believe the SEC's approval of futures-based ETFs, but not spot-based ETFs is inconsistent and creates an unlevel playing field for bitcoin ETFs without a reasonable basis for different treatment. To that point, Grayscale's attorneys at Davis Polk have filed two letters 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 "unfair discrimination" and therefore a potential violation of the Administrative Procedure Act and Exchange Act.³

I believe the SEC should approve GBTC for conversion to an ETF, avoid picking winners and losers, and allow investors a choice over which product best meets their investment needs. I believe that to do otherwise goes against the SEC's core mission of protecting investors.

Thank you for your time and consideration.

Sincerely,



Alan J. Lane

Chief Executive Officer

² Huang, V. G. (2022, June 20). ETF that bets against Bitcoin to launch. The Wall Street Journal. Retrieved June 21, 2022, from <https://www.wsj.com/articles/etf-that-bets-against-bitcoin-to-launch-11655683379>.

³ 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>; Letter from Davis Polk & Wardwell LLP, on behalf of Grayscale Investments, LLC, Re: File No. SR-NYSEArca-2021-90 (Apr. 18, 2022), <https://www.sec.gov/comments/sr-nysearca-2021-90/srnysearca202190-20123987-280130.pdf>.