

December 9, 2024

The Honorable Sherrod Brown  
Chairman  
U.S. Senate Committee on Banking, Housing, and  
Urban Affairs  
534 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Tim Scott  
Ranking Member  
U.S. Senate Committee on Banking, Housing, and  
Urban Affairs  
534 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Brown and Ranking Member Scott:

We write to oppose the re-confirmation of Caroline Crenshaw to be a Commissioner of the Securities and Exchange Commission (SEC). As leaders of the Blockchain Association and the DeFi Education Fund, we represent and advocate on behalf of an industry and developers deeply invested in fostering innovation and economic growth through blockchains, cryptocurrencies, and decentralized finance.

Congress has a clear mandate from the American people to establish sound and reasonable cryptocurrency-related policies. Unfortunately, Commissioner Crenshaw's tenure at the SEC has been marked by actions that seem to be at odds with this charge. For example, her continued opposition to the approval of a spot Bitcoin ETP, after the DC Circuit Court's ruling that the SEC acted "arbitrarily and capriciously" in rejecting it, does not evidence respect for the judicial process.<sup>1</sup> Nor does it embody the SEC's merit-neutral mission or the needs of American investors—including the one-fifth of Americans who own crypto. The Senate should reject the failed policies of the past instead of advancing a nomination that will potentially stifle the growth and integration of blockchain-based innovations in our economy.

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<sup>1</sup> Commissioner Crenshaw, in her dissenting statement on the approval of the spot BTC ETP, rejected the findings of the DC Circuit Court and continued to defend the SEC's "unlawful" position. The DC Circuit ruled that, "to avoid arbitrariness and caprice, administrative adjudication must be consistent and predictable, following the basic principle that similar cases should be treated similarly. NYSE Arca presented substantial evidence that Grayscale's proposed spot bitcoin ETP] is similar, across the relevant regulatory factors, to bitcoin futures ETPs. The Commission failed to adequately explain why it approved the listing of two bitcoin futures ETPs but not Grayscale's proposed bitcoin ETP. In the absence of a coherent explanation, this unlike regulatory treatment of like products is unlawful." After this ruling, Commissioner Crenshaw stated that, "as the Court pointed out, the Commission previously approved certain ETPs that hold bitcoin futures, but not ETPs holding 'spot' or 'physical' bitcoin. There are important differences between those products and the ones that will be listed as a result of our Order today. Those existing products hold bitcoin futures, cash-settled financial contracts betting on the price of bitcoin at some point in the future. The parties to these contracts are regulated entities trading on a U.S.-registered and regulated exchange... The D.C. Circuit was fundamentally correct to say that like products should be treated alike. These products, however, are not alike. It is today's action that departs from well-grounded precedent, that bears characteristics of arbitrary decision-making, and that will restrict our future ability to protect investors." *Grayscale Investments, LLC v. SEC*, No. 22-1142 (D.C. Cir. Aug. 29, 2023); Commissioner Caroline A. Crenshaw, Statement Dissenting from Approval of Proposed Rule Changes to List and Trade Spot Bitcoin Exchange-Traded Products (Jan. 10, 2023), <https://www.sec.gov/newsroom/speeches-statements/crenshaw-statement-spot-bitcoin-011023>.

We understand that it can take time for policymakers to fully understand the importance of this technology. Many people who were once anti-crypto become open-minded with a better understanding of the nature of the technology. Blockchain Association, along with our members, and the DeFi Education Fund stand ready to work with policymakers who seek to learn about these technologies and engage in constructive dialogue about appropriate policy responses. Unfortunately, we have not to date seen such interest from Commissioner Crenshaw, and we therefore oppose her re-confirmation.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kristin Smith".

Kristin Smith  
CEO, Blockchain Association

A handwritten signature in cursive script, appearing to read "Miller Whitehouse-Levine".

Miller Whitehouse-Levine  
CEO, DeFi Education Fund