

How Gary Gensler and the SEC Will Try to Save Face

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A recent US appeals court was not kind to the SEC. Three Judges signed a judgement stating that the SEC had been “arbitrary and capricious” in its denial of converting the Grayscale Bitcoin trust into the first US spot ETF while allowing several derivatives-based ETFs to open.

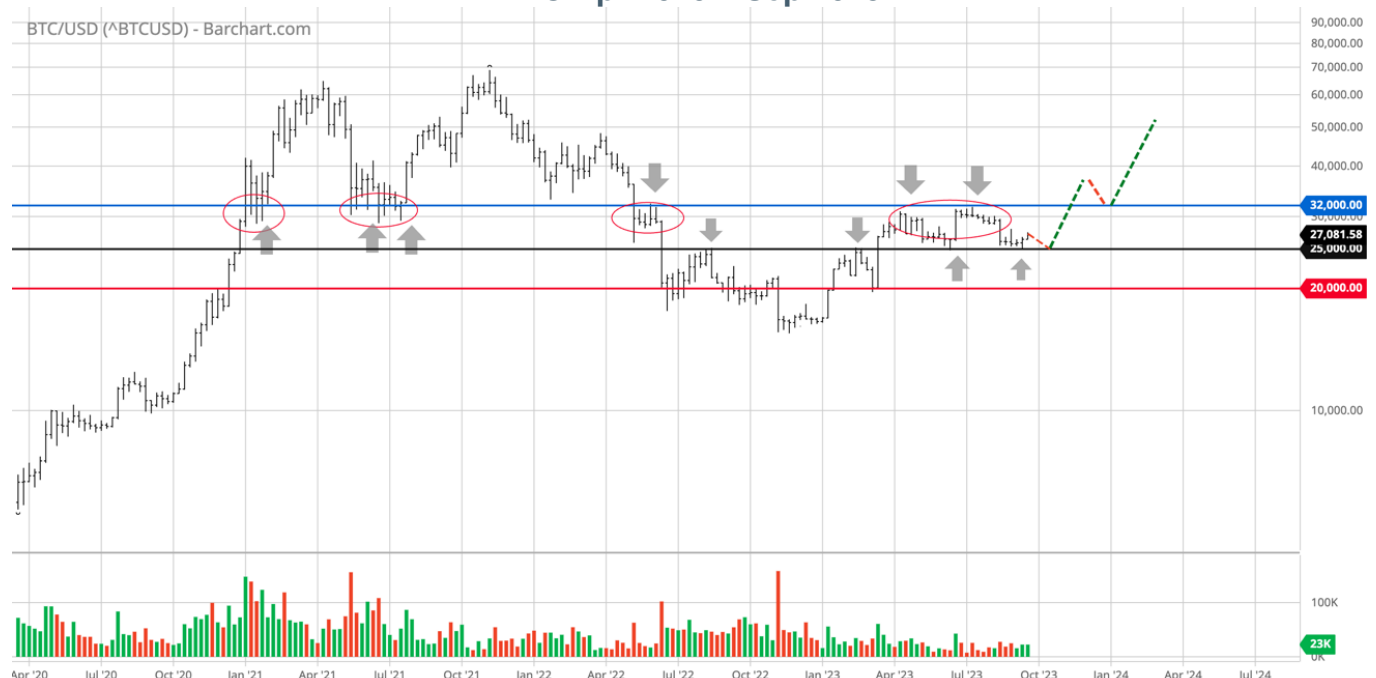
The judgement was dotted with damning statements about the SEC’s decision-making. Perhaps the worst was “The Commission’s unexplained discounting of the obvious financial and mathematical relationship between the spot and futures markets falls short of the standard for reasoned decision making”.

Why, everyone is asking, were derivative ETFs approved and a spot ETFs not approved?

The SEC now finds itself in quite a quandary and needs to save face and attempt to reestablish some credibility.

In his recent Senate appearance, Gary Gensler claimed that the SEC is reviewing the Appeals Court judgement and the other Bitcoin spot ETF applications. This implied they were all being treated equally with no rush to fix the Grayscale mess they created for themselves before considering the other ETF applications.

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Several large asset managers have filed to launch ETFs since Grayscale took legal action against the SEC. That cannot be a coincidence.

I think this is the window of opportunity Gensler and the SEC will seize to save face, having deliberately attempted to slow down Bitcoin adoption until incumbents on Wall Street were ready to capitalise.

The SEC can now approve the most trusted ETF operators in the world, alongside Grayscale's GBTC and other smaller asset managers, claiming that the market has 'matured' since their past denials. They will say that the entrance of Blackrock and Co. to the market will cause a more significant share of volume to be traded in the US, increasing oversight and safety from manipulation. Now is the right time, but it wasn't before – so they will claim.

This is a far more attractive approach than continuing to block spot ETFs, while other countries embraced them years ago, making the US regulator look somewhat backward. The SEC would have to devise a new excuse for denials or cancel the derivative-based ETFs already approved. Both these options would result in further lawsuits and the potential for more public humiliation.

Given the above and that many SEC staff hope for future positions within Wall Street institutions, we anticipate that several US spot Bitcoin ETFs will be approved later this or early next year, and GBTC will convert to ETF status alongside them. It may come as soon as mid-October.

It is noteworthy that Blackrock, out of 576 ETF applications, has only been denied once. Wall Street seems finally ready to capitalise on the growth in Bitcoin adoption, and we expect regulators to give the green light following years of weak excuses.

Multiple ETFs in the US could trigger a new bull market, amplified by the Bitcoin halving event in April 2024. It is better to be early than late.

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