

Historic ETF Approval

The U.S. Securities and Exchange Commission ('SEC') approved the first 11 spot Bitcoin ('BTC') exchange-traded funds ('ETFs') on Jan. 10, marking a watershed moment for crypto.

The following day—which is also when all the ETFs started trading on U.S. exchanges—BTC briefly topped \$49,000 for the first time in nearly two years. From then through Jan. 23, BTC retraced by as much as 21% to \$38,500.

The spot price of both BTC and ETH has increased by 30% in the month since. Institutional funds again saw record inflows last week as US\$2.45 billion entered the ETF market.

In our opinion, this quintessential 'buy the rumour, sell the news' event unfolded because of the sheer amount of time (i.e. over four months) between the 'rumour' and the 'news'.

The 'rumour' started in late August with the Grayscale vs SEC court ruling. The likelihood of a spot ETF approval surged after a U.S. federal appellate court unanimously ruled in favour of Grayscale, which had argued that the SEC unfairly rejected its application to convert its market-leading BTC trust into a spot ETF.

The court ordered the SEC to reconsider Grayscale's application, pressuring the commission to approve future applications. Over the following weeks, several leading asset managers (e.g. BlackRock, Fidelity, VanEck) applied for spot BTC ETFs, making the market increasingly confident that a long-awaited SEC approval was imminent. By year-end, the overwhelming market expectation was for all applications to be approved in early January.

We observed that BTC's 80% increase in the chart below coincided with the court ruling (Aug. 29) to the ETF approvals (Jan. 10).



Past performance is not indicative of future results.³

Ethereum ETF Approval

The market has turned its attention to whether a spot ETF will be approved for Ethereum ('ETH'). Short term, the most important date to watch is May 23². This is the SEC's final deadline for VanEck's spot Ethereum ETF, where the commission must either choose to approve or deny the application. (The ARK 21Shares Ethereum ETF application also has its final deadline on May 24.)

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1. Coingecko Price Data: <https://www.coingecko.com/en/coins/bitcoin>

2. ETH ETF Approval Dates: <https://finance.yahoo.com/news/sec-delays-blackrock-spot-ethereum-043022675.html?guccounter=1>

3. TradingView Price Data: <https://www.tradingview.com/>

Spot Ethereum ETF Approval Possible By May

While the market is generally confident in a May approval of the spot Ethereum ETF applications, the degree of confidence is noticeably less than the leadup to the spot BTC ETF approvals. This is mainly due to ETH having slightly less regulatory certainty than BTC for several reasons. (This is presumably why no active applications have proposed offering ETH staking yields to holders of the ETF.)

For what it's worth, last month, Bloomberg senior ETF analyst Eric Balchunas believes⁴ the likelihood of an approval in May is 70%, whereas JPMorgan analysts said⁵ "not higher than 50%."

From now until May, ETH's price will likely react to signs that affect the likelihood of an SEC approval. For example, in Q4 2023, BTC's price rallied on growing confidence in a spot ETF approval because of factors such as positive public comments by applicants and the sheer volume of application amendment filings, which are often the result of constructive meetings between applicants and SEC staff. (Here, layer-two ('L2') tokens will likely offer high beta exposure to ETH.)

Don't Expect Other Crypto Spot ETFs Any Time Soon

Regarding spot ETFs linked to cryptocurrencies other than BTC and ETH, it is incredibly difficult to see the SEC approving any for the foreseeable future—at least while Gary Gensler is serving as chair of the commission. Having been appointed by Democratic President Joe Biden in Apr. 2021 to a five-year term, Gensler has been particularly outspoken against cryptocurrencies.

An SEC approval of spot ETFs linked to other cryptocurrencies is arguably more likely if Gensler is no longer chair, making the U.S. presidential election this November particularly relevant. If the Republican candidate wins, they will nominate a new chair shortly after being sworn in. In this scenario, Gensler would likely step down post-election. (There are other ways Gensler's term can prematurely end. For example, he may resign to return to the private sector.)

There is no telling what stance the next SEC chair—whether appointed after this year's election or in 2026 after Gensler's term ends⁶—would have towards cryptocurrencies. That said, it is difficult to foresee them being as anti-crypto as Gensler. In other words, even a crypto-neutral SEC chair would be a win.

Beyond the Gensler factor, there are other reasons why the SEC is highly unlikely to approve spot ETFs tied to alternative cryptocurrencies any time soon. One is that the SEC has separate lawsuits against Coinbase, Binance and Kraken, where the commission is accusing the exchanges of violating the law by offering unregistered securities, among other allegations.

As part of these lawsuits⁷, the SEC is alleging that the following cryptocurrencies are unregistered securities: Algorand ('ALGO'), Axie Infinity ('AXS'), Cardano ('ADA'), Chilliz ('CHZ'), Cosmos Hub ('ATOM'), COTI ('COTI'), Dash ('DASH'), Decentraland ('MANA'), Filecoin ('FIL'), Flow ('FLOW'), Internet Computer ('ICP'), NEAR Protocol ('NEAR'), OMG Network ('OMG'), Polygon ('MATIC'), Solana ('SOL') and The Sandbox ('SAND').

Indeed, it seems extremely unlikely that the SEC would approve a spot ETF tied to any of the above cryptocurrencies while it simultaneously argues in court that those very same cryptocurrencies are unregistered securities.

Each lawsuit was filed within the last seven months. Assuming at least one of the cases goes to trial, it may take multiple years before a judgment is handed down. (Not to mention that the decision may be appealed.)

This report has been prepared by Caleb and Brown Pty Ltd ACN 619 023 559. The information within the report is not intended as legal, financial, or investment advice and should not be construed or relied upon as such.

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4. ETH ETF Approval Speculation: <https://www.theblock.co/post/271874/ethereum-etf-approval-may-ether-price-surge>

5. ETH ETF Approval Speculation: <https://www.coindesk.com/markets/2024/01/19/no-more-than-50-chance-of-spot-ether-etf-approval-by-may-jpmorgan-says/>

6. SEC Chairman Term Extension: https://www.senate.gov/legislative/LIS/roll_call_votes/vote1171/vote_117_1_00157.htm

7. SEC Charges Coinbase: <https://www.sec.gov/news/press-release/2023-102>