



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
100 F STREET, N.E.
WASHINGTON, D.C. 20549

OFFICE OF THE
GENERAL COUNSEL

November 21, 2023

Patricia S. Dodszuweit
Clerk of Court
U.S. Court of Appeals for the Third Circuit
21400 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106

Via ECF

Re: *In re Coinbase, Inc.*, No. 23-1779

Dear Ms. Dodszuweit,

Counsel for the Securities and Exchange Commission write to inform the Court that the Commission will provide the Court with a status report regarding Coinbase's rulemaking petition by December 15, 2023.

Coinbase filed a petition for writ of mandamus, seeking to compel the Commission to act on Coinbase's July 2022 rulemaking petition, which requests that the Commission engage in discretionary rulemaking of substantial scope. Doc. 1. After the Commission informed the Court that Commission staff anticipated being in a position to make a recommendation to the Commission regarding Coinbase's rulemaking petition by October 11, 2023 (Doc. 30), the Court declined to rule on the mandamus petition, but "retain[ed] jurisdiction" and

ordered the Commission to “update the Court on [the] status [of the rulemaking petition] on October 11, 2023” (Doc. 32). The Commission then informed the Court that on October 10, 2023, Commission staff provided a recommendation to the Commission for its consideration regarding Coinbase’s rulemaking petition. Doc. 33. On November 20, 2023, Coinbase filed a response to the Commission’s update. Doc. 36.

In its November 20, 2023 filing, Coinbase asserted that mandamus was warranted because with “a staff recommendation in hand, ... the Commission can act immediately.” Doc. 36 at 8; *id.* at 9 (“The Commission’s staff have now acted; the Commission is readier than ever to do so.”). But nothing about what has transpired here justifies the extraordinary remedy of mandamus. The staff provided its recommendation to the Commission on the timeframe that it told the Court it would. The Commission’s consideration of the staff’s recommendation on Coinbase’s rulemaking petition is proceeding in accordance with the Commission’s Rules of Practice. *See* 17 C.F.R. § 201.192(a) (providing for staff recommendations to be “transmitted with the petition to the Commission for such action as the Commission deems appropriate”). And, contrary to Coinbase’s assertion otherwise, the five-member Commission’s deliberative process does not end with receipt of a staff recommendation. *See id.* Staff frequently engage with the Commissioners on the substance of a staff recommendation, as the

Commissioners themselves consider its merits. That process is ongoing as to this matter.

To keep the Court updated regarding this ongoing process, the Commission will provide the Court with a status report regarding Coinbase's rulemaking petition no later than December 15, 2023.

Sincerely,

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cc: Counsel of record (via ECF)