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December 15, 2023

VIA CM/ECF

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

Re: In re Coinbase, Inc., No. 23-1779 (3d Cir.)

Dear Ms. Dodszuweit:

Earlier today, the Securities and Exchange Commission (SEC or Commission) announced that it has finally taken the long-withheld action that Coinbase, Inc.’s mandamus petition sought to compel: issuance of a formal, judicially reviewable decision on Coinbase’s petition to engage in rulemaking—which the SEC had let languish for well over a year. As many actions by the Commission and public statements by its Chair had foreordained, *see, e.g.*, Dkt. 36, at 5-8, the Commission today “denie[d]” Coinbase’s rulemaking request, confirming the SEC’s position that “rulemaking” to clarify its interpretation of the securities laws in this area is “unwarranted” even while it continues a campaign of regulation by enforcement against Coinbase and others, Dkt. 39, Ex. A, at 1.

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Coinbase's mandamus petition thus has now achieved its stated purpose of compelling the SEC to act on Coinbase's request for rulemaking. The Commission's formal denial of that request makes explicit what its words and actions had long shown was the Commission's position. By doing so, the SEC has cleared the path for judicial review that its unexplained inaction had long obstructed. Coinbase accordingly agrees with the Commission's submission that this mandamus proceeding, brought to challenge the agency's refusal to act on Coinbase's rulemaking petition, is now moot. Dkt. 39, at 2. Coinbase is filing today in this Court a petition for review of the Commission's denial of Coinbase's rulemaking petition.

Respectfully submitted,

/s/ Eugene Scalia

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Counsel of Record

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cc: Counsel of record (via CM/ECF)