

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

GRAYSCALE INVESTMENTS, LLC,

Petitioner,

v.

SECURITIES AND EXCHANGE
COMMISSION,

Respondent.

Case No. 22-1142

**PETITIONER’S UNOPPOSED MOTION TO EXTEND TIME TO FILE
OPENING BRIEF**

Pursuant to Federal Rule of Appellate Procedure 26(b) and D.C. Circuit Rule 28(e), Petitioner Grayscale Investments, LLC moves to extend the time to file its opening brief by 14 days to October 10, 2022. Counsel for Respondent Securities and Exchange Commission has stated that Respondent does not oppose this motion.

In support of this motion, Petitioner states as follows:

1. On June 29, 2022, Petitioner filed a petition for review of the Securities and Exchange Commission’s final order titled Order Disapproving a Proposed Rule Change, as Modified by Amendment No. 1, to List and Trade Shares of Grayscale Bitcoin Trust Under NYSE Arca Rule 8.201-E (Commodity-Based Trust Shares), Release No. 34-95180, 87 Fed. Reg. 40299 (July 6, 2022).

2. Pursuant to this Court’s order dated August 17, 2022, Petitioner’s brief is currently due on September 26, 2022.

3. While Petitioner has exercised diligence to prepare its opening brief by the current deadline, the requested extension of time is necessary in light of Petitioner's counsel's pre-existing obligations, which supply "extraordinarily compelling reasons" to grant the motion. D.C. Circuit Rule 28(e)(1). In particular, during the interval allotted for preparing Petitioner's brief in this matter, counsel Donald Verrilli has been and will be required to devote time to numerous matters, including oral argument in *In Re: LATAM Airlines Group S.A.*, No. 22-CV-05660 (SDNY), on August 26, 2022; oral argument in *Coalition for TJ v. Fairfax County School Board*, No. 22-1280 (4th Cir), on September 16, 2022; an amicus brief in *Health & Hospital Corporation of Marion County v. Talevski*, No. 21-806 (Supreme Court), due on September 23, 2022; stay of judgment proceedings in *In re: National Prescription Opiate Litigation*, No. 1:17-MD-2804 (D. Ohio), followed by potential stay proceedings in the Sixth Circuit; and several other non-public and/or counseling matters. Likewise, counsel Elaine Goldenberg has had and will have numerous other significant professional commitments, including a rehearing petition due in *In the Matter of the Petition of The Empire District Electric Company d/b/a Liberty to Obtain a Financing Order that Authorizes the Issuance of Securitized Utility Tariff Bonds for Qualified Extraordinary Costs* (Mo. PSC File No. EO-2022-0040), at 12:00 am on August 28, 2022; oral argument in *In Re: Niaspan Antitrust Litigation*, No. 21-2895 (3d Cir.), on September 6, 2022; a responsive brief due in *In re: SC SJ*

Holdings LLC, No. 1:22-cv-00689 (D. Del.), on September 12, 2022; and several other non-public and/or counseling matters. The press of these other matters has precluded and will preclude counsel for Petitioner from being able to devote sufficient time to the brief in this case prior to the current September 26 filing deadline.

4. Petitioner has not previously sought an extension of time from this Court to file its brief.

5. Because this Court has not yet set a date for oral argument, granting Petitioner's request for a 14-day extension will not require the Court to postpone oral argument.

In light of the considerations set forth above, Petitioner respectfully requests that the Court grant this motion and order that its opening brief be filed on or before October 10, 2022.

Dated: August 29, 2022

Respectfully submitted,

/s/ Donald B. Verrilli, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of August, 2022, I caused copies of the foregoing document to be served on counsel for all parties of record via the Electronic Case Filing (ECF) service.

Dated: August 29, 2022

/s/ Donald B. Verrilli, Jr.

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CERTIFICATE OF COMPLIANCE

1. This document complies with the word limit of Fed. R. App. P. 27(d)(2)(A) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), this document contains 514 words.

2. This document complies with the typeface requirements of Fed. R. App. P. 27(d)(1)(E) and Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this document was prepared in a proportionally spaced typeface using Microsoft Word in 14-point font.

Dated: August 29, 2022

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