

August 13, 2008

With respect to the Commission's current deliberations, I offer the following observations and suggestions:

1. The existence of a Reg SHO threshold list that includes more than 500 issues with many of them seriously extended, suggests, at the very least, that the system is not working effectively. Repeal of the "grandfather" rule appears to have been a step in the right direction. Elimination of the options market maker exception could remove another loophole. And a firm requirement that primary dealers would be required to buy in on the fail date plus one day would remove any uncertainty when the seller has assured the broker-dealer that the sale is from a long position, or that he has located shares available to borrow -- a "no exemption" ruling. Briefly, the responsibility for delivery should be placed on the broker-dealer, consistent with "know your customer". Allowing the broker dealer to accept (and act on) customer assurances that shares which can be borrowed are available to the customer leaves too much to discretion. An appropriate penalty for such a requirement might be needed for effective enforcement.

2. When the SEC declared naked shorting to be illegal, I believe most investors interpreted that to mean that mechanisms would be put in place to prevent violations. It's obvious that this has not been the case. The recent actions taken with respect to 19 large financial entities gave the public mixed messages: (a) That the Commission had belatedly determined to partially enforce its ruling, but only on a temporary basis, affecting a limited number of issues; (b) In neglecting the vast majority of other issues, it was therefore selective, inconsistent, and unfair, in offering no protection to thousands of other issuers.

3. I believe the uptick rule should be reinstated immediately. Its absence has contributed to the ability of computer-driven and other quantitative selling techniques to develop a "cascade" trading pattern, with steadily descending offer prices, which can effectively erase the entire slate of bids, lowering an issue's price on technical rather than fundamental considerations.

4. The option market maker exemption is another sizable loophole. I believe it should be repealed immediately.

Respectfully submitted,
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