

4/9/2009

Chairman Mary L. Schapiro

United States Securities Exchange Commission

100 F. Street NE

Washington, DC 20549

Re: Short selling securities & the up-tic rule

Madam & Sirs:

Securities are issued by companies as part of the capital formation process, with the intent of the issuer being to raise money to buy, create, or expand a business. The trading of those securities on an open market places a value on those securities. Millions of Americans and others around the world have invested their savings in the American stock markets, with the intent of earning a return on their money. Many companies pay their employees in stock options. Very few of these investors participate in the practice of short selling. No one wants their retirement account or their pay package manipulated by some over-leveraged short seller.

By its nature, the short selling process creates a form of leverage that adds volatility to the market. What investor in his right mind would lend shares (or money) to someone to bet against him? Whose interest is the institution who loans shares to short sellers serving? Short sellers are not an essential ingredient of the capital formation process. Why should my \$100.00/share stock for which I have actually paid \$100.00 cash be devalued by someone who has to pay about \$6.00 (with the possibility of paying equal to my gain) to bet against my stock. I invest \$100.00 in a share of stock that increases 10% and I have made 10% (less commissions). The short seller who pays \$6.00 margin costs and runs my stock down 10% makes 166% on his money (less commissions). Remember, my \$100.00 investment capitalized the company issuing the stock, providing jobs for its employees, goods and/or services to the community, and hopefully a gain to its investors. The undeserved leverage afforded short sellers allow an individual or group to disproportionately harm the company, its investors and employees. I strongly feel that if short sellers had to post cash equivalent to the market value of the stock they short, there would be much less short selling.

It is my understanding that short sellers are allowed about four times as much time to settle a trade as a cash transaction, another un-fair advantage.

Although market prices for listed stocks are continuously posted and widely available, short positions are only posted once or twice a month, another unfair advantage and an obvious lapse of fair disclosure. It is my further understanding that large short positions do not have to be publicly disclosed as is the case for large regular investments, another unfair advantage and disclosure shortfall..

Short sellers are not limited or regulated by the Sarbanes-Oxley rules that can hinder a company in its efforts to correct & combat short seller's disinformation and rumor mills, another unfair advantage.

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Then, there is the currently illegal practice of "naked shorting" that is purely active fraud for which there has reportedly been very little enforcement by the SEC. These people should be severely fined, banned from the securities business and put under the jail.

Along with the up-tic rule reinstatement, I propose that short sellers be limited in the number of transactions per day or per hour for a particular security. In fact, I would welcome a rule that limited the number of transactions per day in a particular security per trading account (or any combination of similarly registered accounts) by all investors and short sellers alike. This would reduce the amount of stock manipulation in the markets.

I do not consider a short seller to be an investor, but a predator, feeding on the capital formation process. If they cannot be eliminated, they should be more closely regulated, deleveraged, subject to daily disclosure of positions and set on a level playing field with cash investors, the backbone of the markets. The SEC was created to regulate the securities trade and is charged with protecting investors' interests. Short sellers are using leveraged bets to destroy investments. They are less regulated than those who would oppose them. It is much easier to destroy something than it is to build it. Please do your job and protect our hard earned investments.

Sincerely



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Copies:

Senator Richard Shelby

Senator Jeff Sessions

Congressman Jo Bonner