March 4, 2009

Securities and Exchange Commission
100F Street NE
Washington, DC

Amendments to Regulation SHO (Interim Final Temporary Rule)
SEC Release No 34-58773, File No. S7-30-08

Chairman Schapiro, members of the Commission Staff,

In a previous comment memo dated February 19, 2009 I requested that the Commission insure that all pertinent trade studies pertaining to policy making is presented to the public in a manner consistent with full transparency. My memo specifically identifies studies conducted by the Office of Economic Analysis.

Bloomberg today published an article by Edgar Ortega "Short-Sale Rule Undermined as Bernanke Backs Review" in which the article references a study conducted by the Office of Economic Analysis pertaining to the uptick rule.

Daniel Aromi and Cecilia Caglio, economists at the SEC in Washington, said in a December report to former Chairman Christopher Cox that the so-called <u>uptick rule was less effective when needed most</u>, <u>during panics that drive prices down and volatility up</u>. Even with delays imposed by the curb, short sellers in a simulation executed trades 25 percent faster on average when stocks plunged than when prices were steady, according to the study.

I have done some research into the availability of this study and find that it is not available to the public at this time. My research indicates that several such studies involving short selling practices, beyond this one have been presented to the Commission for study and review. Such studies are not meant to be hidden from the public but instead disseminated in a manner consistent with public need.

In prior years I have submitted FOIA requests for the details behind the OEA analysis provided by the Commission with regards to short sale policies up for review. Each request was turned down citing a lack of existence of such details or reports. Mr. Ortega's article today would support the argument that the staff of the Commission is in fact receiving much more detail than that disseminated to the public despite the arguments otherwise.

Today short selling is at the center of our markets attention. From Fed Chairman Ben Bernanke to Sears Holding Chairman Eddie Lampert, short selling is subject matter for our markets present conditions. There is a lack of confidence in the integrity of our capital markets and a lack of confidence in the safety of these markets.

The article claims that the report by Aromi and Caglio was a 28 page study submitted to Chairman Cox. The report was submitted on December 16, 2009 by OEA Director James Overdahl and was identified as an "Analysis of short sale price test using intraday quote and trade data."

I urge the Commission staff to consider disclosing each of these reports submitted by the OEA to the public in their entirety. There has been far too long a black cloud over this issue due to the Commission's lack of disclosure on the finer details. The fact that public comment memo's continually refer to the summary analysis of the OEA studies, and that the Commission refers to these summary analysis in their presentations, should be reason enough to insure that those using the analysis have full understanding of what stands behind them.

In the past the Commission has stated that short selling does not have a detrimental impact on the pricing efficiency of a market. Many claimed that the ban on short selling hurt the markets because it eliminated hedging and it eliminated the buy side of a short sale.

If such is true, the public should come to learn specifically what "uptick rule was less effective when needed most, during panics that drive prices down and volatility up" means.

My take on this single comment taken from within of a much bigger study would lend me to believe that short sellers do in fact drive prices down and volatility up in a panic market. Why else would the economists conclude that the uptick rule was less effective during these trading periods when these are the opportunities when bear raids are most prevalent?

I urge the Commission to make such studies available to the public immediately. It is in the best interest of those that the SEC is to put first and foremost, the investor, in doing so.

Thank You for your consideration.

David Patch